



**Napa County
Grand Jury**

2007-2008

Final Report on

**RENOVATION OF FARMWORKER
HOUSING CENTERS BY THE
NAPA VALLEY HOUSING AUTHORITY:**

**A CASE STUDY IN THE
FAILURE OF
GOVERNMENTAL STEWARDSHIP**

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NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

March 5, 2008

The Honorable Francisca P. Tisher
The Honorable Raymond A. Guadagni
Presiding Judges 2007/2008
Superior Court of the State Of California
County of Napa
825 Brown Street
Napa, CA 94559

Dear Judges Tisher and Guadagni,

Pursuant to Section 933(a) of the California Penal Code, the 2007-2008 Napa County Grand Jury submits to you its Final Report on the Renovation of Farmworker Housing Centers by the Napa Valley Housing Authority. Our investigation of the Renovation of the Farmworker Housing Centers was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury – to protect the interests of the citizens of Napa County.

This is the second in a series of final reports the Grand Jury will be issuing before our term ends. An immense amount of work went into this Report to assure its accuracy and completeness. It continues to be a privilege and a pleasure to work with this Grand Jury.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William E. Trautman".

William E. Trautman
Foreperson
2007-2008 Napa County Grand Jury



NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

To the Citizens of Napa County:

The 2007-2008 Napa County Grand Jury is engaged in several comprehensive investigations of various governmental agencies in Napa County in exercise of its duty under California law. We will issue a series of final reports on these investigations before the end of our term, June 30, 2008.

The second report, issued with this letter, is the result of our investigation of the Renovation of Farmworker Housing Centers by the Napa Valley Housing Authority in 2005 and 2006. When the story of farmworker housing cost overruns, lack of disclosures and unauthorized use of public funds broke in December 2006, it was too late in its term for last year's Grand Jury to do the kind of in-depth investigation of this matter which the people of Napa County deserve.

As we note in this report, when there were almost \$2,000,000 of cost overruns on a public project and funds were wrongfully diverted to pay for them and public officials began placing blame and ducking their responsibilities, the 2007-2008 Grand Jury believed that a thorough investigation was warranted. Our report is a case study in the failure of governmental stewardship at several levels. But, we also found sincere efforts by some in government to resolve the problem and begin restoring the public's trust. Further, we found that all the funds were expended on the projects, that no one appeared to profit individually and that the Centers now provide safe, clean and habitable abodes for the farmworkers.

The Napa County District Attorney has reviewed this final report on the Renovation of Farmworker Housing Centers by the Napa Valley Housing Authority and the Presiding Judge of the Napa County Superior Court has certified that the report complies with Title 4 of the California Penal Code. The report has also been accepted and filed as a public document by the County Clerk.

Copies of this report are available for your review in the Napa City Library and online by following the link to Grand Jury at <http://www.napacourt.com/>

It is our pleasure and honor to serve you during the 2007-2008 Grand Jury tenure. We hope you find our report enlightening.

Respectfully submitted,

The 2007-2008 Napa County Grand Jurors

RENOVATION OF FARMWORKER HOUSING CENTERS BY THE NAPA VALLEY HOUSING AUTHORITY

SUMMARY

The Grand Jury's mandate is to "investigate all branches of ... government to be assured that they are being administered efficiently, honestly, and in the best interest of Napa County's citizens." Therefore, the 2007-2008 Grand Jury was compelled to take an independent, in-depth look at the claims of large overruns in the renovations of the Calistoga and Mondavi Farmworker Housing Centers by the Napa Valley Housing Authority (NVHA) and the use of City of Napa funds for those renovations without the consent and approval of the City of Napa. The goals of this investigation were to bring to light what occurred, why it occurred, who should take responsibility for what occurred and whether the local governments' response has been adequate.

As a result of our investigation, the Grand Jury found that the Board of Commissioners of the NVHA failed to exercise its control over these projects and deferred its power and authority to the Executive Director of the NVHA. The Board of Commissioners knew or should have known: 1) that the cost of the modernizations was far exceeding the contract amounts; 2) that the total of the State Grants, committed funds and donations were not sufficient to cover the total cost of the renovations leaving a cash shortfall. In addition, they failed to inquire into who was providing the cash to cover the shortfall so the renovations could be completed.

The Grand Jury found that the Farmworker Housing Oversight Committee (FWHOC) failed in its designated responsibilities to review and make recommendations to the NVHA and the Napa County Board of Supervisors (which created the FWHOC) with regard to the progress, the costs incurred, and the availability of funds to pay for the modernizations. The Committee Members also knew or should have known: 1) that the cost of the modernizations was far exceeding the contract amounts; 2) that the total of the State Grants, committed funds and donations were not sufficient to cover the total cost of the renovations leaving a cash shortfall. In addition, they failed to inquire into who was providing the cash to cover the shortfall so the renovations could be completed.

The Grand Jury found that neither the City Council of the City of Napa nor the Board of the Housing Authority of the City of Napa (HACN) authorized or gave permission to the Executive Director of the HACN to advance Napa City Funds

or HACN funds to pay for the NVHA construction and renovation expenses incurred for the Calistoga and Mondavi Farmworker Housing Centers.

The Grand Jury found that the Executive Director of the NVHA continued to incur and submit charges for the rebuilding, to be paid by the Finance Department of the City of Napa, knowing that the NVHA did not have committed funds to cover those charges. This resulted in the unauthorized use of over \$2,000,000 of City of Napa and/or HACN funds, of which approximately \$1,400,000 was not covered by committed funds by the end of the renovation project. The Executive Director, while informing the NVHA and the FWHOC of the large number of change orders and the cost for the change orders, did not provide detailed information revealing the cash shortfall. Further, the Executive Director did not inform the City of Napa of the unauthorized use of its funds until all the charges for the renovations were paid. While the Executive Director's intentions might have been noble, this does not excuse using Napa City funds without the permission and authorization of the City of Napa.

The Grand Jury found that the NVHA and the FWHOC were concerned about having the renovations of the Calistoga and Mondavi Farmworker Housing Centers completed by the fall harvest of 2006.

The Grand Jury found that the Finance Department of the City of Napa was in such disarray that it did not recognize and therefore was unintentionally complicit in the unauthorized and unapproved use of Napa City funds for the NVHA renovations until after they were completed and all costs were paid. The Napa City Finance Department and/or the City of Napa did not know prior to September 2006, that funds of the City of Napa and the HACN funds were being used to pay for NVHA construction and renovation expenses incurred for the Calistoga and Mondavi Farmworker Housing Centers.

The Grand Jury found that the Napa County Conservation, Development and Planning Department (NCCDPD) had issued a building permit for the Calistoga Center based on a completely inadequate review.

The Grand Jury found the renovations to the Calistoga and Mondavi Farmworker Housing Centers provided a safe, clean and habitable abode for the farmworkers.

The Grand Jury, from its own investigation and that of an independent auditor, found that all the funds were expended on the project and that no one appeared to profit individually.

The Grand Jury found that no elected official or public representatives asked the vital question, "Given the cost overruns, where is the money coming from to pay for the construction?"

The Grand Jury's evaluation of the public record suggests that there has been an effort to focus the blame on the Executive Director. This is an issue of concern. While the Grand Jury condemns the action of the Executive Director in using City of Napa money without authority, we believe that the public servants who were supposed to oversee these projects failed to do their job and have not acknowledged that they had any responsibility for the problems.

Therefore, a key Grand Jury recommendation is that the Board of Supervisors and City Councils should institute a leadership-training program for all who wish to participate in public service for Napa County as elected officials or as volunteers to various authorities, boards and commissions. These people should attend all of the meetings, never forgetting for whom they work or serve: the citizens of Napa County.

METHODOLOGY

Interviews were conducted with the following individuals:

- Members of the Napa County Board of Supervisors
- Personnel of the Napa County Executive Office
- Personnel of the Napa County Counsel's Office
- Personnel of the Napa County Conservation, Development and Planning Department
- Commissioners and Staff (present and former) of the Napa Valley Housing Authority (NVHA)
- Former members of the Farmworker Housing Oversight Committee (FWHOC)
- Representatives from the City of Napa
- Representatives of Outside Auditors for Napa Valley Housing Authority (NVHA)
- Representatives of Outside Auditor for City of Napa
- Representatives of Outside Architects for the projects
- Employees of the California Human Development Corporation (CHDC)

Documents Reviewed

- Agenda & Minutes of NVHA 2005-2007
- Agenda & Minutes of FWHOC 2005-2006
- Other documents listed as footnotes
- Accumulative List of Revenue 6/2005 to 7/2007
- Calistoga Camp Improvements Monies Paid Out
- Mondavi Camp Improvements Monies Paid Out

- Calistoga Farmworker Center Change Order Log with Change Orders
- Mondavi Farmworker Center Change Order Log with Change Orders
- NVHA Independent Financial Audit for FY 2004-2005
- NVHA Independent Financial Audit for FY 2005-2006
- NVHA Independent Financial Audit first half FY 2006-2007
- Recommendations to Management by Independent Auditors
- Presentation to Board of Directors of NVHA by Independent Auditors
- NVHA Capital Improvement Proposed Calistoga Project Budget for FY 04/05, 05/06 and 06/07
- Joe Serna Jr. Grant #1 for \$1,066,650 dated October 28, 2004
- Joe Serna Jr. Grant #2 for \$775,000 dated August 25, 2005
- Joe Serna Jr. Grant #3 for \$500,000 dated May 12, 2006
- Department of Housing and Community Development Division of Financial Assistance Minutes dated May 31, 2007, granting Joe Serna Jr. Grant #4 for \$ 691,000
- Calistoga Contract for Construction dated May 26, 2005
- Mondavi Contract for Construction dated February 6, 2006
- Calistoga Architect Contract dated February 1, 2005
- Mondavi Architect Contract dated February 2, 2005
- Mondavi Construction Mobile Home Contract dated November 21, 2005
- Calistoga Water Treatment Contract dated May 26, 2005
- Mondavi Surveying Service Agreement dated October 20, 2005
- Calistoga Well Destruction Contract dated June 28, 2005
- Mondavi Grading, Drainage and Erosion Control Design Contract dated November 10, 2005
- Mondavi Contract for Installation of Keystone Retaining Wall dated June 30, 2007
- Agenda Napa County Farmworker Housing Oversight Committee dated October 25, 2008
- Executive Summary of the NVHA Construction Projects Calistoga and Mondavi Farm Workers Housing Centers prepared by the Executive Director of the NVHA
- Napa County Permit Histories for the Mondavi and Calistoga Farm Workers Centers
- Resolutions of the NVHA Board 2005-2007
- Agenda and Minutes of the NCHA 2005-2008
- Agenda, Minutes and Agenda Memoranda of the Board of Supervisors 2006-2007
- NVHA Farmworker Housing Settlement Agreement dated May 24, 2007
- Emails between Community Services, the Executive Director NVHA, the Deputy County Counsel and others regarding obtaining additional funds from Affordable Housing Trust from 3/2/06 through 10/10/06.

Facilities Visited

- Calistoga Farmworker Center
- Mondavi Farmworker Center

Recusals

Some members of the Grand Jury are subject to the CSA#4 assessment and were, therefore, not involved with the interviews, data collection and writing of this report.

BACKGROUND

1) Overview of Events

During December 2006, overruns in the cost of renovating two farmworker housing centers by the Napa Valley Housing Authority (NVHA) were reported to the public. Almost daily articles in the newspaper reported that the projects were far over budget. Several people who served on the NVHA Board of Commissioners or the Farm Worker Oversight Committee (FWHOC) claimed ignorance of the overruns and vowed to get to the bottom of the situation, to keep things transparent, to tell the public what happened. They never did.

The Executive Director of the NVHA, who had the responsibility to manage the renovation projects, stated to the press that there had been overruns due to problems in obtaining permits and subsequent field inspections by the Napa County Conservation, Development & Planning Department (NCCDPD) and Fire Marshall which required massive changes to the project plans. The Executive Director stated that he had started to inform the relevant parties, first the FWHOC¹ and then the NVHA,² of these issues a year earlier. Then it was revealed that the Executive Director had used money to cover the overruns from accounts of the HACN without authorization from or prior knowledge of the NVHA Board, the FWHOC or the City of Napa. On December 28, 2006, the NVHA Executive Director resigned and retired.

During the spring of 2007, there were numerous closed meetings with representatives of the member entities of the NVHA Joint Powers Agreement (JPA). The purpose of these meetings appears to have been to decide what really happened and which entities were going to bear the cost.

An independent auditor was brought in to assess the NVHA financial situation early in 2007. Before it issued its final report³ a Settlement Agreement was announced in which the member entities of the NVHA along with the City of Napa agreed to use taxpayer money to make up the shortfall.

The independent auditor also issued a Recommendations to Management Report⁴ describing 20 fundamental problems with the financial and management controls for the NVHA. The NVHA Board of Commissioners concurred with almost all of these recommendations in a letter dated June 26, 2007.⁵

After several months of non-public meetings, a series of pronouncements were made by the Napa County Housing Authority (NCHA)⁶. One stated that the NCHA had agreed to assume the overall responsibility of the operation of the three farm labor centers previously operated by the NVHA. Another revealed that a settlement agreement had been signed by the NVHA members and the City of Napa in the amount of \$557,711. Another said that the NVHA and FWHOC were too cumbersome so a new entity, the Napa County Housing Commission (NCHC) was formed by the NCHA to assume the duties and responsibilities of the FWHOC and the County Special Assessment (CSA#4) Advisory Committee. The NVHA would be terminated and dissolved upon the receipt of certain grant money from the state and when the transfer of title to the land for the Mondavi Center was concluded.

2) Establishment and Structure of the NVHA and the FWHOC

The NVHA is a Joint Powers Authority (JPA) established in 1987, to provide safe and sanitary dwellings for people of low income to the City of American Canyon, the City of Calistoga, the City of St. Helena, the Town of Yountville and Napa County. The Board of Commissioners consists of 2 members from the Napa County Board of Supervisors and one council member from each of the municipalities. The NVHA did not have any staff of its own and therefore contracted with the County of Napa for legal services, with the City of Napa and the Housing Authority of the City of Napa (HACN) to provide staffing and the City of Napa for financial services.

The NVHA was funded by yearly contributions of the members of the JPA, by the voluntary assessment of the grape growers of Napa Valley (CSA#4 Funds⁷) and by donations raised by interested groups. It was the responsibility of the NVHA to maintain and expand the Farmworker Housing Program; to operate and maintain the Calistoga, Mondavi and River Ranch Farmworker Centers. NVHA contracted out the daily operation of the three Centers to the California Human Development Corporation (CHDC).

An advisory committee, the Farmworker Housing Oversight Committee (FWHOC) was established by the Board of Supervisors to provide input, to make recommendations and to review the operation of the three farmworker housing

centers. Members were selected from the Napa County Board of Supervisors, the Farm Bureau, the Napa Grapegrowers, the Napa Vintners Association and other interested parties. The members of the NVHA and the FWHOC in October, 2005, are listed in Appendix 1. The relationships between these entities are shown in Appendix 2.

It is not the intent of the Grand Jury, nor is it within our mandate to review federal or state policy. However, it is relevant to note that as a state policy, California supports the building and use of farmworker housing through the Housing and Community Development Department. Money can be provided to local governments through the Joe Serna Jr. Farmworker Housing Grant Program. With this money available, the NVHA set out to improve the conditions of existing public farmworker housing in 2004. In addition to the State policy, in March 2002, an ordinance to allow creation of farm labor camps in Napa County was passed by the voters.⁸

3) Overview of the Projects

In this section, the Grand Jury presents the details of the projects from their inception through completion and describes the events that led to the overruns.

Napa County Building Permit Procedure

The procedure generally followed for obtaining a Napa County building permit is as follows. Plans are submitted to the NCCDPD which distributes the plans to the other departments for their review and approval. In the building department, the plans are checked and “marked up” by a plan checker for conformity to the current building codes and returned to the architect for correction. The architect then submits revised plans and this cycle continues until the plan checker has no more corrections to the plans, at which time the plan checker signs off on the plans. In addition, the County Fire Marshall also reviews the plans for conformity to the Fire Building Code. Again the architect makes any corrections required by the Fire Marshall. A building permit will not be issued until all departments have signed off on the plans.

Project Management

Unlike the River Ranch Farmworkers Housing Center construction project, the NVHA did not feel that they could absorb the cost of a professional project manager for the renovation of the Calistoga and Mondavi Farmworker Housing Centers. NVHA approached and requested the Napa County Public Works Department to act as project manager. The Napa County Public Works Department declined the request because it was too busy. The Executive Director

and staff concluded that, with the assistance of the architect, they could handle the task of project management even though they had little or no experience in doing so. The Board of Commissioners of the NVHA approved of this arrangement.

The Grand Jury has not found any evidence that any change order or cost for that change order was due to the inexperience of the Executive Director or staff. However, there were indications that a higher cost for some change orders was incurred as they were not sent out for bid. Whether or not the use of a professional project manager or the Napa County Public Works Department would have altered the progress of these projects is an open question.

What Was an Overrun and What Caused Overruns?

In 2004, after years of deferred maintenance, NVHA decided to expand and renovate the Calistoga and Mondavi Farmworker Centers, to provide dignified living conditions for farmworkers. The existing structures lacked privacy and were deemed unsafe, even uninhabitable by some. It was originally decided to first renovate the Calistoga Farmworker Center keeping in mind the goal of having both Centers completed and available for the 2006 harvest.

One of the main issues ultimately raised with regard to the project was the report of overruns. An overrun is the amount of cost that exceeds the contracted price or the amount of cost that exceeds the budget for a project. With regard to the renovation project for these housing centers, it is somewhat difficult to ascertain what an overrun was. This difficulty arose because there was work done on more than one contract, there were expenses incurred outside of any contract and there was no budget against which excess cost could be measured.

The matter was made worse by the NVHA because it signed major construction contracts for the Mondavi Farmworker Housing Center before the plan check for the project was complete. This caused the additional work to be done to the original contract via change orders, giving the appearance of an overrun of the contract. Had NVHA waited until the plan check was complete before sending the approved plans out for bid, any subsequent contract for the approved plans should have included the changes made by the plan checker. The resulting contract would have reflected the actual cost of the work to be done, reducing the appearance of a large overrun.

The Calistoga Farmworker Housing Center was a different story. Here the contract was awarded but not signed until approximately one month after the plan check was completed by the County of Napa. The County of Napa has admitted that the plan check was inadequate and did not reflect the changes to the plans that should have been required by the plan checker. Had the original plan been properly reviewed and if changes had been required by the plan checker, NVHA

would have had the opportunity to reopen the bidding process for the plans, including the changes required by the Building Department, or to amend the accepted contract to include the changes with a new contract price. This would have greatly reduced not only the number of change orders required during the construction phase but also the appearance of massive overruns. However, it should be noted that this would not have altered the many changes required by the new Fire Marshall who did not come aboard until a later date.

The failure to properly check the Calistoga plans had a far reaching effect. The architect used the same building code provisions to create the plans for the Mondavi Center since the plans for Calistoga were so readily approved. Had the Calistoga plans been properly reviewed in the first instance, the architect would have noted those required changes and incorporated them in the Mondavi plans which were sent out for bid. This would have greatly reduced the number of change orders required during the construction phase, and subsequently the appearance of massive overruns. It is an open question as to what effect this would have had on the many changes required by the new Fire Marshall.

The goal of having the renovation projects completed by the fall harvest of 2006, placed time restraints on the NVHA. This goal precluded the NVHA from waiting for the plan check to be completed on the Mondavi project before sending the approved plans out for bid. The following Table 1 sets forth the expenditures for all the contracts, the change orders and other services for both Calistoga and Mondavi projects.

TABLE 1. ITEMIZATION OF EXPENDITURES

	CALISTOGA	MONDAVI
Paid to General Contractor		
* Contract Price	\$1,317,000	\$1,170,532
Change Orders		
Changes per plan check		\$309,663
Civil Engineering		\$335,357
Fire/Safety per Fire Marshall	\$421,467	
* Septic System	\$206,580	\$ 66,887
Electrical Requirements	\$158,507	
New Gas and Water Lines	\$ 65,930	
* Carriage House Repairs & Stabilization	\$ 75,424	
Dining Hall HVAC	\$ 23,137	
PG&E Requirements	\$ 13,461	
All Others	\$ 5,162	\$30,357
Total	\$1,020,118	\$742,264
Paid to other Contractors		

* Architects	\$162,243	\$111,226
* Mobile Home Modification and Foundation		\$ 76,936
* Water Engineering	\$ 3,995	\$ 4,127
* Well Destruction	\$ 6,707	
* Well Testing		\$ 680
* Water Treatment System for Arsenic	\$ 46,694	
*Septic System Design	\$ 2,145	
* Civil Engineering Design		\$ 9,165
* Land Survey		\$ 2,450
Total	\$ 221,784	\$204,584
Paid to others for stated services or product		
* Site Evaluation	\$ 400	\$ 375
Gas and Electric Services	\$ 28,815	
* Site Cleanup	\$ 3,610	\$ 719
*Bid Expenses	\$ 5,426	\$ 3,630
Fireproof Testing	\$ 870	
Fire Extinguishers	\$ 485	
Furniture and Appliances	\$ 18,424	\$ 14,209
Landscaping	\$ 2,000	
Napa Land Title	\$ 4,309	
Miscellaneous	\$ 1,634	\$ 1,135
Total	\$ 65,973	\$ 20,068
Total Expenditures	\$ 2,624,875	\$ 2,137,448

* These costs were anticipated above the contract bid with the general contractor

Table 1 further illustrates the difficulty in ascertaining what was and what was not an overrun item. Below we offer a more detailed discussion of the events that transpired and their effect on the cost of the projects.

a) The Calistoga Project

In late 2004, an architectural firm known to have an interest in assisting the effort to provide housing for the farmworkers was recommended to the NVHA. This architectural firm did agree to perform initial work on the plans for the Calistoga and Mondavi projects *pro bono*. The architectural firm was later hired and prepared construction drawings for the Calistoga project and submitted them on March 21, 2005, to the NCCDPD for review and approval.

The NVHA sent the Calistoga project out for public bid on March 28, 2005, before a building permit was issued. The bidding closed on May 2, 2005, with only one construction firm submitting a bid. On April 21, 2005, the NCCDPD approved the sets of construction drawings with only one minor change on the drawings. The plan checker indicated agreement with the architect's

interpretation of the building codes and that the drawings conformed to the applicable building codes. The plan checker retired shortly after approving these Calistoga plans. On May 26, 2005, NVHA signed the contract with the contractor for \$1,317,000. On July 26, 2005, building permits were issued for the Calistoga project and in mid August construction began. The reason there was a three-month delay between approval by the plan checker and the issuance of a building permit was never made clear to the Grand Jury. This delay was one reason the Mondavi Project was started before the Calistoga Project was completed.

As work on the Calistoga project continued into October 2005, County building inspectors raised issues that the plans and work already done did not conform to the building codes. In addition, concern arose regarding the occupancy level of the dormitory, which dictated what sections of the building and fire codes were applicable. In order to comply with the proposed changes, the Executive Director of NVHA informed the NVHA and the FWHOC that the contingency funds had been exceeded and that an additional \$500,000 would be needed. The Executive Director stated that another application for an additional grant for the Calistoga project would be submitted and funds would be sought from the Napa County Low Income Trust Fund. The NVHA approved the submission of an application for another Joe Serna Grant for \$500,000, which was ultimately approved by the State on April 26, 2006.

In late 2005, NVHA asked for, and had several meetings with, the NCCDPD, and with County Supervisors and the County Executive Officer, to address all of the changes being required by the County building inspectors. This resulted in another plan checker's review of the originally approved construction plans. This plan checker had meetings with the architect and indicated what changes were necessary but nothing was put in writing. The architect did send correspondence to the NCCDPD setting forth what the architect believed needed changing. This resulted in a number of corrections and change orders. The plan checker noted that the original plans were labeled as conforming to the R1 building code standards but in fact, considering the occupancy load opinion of the Building Department, they did not conform to the building code in force at the time of the construction. A major issue was one of interpretation as to whether the construction should be reviewed as congregate housing accommodating less than 10 persons or the more strict code of accommodating more than 10 persons (hotel housing). Further meetings resulted in a compromise between the architect's opinion and NCCDPD interpretation of the code, and in an understanding as to what further corrections needed to be done. The Calistoga Farmworker Center received final approval for occupancy from the County of Napa on June 29, 2006, approximately 10 months after construction started.

The expected and unexpected changes on the Calistoga project are set forth in Appendix 3.

The major faults are that the NCCDPD did not do a thorough plan review which caused NVHA to believe that the plans submitted for review conformed to the current Building and Fire Building Codes and that the NVHA did not have a budget for the Calistoga project against which the actual cost could be measured so that appropriate steps could be taken to secure proper funding.

b) The Mondavi Project

As the Calistoga project did not start until mid August 2005, NVHA decided to begin the Mondavi project in order to have both projects done by harvest time in 2006. In preparing the Mondavi plans, the architect used the same building codes that were earlier used in the Calistoga project as the plans for that project had been so readily approved by the initial plan checker and the then Fire Marshall. The Mondavi plans were submitted to the NCCDPD on October 5, 2005, shortly before the building inspectors started to raise issues with the Calistoga project. In light of the problems incurred with the Calistoga plans, the architect warned NVHA against starting the bidding process until the Mondavi plans were finally approved. NVHA, in its desire to begin the Mondavi project as soon as possible, disregarded the architect's warning and sent out the plans for public bid on October 24, 2005. NVHA awarded the job on December 6, 2005, and signed the construction contract for \$1,170,535 on February 6, 2006.

However, on the first review of the Mondavi plans on December 22, 2005, the plan checker insisted that the plans conform to the R1 occupancy definition, a different occupancy level than the architect had used in preparation of the plans. This plan checker also noted that the Building Code used by the architect did not have the current supplement. The marked up plans were returned to the architect who made the necessary changes and resubmitted the plans. On January 20, 2006, the plan checker completed a second check of the plans and required further changes. During this time period, the architect was meeting with the Director of the NCCDPD to resolve the corrections occurring with the Calistoga project. It was then decided, by the Director of the NCCDPD, that the Mondavi plans should be reviewed taking into account the many changes to the Calistoga project. This resulted in a third and fourth plan checker review of the Mondavi plans on February 13, 2006, and on March 6, 2006. The changes from these reviews are referred to as DELTA 4 changes and ultimately cost \$309,663. A building permit for the Mondavi project was issued on March 28, 2006, and construction began shortly thereafter. Final inspection of the Mondavi Farmworker Center and approval for occupancy was conducted on September 21, 2006, some six months after construction began. Unlike the Calistoga project, the corrections to the plans were done in a timely fashion and resulted in a R1 code compliant set of plans upon which a building permit was issued. The additional expenses on this project are set forth in Appendix 4.

The major faults on the Mondavi Project are the NVHA did not have a budget for the Mondavi project against which the actual cost could be measured so that appropriate steps could be taken to secure proper funding; and the NVHA did not follow the advice of the architect not to send out the project for bid until the building permit was issued. Had NVHA done so, the bid price would have included the changes and the cost of the project could have been addressed.

On November 21, 2005, NVHA signed a contract for the renovation of a mobile home to house the Mondavi Center's manager and cook. The renovation included placing the mobile home on a permanent foundation. The contract price was \$60,744. This phase of the project was completed on February 20, 2006, two weeks after the contract was signed with the general contractor. The final cost for the mobile home renovation was \$76,936.

In the final analysis, it is difficult to identify what items were overruns and what items would have been required if a thorough plan check had been performed. What is clear is that the NVHA did not have any idea of what needed to be done and what would be the total cost for these projects. This lack of foresight set into motion a series of events, which, once started, were difficult to stop.

c) Facility Review

During the course of this investigation, the Grand Jury toured the Calistoga and Mondavi Centers and noted significant construction deficiencies and deferred maintenance. The overall impression was that the facilities were safe, clean and a considerable improvement over the facilities before the renovations. The NVHA did not prepare a capital improvement or maintenance plan.

d) Project Time Line

In order to further show the interaction between the construction phase (explained above) and the financial phase (to be addressed in the next Section) for both projects, the Grand Jury constructed a time line which is set forth in Appendix 5.

4) Overview of the Projects: What Caused the Lack of Adequate Financing?

a) City of Napa Finance Department Accepted Practice for Funding Capital Improvement Projects

As previously noted, the finances of the NVHA were managed by the City of Napa Finance Department and the HACN pursuant to a contract for those services. The HACN had its own cash account within the Finance Department

until July 2005. It was an accepted practice of the Finance Department to allow a Napa City or HACN capital account to go negative if there were sufficient accounts receivable to cover the negative amount. However, neither the City Council nor the Board of the HACN authorized or gave permission to the Executive Director of the HACN to advance Napa City funds or HACN funds against NVHA approved Grants (NVHA accounts receivable) for the NVHA construction and renovation expenses incurred for the Calistoga and Mondavi Farmworker Housing Centers. In this case, the NVHA accounts receivable included the approved Joe Serna Jr. Grants which the Finance Department knew, or should have known about. Also included were the committed funds from the Napa County Low Income Housing Trust Fund and part of the reserve fund of the CSA#4 Funds. It is uncertain whether or not the Finance Department knew of the existence of these additional funds. As funds were actually received from the above sources and from private donations, these funds would be credited to the NVHA Capital Fund (Fund 41). Prior to July 2005, the amount of funding, if authorized, that could have been advanced to cover a negative balance in NVHA Capital Fund (Fund 41), would have been limited to the amount of funding in the HACN separate cash account within the Finance Department. This limiting factor was removed when the separate cash account was merged into the Napa City cash account which had sufficient monies, if authorized, to cover any negative balance within the NVHA Capital Fund (Fund 41).

b) NVHA Funding for These Projects

The Joe Serna Jr. Grant required 100% matching funds, with up to 50% in real estate and the remainder in cash. Ten percent of the grant was withheld until a final inspection was completed and a Certificate of Occupancy was issued for the project.

As can be seen from Table 2, NVHA needed to raise an additional \$ 1,250,754 above the \$1,170,523 in matching funds. This fact was not recognized by the NVHA when the renovation projects of the farmworker housing were undertaken. The time line in Appendix 5 sets forth when the various grants were applied for, granted and paid out by the State of California.

TABLE 2. GRANTS PRIOR TO JANUARY 1, 2007

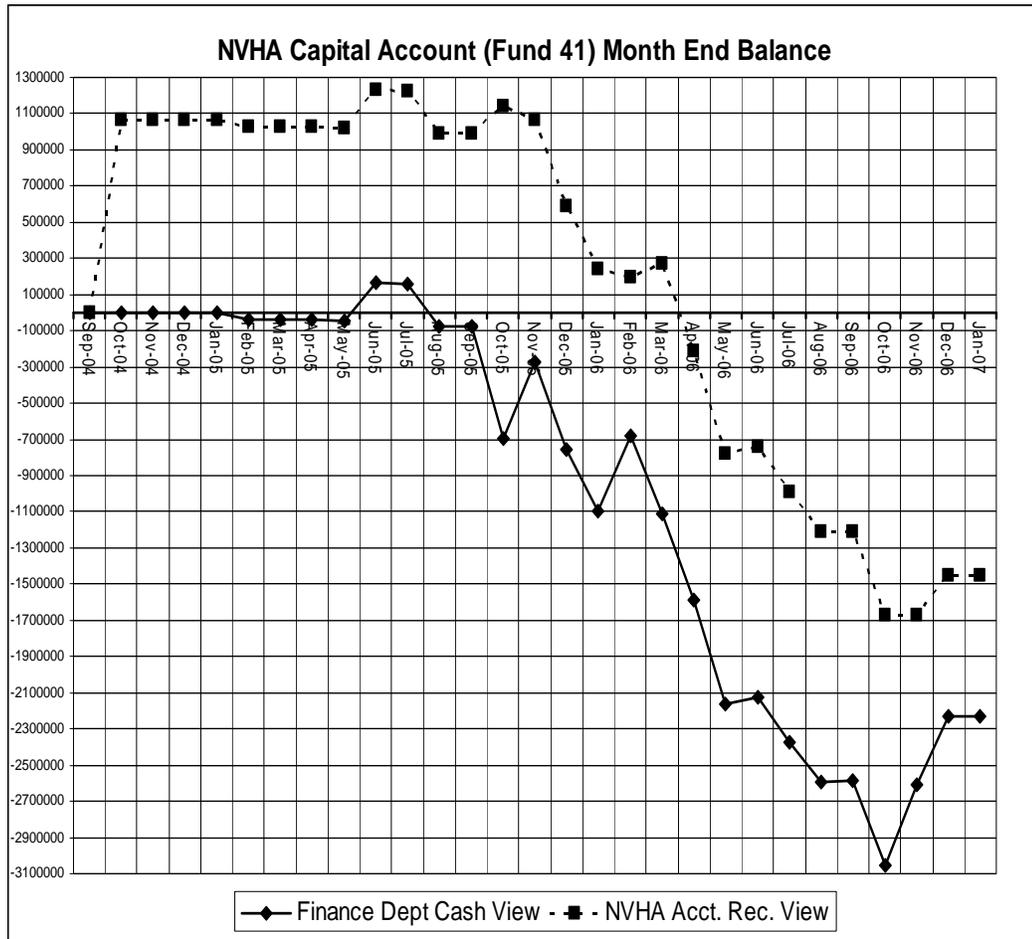
Funding Source	Grant Funding	Matching Funds	Final cost	Funds Needed
<u>Calistoga</u>				
Joe Serna #1	\$1,066,046.00	\$533,023.00		
Joe Serna #3	\$ 500,000.00	\$250,000.00		
Total	\$1,566,046.00	\$783,023.00	\$2,624,875.00	\$1,058,829.00
<u>Mondavi</u>				
Joe Serna #2	\$ 775,000.00	\$387,500.00	\$2,137,448.00	\$1,362,448.00
Total	\$2,341,046.00	\$1,170,523.00	\$4,762,323.00	\$2,421,277.00

NVHA received an anonymous donation of \$250,000 of which \$218,611 was used. NVHA had a commitment from the Napa County Affordable Housing Trust of \$500,000 which was received in June 2006. As a further funding source, NVHA planned to use up to \$250,000 but instead used only \$220,152 from the CSA#4 reserve funds that were received in December of 2006. The NVHA also received other donations and income during this time in the amount of \$28,803. The total money raised and received prior to January 1, 2007, was \$967,566 which was \$202,957 short of the required matching funds. The total shortfall was \$1,453,711 the sum of \$1,250,754 (\$2,421,277 - \$1,170,523) and \$202,957.

By the end of December 2006, it was clear that the program had serious financial problems. The question is, when should the responsible governmental agencies have ascertained the lack of available funds?

Using the information obtained during its investigation, the Grand Jury was able to document what the balance of the NVHA capital account (Fund 41) should have been at the end of each month (Figure 1).

FIGURE 1. NVHA CAPITAL ACCOUNT BALANCE BY MONTH



The Finance Department line is strictly a cash balance which accounts for charges as they were paid and money as deposited. The NVHA line includes the three Joe Serna Jr. Grants when they were approved as being accounts receivable, all other money when deposited and all charges when paid. From the NVHA line, it is clear that as of the end of April 2006, all the funds had been used to cover expenses. It appears from the Finance Department line, that if the Finance Department had balanced and then reviewed Fund 41, at the end of each month, they would have been alerted of a potential problem in October 2005. However, if at that time the Finance Department contacted NVHA, they would have been told that the negative amount was covered by approved Grants. The matter of the use of City of Napa or HACN funds for the NVHA projects would have been evident at that time and could have been addressed and resolved. By the end of April 2006, all the Grant funds were designated to pay pending charges and Fund 41, went negative as illustrated by the NVHA line. At this time, April, 2006, the Finance Department's line would have indicated a deficit of approximately

\$1,500,000 most of which was not covered by any Grant funding. The unfunded deficit would have continued to grow and at the end of the projects would have been approximately \$1,400,000 as shown by the NVHA line. According to the Finance Department line, the deficit was over \$3,000,000 which was reduced to approximately \$2,200,000 by December 2006. The difference between the two lines in December 2006, is the \$775,000 from Joe Serna Jr. Grant #2. Although this Grant was approved, it could not be drawn against until the title to the Mondavi project was transferred into the NVHA name, which occurred in 2007.

The Executive Director knew that unauthorized funds were being advanced against NVHA accounts receivables and that at least by mid 2006, knew there were not enough committed funds to cover the expenses being accrued. While he did make an attempt to obtain additional funds from the Napa County Affordable Housing Trust, he failed to provide an estimate of what funds were required and therefore no further funding was granted. While the Executive Director did not know the exact amount, there was enough information to give an estimate. Further the Executive Director stated many times that due to the inadequate plan check on the Calistoga Farmworker Housing Center, the Executive Director looked to Napa County to supply funding. The Grand Jury has not been able to ascertain whether the Executive Director made such a request to the County. In any event, this source of funding did not materialize. It is not known why the Executive Director did not apply for another Joe Serna Jr. Grant for the Mondavi Farmworker Housing Center in mid 2006, as was done later in 2007.

The Executive Director of the NVHA and HACN did not seek permission from the City of Napa to draw against their cash fund without having a confirmed source of funds to cover the advancement. It was not until late October 2006, that the Executive Director brought the unfunded expenditures (then stated as \$1,613,904) to the attention of the FWHOC and the Board of Commissioners of the NVHA. The unfunded expenditures were then brought to the attention of the City of Napa Attorney in November 2006. As previously noted, the Executive Director resigned in December 2006.

The negative balance of Fund 41, as of January 1, 2007, had two components, a funded portion and an unfunded portion as shown in TABLE 3.

TABLE 3. CITY OF NAPA FUNDS ADVANCED AS OF JANUARY, 2007

Advanced	\$2,228,711.00
Joe Serna #3 Funded	\$775,000.00
Unfunded	\$1,453,711.00

The unfunded amount of \$1,453,711 was eventually funded. The Joe Serna Jr. Grant #4 was approved in May 2007, for \$691,000 which left an unfunded shortfall of \$762,711. After a donation of \$205,000 was made by the Napa Valley Vintners (NVV) for these projects, the remaining unfunded amount was \$555,771 owed to the City of Napa Housing Authority. This \$555,771 was finally covered by a settlement agreement between the NVHA, the City of Napa, the HACN, the City of American Canyon, the County of Napa and the Housing Authorities of the Cities of Calistoga and St. Helena and the Town of Yountville.

TABLE 4. SOURCES FOR UNFUNDED OBLIGATIONS POST JANUARY, 2007 (AS SHOWN IN TABLE 3)

Joe Serna #4	\$691,000.00
Auction Napa Valley 2007	\$205,000.00
Settlement Agreement	\$557,711.00
Total	\$1,453,711.00

What is disturbing to the Grand Jury about this scenario is although the Executive Director told at least the Board of the NVHA and the FWHOC that there were ongoing increases in costs and that funds were being sought, no one, not the Board of NVHA, the FWHOC, nor the Deputy County Counsel, acting as counsel for the NVHA, asked the simple obvious question: “Where are the funds coming from to pay the contractor’s charges?”

The Grand Jury posed this question to the above-mentioned representatives: “Since you knew that a Joe Serna Jr. grant in the amount of \$775,000 for the Mondavi project could not be drawn against until the title to the land was transferred to the NVHA and that the NVHA approved and signed two Mondavi contracts for \$60,744 and \$1,170,532 respectively, where did you think the cash would come from to pay the contractor until the title to the land was transferred?” No meaningful response was given.

DISCUSSION

1) The Blame Game

The Executive Director of the NVHA appeared at a Special Meeting of the NVHA on December 20, 2006. The meeting minutes only report that he read a public statement. It is not clear why the minutes do not describe his statement of apology and concerns about the role of others given the magnitude of the overruns. The Grand Jury has obtained a copy of the statement⁹ which reads in part:

The situation created by my decision to cover the cost overruns and funding the project deficit of NVHA with HACN reserve funds has caused me one of my greatest personal and professional challenges of my life...

At the time, based upon my ongoing communication with both the FWOCC and NVHA, I believed that my decision was necessary...

I feel relieved that I can now respond in public. I have already in private session apologized and taken responsibility for my actions with the NVHA and HACN Board of Directors...

I was attempting to provide to all of you the most updated information on the problems we were experiencing, why we were experiencing them, the cost impacts and that the NVHA was going to need to identify and raise funds to cover the cost overruns. Hindsight is always 20/20. Looking back I wish I could have found a better way to communicate the problem...

I must also bring to the attention of my two boards and the community that there were several other mistakes made by other public employees of the County of Napa throughout this construction project... These mistakes were a direct cause of a major portion of the cost overruns and had nothing to do with the actions of the NVHA.

The report put together by County Counsel, is an attempt to explain away a number of these mistakes made by several county departments, including his own which is responsible for providing legal services to the NVHA since I became Executive Director.

The Executive Director wrote a letter to the Napa Valley Register¹⁰ in which he stated:

On December 20, 2006...I publicly apologized to my two boards, the Farmworker Oversight committee, industry organizations...and the general public for actions I was responsible for that played a major role in creating a funding crisis...

The most glaring omission from this report is the identification of what agency provided legal counsel to both the [FWHOC] and the [NVHA], reviewed and approved the bid documents and construction contracts for both projects and also reviewed all staff reports and change order logs that were provided...I know that an independent investigation and audit of the public documents will show the truth on this matter.

Following the public awareness of the overruns, the Director of Napa Valley Grap growers Association wrote a letter¹¹ to the Board of Supervisors, members of the NVHA, the County Executive and the Mayor of Napa publicly acknowledging that he did not know of the extraordinary cost overruns for a period of one year since they were first reported to the FWHOC. It reads in part,

As you know, I represent the NVG on the Napa County Farmworker Housing Oversight Committee [FWHOC], and in that capacity became aware of the extraordinary cost overruns for the renovation of the Calistoga and Mondavi camps at the October 27, 2006 meeting of that committee. The NVG has discussed this issue ...and would like to express our deep concern about these expenditures and the process that went into approving costs related to renovating the camps.

Similarly, the President of the NVV wrote a letter¹² to the NVHA Board of Directors, its Executive Director, the Chairman of the Board of Supervisors and the Mayor of Napa. It stated in part,

It has come to the NVV's attention, however, that the recent renovations of the Calistoga and Mondavi farmworker housing centers, which were budgeted at \$3 million, have over-run by \$1.5 million, ... The NVV understands that none of these over-runs were approved by the Housing Authority Board of Directors. Furthermore, the size of the overruns was a surprise to the Napa County Farmworker Oversight Committee. Frankly, the NVV is deeply concerned at this level of financial mismanagement on the part of the Housing Authority staff.

...we can no longer support these programs unless the following actions are taken:

- *A full accounting, by an outside auditor,...*
- *Development of an approved plan to pay for the over-runs...*

- *Assurance that the Housing Authority staff responsible for expenditure of unauthorized funds are held accountable.*
- *New policies and procedures are established to prevent recurrence of this type of situation in the future.*

The letter concluded by noting that the self-assessed fees paid by the grape-growing community were to be renewed early in 2007, and the approval would be strongly influenced by the confidence they have in the integrity of the system for administering these funds.

Here too, it is troublesome that an organization which had membership on the FWHOC implies that they did not know of the overruns and suggest that none of the overruns were accepted by the NVHA. It suggests that they had no idea that the Board of Commissioners had adopted a resolution granting such authority to the Executive Director.

2) The Written Record of the Contemporaneous Knowledge of the Overruns

As can be seen in the previous section, the public response of members of the NVHA and the FWHOC was to deny any knowledge of the overruns and to suggest that the Executive Director acted on his own. The Grand Jury has reviewed the meeting minutes for the NVHA and the FWHOC and presents an abridged version of the relevant sections from the public record in Appendix 6, to allow the reader to judge what was said and when it was said. Many meetings were cancelled, usually because of a lack of a quorum, but an agenda and staff reports had been prepared in advance and distributed to members.

The Grand Jury found the same statements repeated in the minutes, month after month, of how funds were to be requested from the County Board of Supervisors and other sources without substantive discussion of when the request would be submitted and how much money would be required.

It is important to note that in October 2005, the FWHOC was told of a \$500,000 overrun. The NVHA was aware of the overrun by at least February, 2006, as they were voting to request an additional grant from the State. They also knew in April and May of 2006, of over \$1,500,000 in change orders and unexpected costs. Throughout this time frame both entities were made aware of the series of problems in obtaining approved, workable plans from the NCCDPD and the necessity to lease a private farmworker camp due to the closure of the camps under prolonged renovation. An email dated February 2006, written by a member of the FWHOC to the chairs of the NVHA and the FWHOC and others questioned

the overruns and the economic feasibility of renovations. The Grand Jury found that none of the email recipients took any substantive action.

In addition to membership on the FWHOC or the NVHA, many members also attended meetings of an ad hoc farmworker advocacy and farmworker committee which met regularly to discuss issues such as the renovations. At the March 6, 2006, meeting of the Farmworker Committee, with members from the NVV present, an extensive discussion of “costly and time-consuming additions, some unanticipated and some required by the county have occurred at Calistoga.” It was reported that the additions were then at \$600,000 above budget. Various committee members expressed their concern about this situation and decided they wanted a meeting with Supervisors to discuss the county’s role. A meeting was subsequently held with two County Supervisors “to discuss the permit problems and subsequent cost overruns that have occurred with the renovations”. Both Supervisors expressed concern about the situation and were aware of similar complaints. They also agreed that “all county departments should be on the same page with NVHA and others involved in farmworker issues”.¹³ In June 2006, the minutes mention that a Supervisor had called a meeting of all county departments to discuss how to expedite the project. These minutes show that many grapegrowers, vintners and others were knowledgeable about the renovation overruns from different sources.

3) The Lack of Management and Oversight by the Governmental Entities

Previous Background Sections have described the planning process, funding sources for the farmworker housing renovations and the oral and written record of these government entities. In this Section, the emphasis is on the management role played by members of numerous organizations. It should be noted that several people held membership on both the FWHOC and the Board of Commissioners of the NVHA and that, by statute, two members of the NVHA were County Supervisors. It is therefore reasonable to expect that news of problems reported at one entity would be known to members of all entities.

The Editors of the *Napa Valley Register* ended 2006, by noting that, “The buck doesn’t stop with Dreier.”¹⁴ They outlined the role played by the Executive Director and then found fault with the NVHA Board of Commissioners, the advisory Farmworker Oversight Committee and the County planners for their role in the overruns. The Grand Jury presents its findings on these, and additional, parties below.

a) NVHA Board of Commissioners and FWHOC

The Grand Jury looked at how the NVHA Board of Commissioners and the FWHOC managed the information provided by staff. Although these people are

finance professionals, career management consultants, career public servants and very interested parties (Farm Bureau, Napa Grapegrowers, Napa Vintners), we detected little oversight for these projects.

The record reveals that members of these entities missed many meetings. In fact, numerous meetings were cancelled during the summer of 2006, due to lack of a quorum when the renovation projects were going full bore. A staff administrative assistant often called members prior to meetings to remind them to attend. Data packages were prepared prior to each meeting by the NVHA staff and sent to the Deputy County Counsel for review and approval before being sent to the Boards.

There is no evidence in the meeting minutes that any member suggested that the projects be slowed or halted. There is no evidence that anyone asked where the funds were coming from to cover the increased project needs or what funds were being used for the current costs paid to the contractor. The Grand Jury has evaluated the cash flow for the two construction projects and noted a serious, prolonged shortfall that was not dealt with by management. When the overruns became public knowledge, many members of the FWHOC voiced their “deep concern at this level of financial mismanagement on the part of the Housing Authority Staff” and wanted “assurance that the Housing Authority staff responsible for expenditure of unauthorized funds are held accountable.” The Grand Jury found no accountability has been forthcoming from any of these individuals, who had advisory or leadership roles.

The Grand Jury found that people trusted the Executive Director and accepted the Executive Director’s version of the problems and efforts to find financing, “there was no reason not to believe him, never any reason to doubt him.” Packages of information were provided by staff for meetings; those reading the information thought the budget was covered as presented, “I assumed that everything [the Executive Director] did was according to Hoyle, as did others around the table.”

While the Grand Jury recognizes that written staff reports do not reveal a sense of urgency, or a clear budget overview of the financial situation, the Grand Jury questions why the NVHA Board did not engage in any analysis of the situation. It is interesting to note that the operating budget for the farmworker centers was presented in great detail each month while the capital budget was remarkably devoid of details. One person indicated that, “This was not rocket science, you listen and read and make decisions—it was disgusting that deeper analysis was not done”. Further evidence of a lack of vigilance can be observed in the fact that the NVHA was found to have operated without an approved budget.¹⁵

Due to the need for plan modifications and hence, project delays, the NVHA Board voted¹⁶ to lease a farmworker center from a vintner, first for two months and then, as problems persisted, for additional time. Therefore, one might

conclude that they were cognizant of the construction delays even if not of the costs.

Several people offered, as an excuse for not asking a lot of questions, the fact that people of good will and intentions join committees and boards to perform a service to the community. While they are anxious to serve, they may not have the necessary experience with construction projects, finance or applicable ordinances and thus, there is a tendency to accept reports by staff without much in-depth probing, to act as a rubber stamp, trusting the integrity of the staff.

While this lack of comprehension may well be the norm, Napa County voters approved Measure Z¹⁷ in 2006, which requires the Supervisors to certify that they have read and approve a particular motion before them because there was evidence that they were “not always reading and aware of what they were passing into law.” By extension, what is important for the Supervisors is important for all who serve the public—to take responsibility for their actions and to act in the best interests of the citizens of Napa County.

While it is understandable that it is difficult for many members to develop accounting skills and management skills on the job as volunteers, the Grand Jury does think that life-experience, common sense and intuition need to be used. Members should be provided with training on best practices for committees and an understanding of the framework in which their entity operates as they assume membership.

When the news of the overspending became public in December 2006, the County Auditor-Controller recommended that an outside auditing firm without prior commitments with the NVHA or the County, be hired to review the books of the NVHA. This firm made observations and recommendations to management on the following topics in a presentation (June 11, 2007) and report to the NVHA which are annotated below. The accounting firm noted:

- That the NVHA did not have formal budget policies and procedures and did not formally adopt an annual operating budget. There was no accounts receivable system in place. The NVHA did not prepare a capital improvement budget. It is essential to have a budget based on projects length to ensure that all capital expenditures are properly authorized by the board and to provide the board control over capital expenditures.
- That NVHA did not have its own bank accounts; all funds were commingled with HACN funds. Bank reconciliations were not reviewed by anyone other than the preparer which allowed errors to go undetected.
- That the City of Napa and the HACN advanced approximately \$2,000,000 to NVHA without approval of the NVHA Board or the City of Napa and the HACN.

- That the NVHA did not comply with the Joe Serna Grant agreement by not submitting an annual certified report to the State of California Department of Housing and Community Development nor were some operating and capital reserves maintained in a separate bank account.
- That the financial position of the NVHA did not appear healthy due to the significant amount owed to the City of Napa and the HACN which was advanced to the NVHA to cover the significant cost overrun on the Calistoga and Mondavi center renovation projects.

During the Grand Jury's investigation, one person stated, "The report was a big black-eye for anyone in public office, a big embarrassment."

At their June 11, 2007, meeting, the NVHA Board of Commissioners accepted the filing of the independent audits and requested staff to prepare a response to the Management Recommendations. This response of the NVHA, prepared by the staff, does not appear in the public record.

The Grand Jury has obtained a copy of the NVHA Management Letter responses issued under the signature of the Chair of the NVHA dated June 26, 2007. The NVHA Management Letter responses concurred with most findings except a few deemed not applicable. The Grand Jury notes that the NVHA Board of Commissioners which had earlier promised the public transparency and a full accounting of what allowed the overruns to take place, essentially buried this letter and the response which explained that they were responsible due to a lack of operating controls. They did not dispute this in their acceptance of the report.

b) NVHA Executive Director

The Executive Director of the NVHA, with concurrence of the Board, set the stage for all of the untoward events to take place by sending the plans for the Mondavi Center out to bid without having approved plans. This added to the financial problems initiated by the NCCDPD's inadequate review of the Calistoga Center plans.

It is not clear why the Executive Director did not obtain experienced personnel to manage these construction projects as was done to build the River Ranch camp. Apparently, the NVHA had solicited assistance from the County Public Works Department but was turned down due to lack of time. The Grand Jury was told that an external manager was not sought in order to keep the budget low. Thus, a staff person, with no formal training or experience in the management of construction projects and without an appropriate knowledge base, was put in a position by the Executive Director where numerous decisions had to be made.

As noted previously, the Executive Director of the NVHA failed to inform the Boards of the NVHA or HACN, or the FWHOC, that he had been using City of Napa funds to pay for the overruns until late in October 2006.

c) County Counsel

Legal services to the NVHA were furnished under contract by the County Counsel's office. These attorneys prepared and approved NVHA resolutions, agenda, minutes and documents relating to the bidding and contracting process.

On December 18, 2006, after the overruns had become public, the County Counsel issued a memorandum¹⁸ to the Board of Supervisors, portions of which are presented in Appendix 7. The memorandum attempted to dissect the by-laws and actions taken by the NVHA Board of Commissioners regarding who had responsibility to sign the construction contracts and any change orders.

The Grand Jury found it troubling that this memorandum by the County Counsel is at odds with the written documents by which the Executive Director was given the authority to enter into construction contracts and change orders by motions of the NVHA Board of Commissioners.

A thorough review of the housing renovation projects by the Grand Jury has not revealed any evidence that anyone ever told the Executive Director not to sign change orders, not to pay bills, or to stop the projects until sufficient money was obtained. Indeed, members of the NVHA Board of Commissioners confirmed that "[the Executive Director] functioned as the project director and it was his job to sign for payment."

The memorandum never questions the role and actions of the NVHA Board of Commissioners or other parties; all of its emphasis was on the possible unauthorized actions by the Executive Director. Parenthetically, it must be mentioned that the County Counsel had responsibility for NVHA legal matters and that a Deputy County Counsel reviewed all contracts and reports and attended, or was supposed to attend, all NVHA Board meetings.

The County Counsel's December 18, 2006, Memorandum states that:

The NVHA's only authorization of its Executive Director to act as its representative in relation to both contracts is contained in the NVHA resolutions (05-03 and 05-13) which initially approved each contract. After approving award of the construction contract, each of these resolutions states only that:

"Section 2. Authorizes the Executive Director to execute the contract documents as necessary."

As discussed above, it is doubtful whether the Executive Director had the discretionary authority to approve and bind the NVHA as Owner to post-award changes in the contract price or plans and specifications affecting the contract price.

The Grand Jury finds this last sentence to be disingenuous as County Counsel has the responsibility to insure that the operation of the NVHA proceeds within the law and, in fact, the County Counsel's office drafted these resolutions for adoption by the Board. Further, the record is replete with references to change orders being signed by the Executive Director. The NVHA Board of Commissioners acquiesced in the signing of change orders by the Executive Director, which is evidence of how they interpreted this Resolution. The NVHA Board either granted explicit authority or implicit authority to allow the Executive Director to sign change orders.

The memorandum goes on to promise investigations that were never completed. The County Counsel's office initiated an investigation to determine culpability but it was terminated when the Settlement Agreement¹⁹ was signed. During that investigation, no members of the NVHA or the FWHOC were interviewed by the County Counsel's office.

Five months after this memorandum was written, a Settlement Agreement was drafted and approved by all member entities of the NVHA and the City of Napa. The Agreement has a series of paragraphs, Recitals, which describe key items that led to the drafting of the document. It is important to highlight one of these Recitals, as it was intended to be the last, official word on the overrun saga:

Recital L. The NVHA Executive Director did not obtain the approval of the NVHA Board of Commissioners to execute any of the additional work which resulted in the Total Cost Overages... Upon learning of the Total Cost Overages, representatives of the governing boards NVHA, the member agencies of NVHA, and the Napa Entities each disputed responsibility for payment of all or some portion of the Total Cost Overages.

The Grand Jury takes exception with the portion of Recital L that states the Executive Director did not obtain approval from the NVHA Board of Commissioners to execute the additional work. The NVHA Board of Commissioner resolutions and meeting minutes and our investigations, belie this notion. Recital L also implies that these organizations only recently learned of the overages, which, as we have already discussed above, is not what the NVHA and FWHOC minutes reflect.

Prior to a Board vote, staff typically prepares an explanatory document that describes the requested action, financial impact and background information. It is intriguing to read the supportive documentation prepared for the NVHA²⁰ and for the City of Napa²¹ for the Settlement Agreement, which was drafted by a Deputy County Counsel and the City of Napa Attorney. What makes these documents of such interest, is that they mirror each of the Recitals (E-R) of the Settlement Agreement in most every detail except that they fail to mention the Executive Director and any actions he is alleged to have taken that is otherwise noted in Recital L.

The Grand Jury understands that this portion of Recital L was insisted upon by County Counsel. The City of Napa Attorney did not want it in the Agreement. Thus the Grand Jury wonders what the motivation of the County Counsel was in singling out the Executive Director from all those involved, and reporting him guilty of signing change orders without authorization, first in the County Counsel Memorandum and then in Recital L of the Settlement Agreement, when the record reveals otherwise.

After reviewing these and numerous other documents relating to the farmworker housing issues, the Grand Jury has reluctantly concluded that the services provided by the County Counsel's office were occasionally performed in a careless manner.

d) City of Napa Finance Department

The City of Napa Finance Department allowed the overruns to proceed without check due to the commingling of accounts and general accounting inadequacies.

The independent accounting firm brought in after the overruns became public, reviewed all contracts, change orders and financial statements and almost all of the receipts and invoices. While there were weaknesses in the system, it did not find any suspicious financial dealing. All revenues and expenses were properly documented and were related to the project.

The City had significant turnover in the Finance Department between 2001, and 2005. Key people left or were let go, resulting in a situation with no knowledgeable leaders and a dysfunctional finance system. The then Finance Director was not an accounting professional and was not focused on the needs of the Department. The computer system used by the City was created in 1976. There is no documentation of the software, which made it difficult to make changes. Approximately 2 years ago, the City began to consider the purchase of a new system. Installation of the new system is said to be progressing satisfactorily and should be operational in July 2008.

The culture of the Finance Department allowed the HACN to stand apart and they were not required to follow the City's policies and procedures. Thus, the staff in Finance did not feel that they had any authority over the HACN finances. During the period of time from 2004-2005, one accounting technician handled the Housing Authority funds. This position was eliminated due to budget cuts resulting in the loss of the Finance Department person who was primarily responsible for handling the Housing Accounts. This resulted in the loss of institutional knowledge. Starting in November 2006, the staff was finally empowered to question the management of the Housing finances.

In October 2006, the then Finance Manager who was preparing a State Controller Report for the NVHA, discovered a negative cash balance, called Housing to question this finding and was told that they knew about it. The NVHA Executive Director informed the City Attorney of the situation on November 15, 2006. The Finance Director retired in February 2007.

The current Finance Director is prioritizing the department needs to correct the years of benign neglect. Among the recent activities are completion of 3 years of back audits, a budgeting process, the hiring of experienced personnel and the implementation of the new accounting software.

e) Napa County Conservation, Development & Planning Department

The NCCDPD admits it performed an inadequate review of the Calistoga Center plans that resulted in the need for numerous change orders to the original contract. There was also an excessive, unexplained delay between approval of the plan by the checker and the issuance of a permit.

f) County Executive Staff

After the Calistoga Center permit was received and construction begun, field inspectors from NCCDPD and the Fire Marshall began to request numerous changes to the plans. A meeting was held with the NVHA staff, a Supervisor, the County Executive Officer and the Director of the NCCDPD to see if a clear plan could be developed. It is, therefore, fair to assume that at least these County leaders were aware of the issues in April 2006.

As reported in the NVHA and FWHOC minutes, the Executive Director discussed with the Manager of the Community Partnership Department the possibility of attaining additional funds from the County Affordable Housing Trust Fund to cover the project needs. While there was correspondence on this subject, the Executive Director did not respond to repeated requests from this Manager for an estimate of the total overruns and the amount of the additional funds required.

2) The Aftermath: The Key Events of 2007

How did the governmental agencies respond to this crisis in governmental stewardship of public funds? The responses varied among the officials involved in trying to restore the public's trust.

Some can be severely criticized for disclaiming prior knowledge of the overruns, which they clearly had to have had, and some for deflecting responsibility or failing to immediately disclose that unauthorized funds had been taken from one entity to cover costs of another. As both the NVHA and NCHA Board minutes reflect, there were several closed sessions which obviously dealt with this matter. The Grand Jury reminds all of the public stewards of section 54,950 of the California Government Code (the Brown Act) which provides in part:

The people do not give their public servants the right to decide what is good for the people to know and what is good for them not to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

When the County's Auditor-Controller learned of financial problems with these projects in November 2006, the Auditor-Controller immediately insisted that the NVHA retain an independent accounting firm to audit NVHA's finances over the 18-month period during which these problems occurred. This Auditor-Controller recommended an independent accounting firm that had never done any business with the County, the City of Napa, the NVHA or any of the agencies involved in this matter. The NVHA was prohibited from paying any more bills without the prior review and authorization of the County Auditor-Controller.

In the spring of 2007, action was taken to have the County regain control of the farmworker housing centers. With the NCHA set to take over operational responsibility for the farmworker centers from NVHA on July 1, 2007, the County Auditor-Controller requested the adoption of a resolution whereby the NCHA would adopt the County budgetary and purchase procedures as its own set procedures. This was approved by the NCHA on March 27, 2007. The Auditor-Controller then started the budgetary process for the NCHA's fiscal year 2007-2008 continuing to insure that controls would be maintained.

At their March 27, 2007, meeting, the NCHA voted to create the Napa County Housing Commission (NCHC). The main purpose of the NCHC would be to provide input to the NCHA regarding operations of the farmworker housing centers and advise the Board of Supervisors on the allocation of annual assessments imposed within CSA#4. Once the present assessment renewal was

completed on or about June 30, 2007, there was no longer a need for a CSA#4 Advisory Committee. Likewise, the creation of NCHC eliminated the need for the FWHOC. On April 24, 2007, the ordinance creating the NCHC was adopted and the FWHOC was dissolved. The CSA#4 Advisory Committee was dissolved effective July 1, 2007. The functions of the two separate committees under the old NVHA, the FWHOC and the CSA#4 Advisory Committee, were then consolidated into a single Commission. The County expects this change to streamline the advisory process and at the same time, “address and resolve the public perception that oversight of the farm labor camps was so diffused among existing committees, that a less than desirable level of accountability exists.”

The Grand Jury believes that the County’s first expectation should be realized but believes that the public’s perception will not be so easily altered merely by this change, as some of the same people who served on the NVHA and the FWHOC during the events described in this report, were appointed to serve on the NCHC. The Grand Jury expects that appropriate oversight is now in place to prevent any recurrence of financial mismanagement.

While the foregoing changes were being made, the various governmental entities involved were negotiating a resolution of the NVHA debt to the City of Napa, a result of the unauthorized use of the City’s money. This was principally done out of public view. The public learned the results of these negotiations when a NVHA Farmworker Housing Settlement Agreement to cover a portion of the total cost overages of \$2,228,711, for renovation of the Calistoga and Mondavi Farmworker Centers, was presented to the NCHA and the Board of Supervisors at their meetings on May 22, 2007. The settlement agreement was approved by all parties with the County of Napa paying \$185,904, the City of Napa paying \$185,904 and the Cities of American Canyon, Calistoga, St. Helena and Yountville, each paying \$46,476. As noted above, the rest of the overage was covered by various sources, principally the State of California Joe Serna, Jr. Farmworker Grants and the NVV contributions.

This was indeed an expensive occurrence, not only financially, but also in the loss of public trust. Unfortunately the questions asked by those working to resolve the problem and to restore the public trust, “When it’s the public’s money, you don’t spend without funds or a budget” or “How can you spend money that is not there?”, were not asked by those responsible for the farmworker housing projects in 2005 and 2006.

The Grand Jury concludes that it may have spent more time trying to understand the events surrounding the renovation and financing of the two farmworker housing centers than those charged with the responsibility to carry out the original projects. The Grand Jury hopes that these findings will give the public a better understanding of this breakdown of governmental stewardship and are used

constructively to improve the governance of future authorities, boards and committees in Napa County.

FINDINGS

The 2007-2008 Grand Jury finds that:

1. The oversight of the renovations of the Calistoga and Mondavi Farmworker Housing Centers was the responsibility of the Board of Commissioners of the NVHA with advisory input from the FWHOC.
2. Due to a number of post contract changes in the projects required by the NCCDPD and the County Fire Marshall, there were major costs incurred in excess of the original contract prices on both projects; \$1,020,118 for Calistoga and \$ 742,264 for Mondavi, resulting in a total overrun of \$1,762,382.
3. The Board of Commissioners of the NVHA failed to exercise control over the Calistoga and Mondavi projects when, based on the information available to them during the projects, they knew, or should have known, that the cost of these renovations was far exceeding contract amounts.
4. The FWHOC failed in its designated responsibilities to discuss and make recommendations to the NVHA and the Supervisors with regard to the progress, the costs incurred and the availability of funds to pay for the renovations. The Committee members knew, or should have known, that the costs were exceeding contract amounts.
5. The problem of cash shortfalls surfaced in April 2006, when all of the Grant funds were expended to pay for charges. The deficit continued to grow to the end of the projects resulting in a cash shortfall of \$1,453,711.
6. The Commissioners of the NVHA and the members of the FWHOC failed to inquire into who was providing the cash to cover the shortfall so the renovations could be completed.
7. The NVHA and the FWHOC were more focused on having the renovations of the Calistoga and Mondavi Farmworker Housing Centers completed by the fall harvest of 2006, than how they were being financed.
8. During construction of these projects, many of the NVHA Commissioners and FWHOC members did not regularly attend meetings and many meetings had to be canceled for lack of a quorum.
9. The Executive Director of the NVHA and HACN, without informing the NVHA Board of Commissioners or the FWHOC and without authorization from the City of Napa and HACN, used City of Napa and HACN funds in excess of \$2,000,000. The ability to thus manipulate funds was due, in part, to the same incumbent occupying

- management roles for two distinct organizations (NVHA and HACN) where their funds had been commingled.
10. The NVHA Board, the FWHOC and the City of Napa were informed of the unauthorized use of funds after all the charges for the renovations were incurred.
 11. While the Executive Director's intentions may have been to complete the renovations prior to the 2006 fall harvest, this does not excuse use of City of Napa funds and HACN funds without authorization of the City of Napa and the HACN.
 12. The City of Napa Finance Department had an outdated and inadequate financial/accounting system, operated by an insufficient and under trained staff. The Finance Department was not aware of the unauthorized use of City of Napa and HACN funds to pay for the NVHA Calistoga and Mondavi projects until after the projects were completed and all costs were paid.
 13. The NCCDPD issued a building permit for the Calistoga renovations based on an inadequate plan review. In addition, the NCCDPD delayed the Calistoga project by taking three months to issue a building permit after it had signed-off on the submitted plans.
 14. The NVHA sent the Mondavi project out to bid before the building permits were issued, resulting in many change orders.
 15. The NVHA undertook to manage the Calistoga and Mondavi projects without sufficient prior experience in construction management.
 16. The NVHA Executive Director had both actual and implied authority from the NVHA Board to authorize and approve the change orders on the two projects.
 17. The NVHA Board of Commissioners and the FWHOC members had contemporaneous knowledge that the Executive Director was approving and signing change orders but none of them objected.
 18. In the aftermath of these projects, there had been an effort by some government officials to focus blame solely on the former NVHA Executive Director.
 19. County Counsel's memorandum to the Board of Supervisors dated December 18, 2006, criticizing the NVHA Executive Director, is based on an incomplete, insufficient investigation.
 20. Documents supplied to meeting agendas do not always list the author(s) of the document(s).
 21. An independent accounting firm reported numerous problems with the controls and oversight of NVHA in a Management Report to the NVHA Commissioners.
 22. The NVHA Commissioners agreed with most of the audit findings in a response to the auditors which was apparently never made public.
 23. The NVHA does not yet have a capital improvements budget.

24. The Settlement Agreement between the County of Napa and the Cities of Napa, American Canyon, St. Helena and Calistoga and the town of Yountville and their respective housing authorities allocating the repayment of the City of Napa funds used by the NVHA, was a reasonable way to resolve this financial issue.
25. The first sentence of Recital L to the Settlement Agreement erroneously states that the Executive Director did not have authority to sign change orders. This Recital was drafted by the County Counsel.
26. There was no formal training or orientation program for people appointed to, or who volunteered to be on, the FWHOC or the NVHA.
27. From the Grand Jury's own investigation and the audit of NVHA's books by the independent auditor, it appears that all of the funds were expended on the project and that no one appeared to profit individually.
28. The renovations to the Calistoga and Mondavi Farmworkers Housing Centers provide a safe, clean and habitable abode for the farmworkers.

RECOMMENDATIONS

The 2007-2008 Grand Jury recommends that:

1. A training manual be developed and training provided for new members of any County agency and advisory group. The training must include the legal basis for that entity and other regulations that are important to know in carrying out their role and the requirements of the Brown Act.
2. All Joint Powers Authorities (JPA) have a clear, defined set of rules for its members as they come from different municipalities with different operating procedures. The JPA members must know which rules are to be followed. It is the responsibility of the JPA Counsel to update members as rules change.
3. Members of these County agencies and advisory groups attend the meetings, read the agenda material before they vote and remain vigilant. As a matter of policy, they not simply rely upon staff but rather follow the precept outlined in Ordinance 05-01, to read and understand what comes before them.
4. The Board of Supervisors, acting as the NCHA, take steps to restore the public's trust in the management of farmworker housing.
5. For any future capital improvement project of NCHA, a professional project manager or the Public Works Department be retained and the project be sent out for bid after a building permit is issued and the financing for the project is in place.
6. Agreements to which local governmental agencies are parties not contain false statements in the recitals.

7. The NCCDPD assure that thorough plan checks are done and that permits are issued on a timely basis.
8. The City of Napa continue to take steps to improve the operation of its Finance Department and install systems to allow it to have current and accurate financial information.
9. The Finance Department be headed by an accounting professional and have sufficient trained staff to maintain operations.
10. All supporting documents for the Agenda for public agency meetings in Napa County list the name of the author(s).
11. The NCHA establish a capital improvement fund for the farmworker housing centers.
12. Governmental entities must avoid having one individual serve in an executive position with access to financial resources for two organizations. Such a policy will significantly reduce the opportunity for conflict of interest and commingling or misallocation of funds.

REQUEST FOR RESPONSES

The 2007-2008 Grand Jury requests responses from:

- Napa County Board of Supervisors on Recommendations: 1-4, 5, 6, 10, 12.
- NVHA on Recommendations: 3, 4, 6, 7 and on Findings: 2, 3, 6-9, 14-16, and 19.
- Napa County Executive Officer on Recommendation: 10.
- Napa County Counsel on Recommendation: 6.
- NCCDPD on Recommendation: 7.
- NCHA on Recommendations: 4, 5, 11.
- Housing Authority of the City of Napa on Recommendation: 6.
- City of Napa Attorney: 6.
- City of Napa City Council and Director of Finance on Recommendations: 8, 9, 12.
- City of American Canyon on Recommendation: 6.
- Housing Authority of the City of St. Helena on Recommendation: 6.
- Housing Authority of the Town of Yountville on Recommendation: 6.
- Housing Authority of the City of Calistoga on Recommendation: 6.

GLOSSARY

CHDC	California Human Development Corporation
CSA#4	County Service Area #4
FWHOC	Farmworker Housing Oversight Committee
HACN	Housing Authority of the City of Napa
JPA	Joint Powers Authority
NCCDPD	Napa County Conservation, Development & Planning Department
NCHA	Napa County Housing Authority
NCHC	Napa County Housing Commission
NVHA	Napa Valley Housing Authority
NVG	Napa Valley Grapegrowers
NVV	Napa Valley Vintners

APPENDIX

APPENDIX 1: Organizational Membership October, 2005

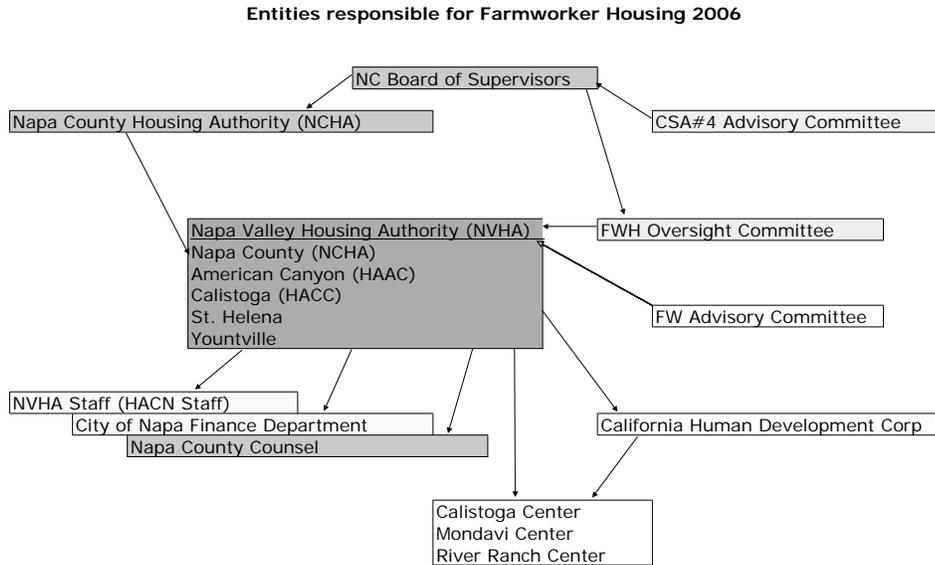
Membership of NVHA

Leon Garcia, Chair; Todd Carlson; Janice von Pohle; Brad Wagenknecht; Harold Moskowitz; Bonnie Schoch.

Membership of FWHOC

John Heymann, Chair; Rosa Segura, Vice Chair; Steve Rosa; Margaret Duckhorn; Sam Turner; Pat Garvey; Leon Garcia; Jack Gingles; Terry Scott; Rich Salvestrin; Brad Wagenknecht; Father John Brenkle; Bonnie Schoch; Harry Martin.

APPENDIX 2: Entities Responsible for Farmworker Housing 2006



APPENDIX 3: Additional Expenses of Change Orders to Calistoga Center Plans

Unexpected Changes

- A new Fire Marshall overruled the past Fire Marshall's approval of the construction plans and required the construction to conform to an R1 Occupancy rating which resulted in the addition of \$421,467 in change orders to the cost of the project.
- Electrical upgrading to conform to PG&E requirements that became necessary in part due to the Fire Marshall's requirements added another \$158,907 in change orders.
- A new HVAC system for the dining hall was designed to be placed on the dining hall roof. It was discovered that the present roof support structure would not support the additional weight of the new HVAC unit. A change order was issued for new trusses to be installed in the dining hall at a cost of \$23,137.
- Newer and larger gas and water lines were required resulting in a change order costing \$65,930.

Expected Changes

- Due to a high concentration of arsenic in the water, a water purification system was required at a cost of \$46,649.
- A well had to be destroyed at a cost of \$5,800.
- The septic system was not included in the original scope of work in the contract although some work on the septic system was expected. The total cost to expand, repair and replace the old septic system was \$208,725.
- Inside structural work and stabilization of the foundation of the carriage house added change orders in the amount of \$75,424.

APPENDIX 4: Additional Expenses of Change Orders to Mondavi Center Plans

- The civil work site improvement was not included in the original contract because the Civil Engineering plan was not completed when the contract went out for bid. The civil work increased in part as the changes occurred to the plans due to not only address a drainage problem but to also increase in the width of a road from 14 feet to 20 feet to accommodate fire equipment as required by the Fire Marshall. Since the existing road was bordered by a drainage ditch substantially lower than the bed of the existing road, the drainage ditch had to be moved, the land filled and compacted to support a roadbed. Once the County of Napa approved the civil work, then the work could begin. The cost of the civil work, including design, was \$333,357.

- The improvement to the septic system, while expected, was not included in the scope of work of the contract. The cost for improving the septic system was \$66,887 and was completed by the general contractor on a time and material basis.
- Finally, while doing demolition work in the dormitory, it was discovered that aluminum wiring had been installed necessitating replacement of the wiring at a cost of \$10,230.

APPENDIX 5: Time Line for Renovations to Calistoga and Mondavi Centers

CALISTOGA CENTER	DATE	MONDAVI CENTER
Applied for State Grant #1 Matching required funds to come from the Napa County commitment of \$500,000, private donations and the CSA#4 annual assessments.	05/15/04	
Site Evaluation.	10/12/04	
State Grant #1 approved for \$1,066,650.	10/28/04	
Napa County Public Works stated that it was not available to provide the requested project management services for these projects.	12/01/04	
	01/15/05	Applied for State Grant #2.
Architect contract signed \$110,000.	02/01/05	
	02/02/05	Architect contract signed \$110,000.
Construction plans submitted.	03/21/05	
NVHA publishes for bids.	03/28/05	
Building Department completes plan check. No major changes.	04/21/05	
Bid close date.	05/02/05	

Construction contract signed \$1,317,000.	05/26/05	
Water Purification contract signed for \$47,048.	05/26/05	
Private donation of \$250,000.	06/30/05	
Permits issued.	07/26/05	
Construction begins.	08/15/05	
FWHOC told that the Calistoga project exceeds the contingency funds. Additional funds would be sought.	09/22/05	
	10/05/05	Construction plans submitted.
FWHOC told that the project was over budget by \$500,000; that overages are due to change order required by County and other sources of funding would be sought from the Napa County Housing Trust fund and by another State Grant.	10/10/05	
	10/20/05	State Grant #2 approved for \$775,000 but cannot draw against until Title of land is transferred to NVHA.
	10/24/05	NVHA publishes for bids.
\$500,000 advancement from Grant #1.	11/21/05	Bid close date for major renovation to site. Renovation contract for mobile home signed for \$60,744.
NVHA request meeting with County concerning change orders required by County inspectors and Fire Marshall.	11/30/05	
Applied for State Grant #3.	12/15/05	
	12/06/05	NVHA awards contract.
Meetings start with County officials and plan reviews start.	12/20/05	

	01/24/06	Tentative approval of plans withdrawn by County. Further review of plans required by County.
\$459,985 from Grant #1.	02/02/06	
State Grant #3 preliminarily approved for \$500,000.	02/06/06	Construction contract signed for \$1,170,532.
	02/15/06	FWHOC raises concerns as to whether Mondavi would be completed by the fall harvest. Staff stated to stop now would incur the payment of a penalty to the contractor, Grant #2 would be lost but could be applied for later which would cause further delay and the availability of substitute housing is questionable.
	02/20/06	Mobile Home work completed. Cost = \$76,936.
	03/09/06	Building Department completes fourth iteration plan check which resulted in \$309,663 increase cost.
State Grant #3 approved for \$500,000.	03/28/06	Permit issued.
	03/29/05	Construction begins.
Final inspection. Total change orders equaled \$1,020,118.	04/26/06	
NVHA Grants and Committed funds are exceeded by the cost of both projects such that all following payments are not covered by Grants or committed funding.	05/15/06	
\$500,000 received from Napa County Trust Fund.	06/26/06	
	09/21/06	Final inspection. Total change orders equaled \$742,246.
Total final cost was first stated as \$2,595,313 and later revised to \$2,632,149.	10/02/06	Total final cost was stated to be \$2,137,448.

NVHA staff recognized that \$1,613,904 of cost paid by the City of Napa was not covered by committed sources of funds.	10/02/06	
City of Napa Finance Department recognizes that NVHA Capital account is negative in the amount of \$2,244,135.	10/15/06	
City of Napa Finance Department contacts staff of NVHA and inquires as to the deficit and is told that staff is aware of the deficit and are seeking sources of funds to cover the deficit.	10/15/06	
Staff of NVHA prepares agenda with backup material for an October 26, Farmworker Oversight Committee meeting which informs the committee of the unfunded expenses, possible sources of funds which would still leave a deficit of \$715,778 and asked for recommendations where other funds might be sought. Agenda was sent to all members of the Committee on October 22, 2006, via email.	10/15/06	
Farmworker Oversight committee did not officially meet because lack of a quorum but members were surprised by the amount of the unfunded expenses.	10/26/06	
Executive Director of NVHA is unavailable as out of the country on a 3 week planned vacation.	10/28/06	
\$449,396 received: Grants #1 and #3.	11/15/06	
Received \$156,665: Grant #3.	12/07/06	

	12/20/06	Transfer of \$220,151 from NVHA CSA#4 reserve funds to pay contractor the retention \$191,293 and final payment.
	02/22/07	State Grant #4 submitted.
	02/26/07	Applied to NVV for donation.
	03/09/07	Outside Audit confirms unfunded funds of \$1,453,711 and funded funds of \$775,000 owed to the City of Napa.
	04/15/07	NVV donation of \$205,000.
	05/22/07	State Grant #2 for \$775,000 released.
	05/24/07	Settlement Agreement \$557,711.
	05/31/07	State Grant #4 for \$691,000 approved.

APPENDIX 6: Annotated Meeting Minutes from the NVHA and FWHOC

NVHA September 12, 2005 Meeting: Cancelled. Written staff report: Status update on progress of the Mondavi and Calistoga Farmworker Housing Centers renovation project did not indicate any problems.

FWHOC September 22, 2005 Meeting: The meeting had only half of the 14 members present. “[The Executive Director] *said that due to unforeseen problems, renovations to the Calistoga camp have exceeded the contingency funds set aside for the project. He has approved change orders to keep the work continuing without interruptions and indicated that additional funding will be found to cover the shortages to continue the work.* [Staff] *discussed some of the problems causing the increase in costs, such as a requirement for a fire hydrant and pump to be established on the property.* [Staff] *invited the members to view the current renovation construction of the facility at the conclusion of the meeting.*”

NVHA October 3, 2005 Meeting: The Executive Director requested authorization to prepare bid documents [for the Mondavi Center]. “NVHA staff is working closely with Napa County staff to secure the minor modification to the use permit

and to secure the building permits necessary to begin the project.” There was no mention of overruns in the Board package. However, the Minutes of this meeting state: *“The renovations to Calistoga have run into some unanticipated problems that are affecting the projected budget...The NVHA will have to find additional funding for these costs and will most likely need an augmentation loan from the State...we are trying to find ways to conserve funds where possible in light of these unanticipated problems.”*

FWHOC October 27, 2005 Meeting: Nine members were present. *“As reported previously, there have been numerous change orders for this project, causing costs to exceed the budgeted amount by nearly \$500,000 to date. Cost savings measures are being considered with all remaining activities, with complete cooperation from both the architect and the general contractor. NVHA staff will submit an application to the State of California for additional Joe Serna Jr. Farmworker Housing Funds to assist with the cost overruns...Although the State representatives encouraged the submission of the application, it was made clear that there are no guaranteed funds as they expect to receive a number of applications...NVHA staff will be submitting an application to the Napa County Affordable Housing Trust for additional funding as well.”*²² Minutes of this meeting were approved on January 26, 2007.

NVHA November 14, 2005 Meeting: Cancelled

FWHOC November 24, 2005 Meeting: Cancelled

FWHOC December 8, 2005 Meeting: Cancelled

NVHA December 12, 2005 Meeting: Approval of Minutes of October 3 meeting. The Commissioners voted on two motions, the first to award a construction contract for the Mondavi Center and to authorize “the Executive Director to execute the contract documents as necessary” and the second to authorize application for a Joe Serna Jr. grant. The first resolution was “approved as to form” by the Office of County Counsel.

NVHA January 9, 2006 Meeting: Cancelled [flooding]

FWHOC January 26, 2006 Meeting: Update on construction progress.

NVHA February 13, 2006 Meeting: Cancelled due to a lack of a quorum. The minutes of the previous meeting mention delay in opening the Calistoga Center “due to additional items required to be added to the approved plans by the County Building Department that were added in the field after their initial approval of the plans.” “The funding request submitted to the State of California for the

additional \$500,000 in cost overruns has been preliminarily approved by the State representatives...”

The construction of the Mondavi Center was reported to be delayed due to the plan checking process at the County of Napa and the County’s decision to add additional requirements that were identified as a result of the renovation of the Calistoga camp and additional requirements in the field.

FWHOC February 23, 2006 Meeting: *“Work continues after delays caused by field changes...Additional costs will be incurred...Due to the delays, the Calistoga Center will not be able to open on the scheduled time...The permit for the Mondavi Center has not been issued...The construction contract...has been executed...”*

NVHA March 13, 2006 Meeting: approval of minutes of December 12, 2005, meeting.

Calistoga Center: *“Work continues...after delays caused by numerous field changes to the approved plans...Additional costs and delays in completion of the project will be incurred due to changes imposed by various County departments. NVHA staff has had discussions with County of Napa staff and will be submitting a request to Napa County for Affordable Housing funds to reimburse the NVHA for added costs related to construction change orders caused by the County’s requirements added in the field to the previously approved plans. County of Napa staff has indicated support for that funding request to the Board of Supervisors.”*

Mondavi Center: *“The permit has not been issued...Similar changes to the plans for renovation...are being required by the County Building and Fire departments...However, these additional requirements to the Mondavi plans will also result in a change order and added construction costs, which will be included in our request to the County Board of Supervisors for funding from the Affordable Housing Fund.”*

Because of the delays in the renovations, the NVHA Board adopted Resolution 06/01 approving Agreement #79 for lease of a farmworker camp in Yountville from March 1, 2006-May 1, 2006 from Foster’s Wine Estates while construction at the Calistoga Center is completed.

FWHOC March 23, 2006 Meeting: *“Work continues after delays...Additional costs and delays...NVHA staff had discussions...will be submitting a request...The permit for the Mondavi Center has been issued...Similar changes to the plans for the renovation of Mondavi Center are being required...these additional requirements ...will also result in a change order and added construction costs which will be included in our request to the County Board of Supervisors.”* After

demolition of the interior, it was noted...that [mold behind the sheetrock]...Additionally, it was determined that the entire dormitory building would need new exterior siding...The costs for these additional changes are minimal and within the contingency amount previously budgeted for the project.

NVHA April 10, 2006 Meeting: *“Work continues after delays...Additional costs and delays...Attached to the staff report is a copy of the Change Order Log...broken down in categories of anticipated costs, unexpected costs, County field changes...NVHA staff has had discussions with County of Napa staff and will be submitting a request to Napa County for Affordable Housing funds to reimburse the NVHA for added costs related to construction change orders caused by the County’s requirements added in the field to the previously approved plans...NVHA staff has [leased Foster’s Wine Estates Yountville farmworker camp]... However, these additional requirements to the Mondavi plans will also result in a change order and added construction costs, which will be included in our request to the County Board of Supervisors for funding from the Affordable Housing Fund.”*

The Change Order Log shows \$857,751 of charges due to County Field Changes and \$750,765 due to unexpected costs.

FWHOC April 27, 2006 Meeting: *“At long last, the work at the Calistoga Center is nearly complete...During the final inspections of the existing septic system, it was discovered that two more of the tanks will have to be replaced. Work at the Mondavi Center has continued, although the weather has caused the work to move slowly...NVHA staff has agreed [to] paying overtime [to allow] project back on track.”*

“The additional requirements to the Mondavi plans imposed by the County...added construction costs, which will be included in our request to the County Board of Supervisors...A copy of the change order log is attached for your review.”

The Minutes of this meeting [approved at May 25 Meeting] note that, “There was a discussion concerning the listed change orders for the camps, most of the cost being related to the County fire codes.”

NVHA May 8, 2006 Meeting: *“At long last, the work at the Calistoga Center is nearly complete...During the final inspections of the existing septic system, it was discovered that two more of the tanks will have to be replaced. Work at the Mondavi Center has continued, although the weather has caused the work to move slowly...NVHA staff has agreed [to] paying overtime [to allow] project back on track. The additional requirements to the Mondavi plans imposed by the County...added construction costs, which will be included in our request to the*

County Board of Supervisors...A copy of the change order log is attached for your review.”

The Change Order Log shows \$990,384 of charges due to County field changes and \$785,439 due to unexpected costs.

FWHOC May 25, 2006 Meeting: An Agenda Attachment notes a “Principals for Partnerships” meeting, requested by the Farmworker Committee, and attended by two County Supervisors, County staff and NVHA staff “to discuss delays and concerns that arose during the process of rehabilitation of the Calistoga Farmworker Center.”

The status update reiterates the septic tank problem noted last month and the fact that the contractor has been told to proceed. *“The additional requirements to the Mondavi plans imposed by the County have resulted in a change order and added construction costs, which will be included in our request to the County Board of Supervisors...the contractor is still completing the change order pricing. We expect to have the numbers finalized within the next month. A change order log sheet...is attached for your review.”*

The Minutes of this meeting provided at the July meeting note that:

“Napa County Public Works will be involved with any future projects, including bids and project management for renovations or new construction.”

“There have been a few change orders in the field for Mondavi, totaling about \$19,000.”

NVHA June 14, 2006 Meeting: The Commissioners voted to approve numerous resolutions allowing the Executive Director to execute agreements to extend the lease for the Foster’s farmworker camp, renew the agreement with the CHDC to run the farmworker camps etc. These resolutions were approved as to form by the County Counsel’s office.

FWHOC June 22, 2006 Meeting: Cancelled

NVHA July 10, 2006 Meeting: Cancelled

FWHOC July 27, 2006 Meeting (the June meeting was cancelled due to a lack of a quorum): *“The Calistoga Center was officially able to have residents on Saturday, July 1, 2006! A preliminary cost analysis log is attached to this report...Staff will be presenting a request to apply to the County of Napa Affordable Housing Fund for additional funds to cover the costs of the field changes...to the NVHA Board at it’s August 14th meeting. The Mondavi Center continues to progress quickly and consistently...The additional requirements to*

the Mondavi plans... which will be included...A change order log sheet...is attached for your review”

NVHA August 14, 2006 Meeting: *“Due to inconsistencies with the renovation projects, this has been a very unusual year for the Housing Centers operations...With both centers being closed nearly the entire fiscal year, [it was necessary for the NVHA staff to modify the budget with CHDC]...As indicated by the year end accounting, revenues exceed expenditures [for the operating budget]...Again, please note that this financial report has not been reconciled with the City of Napa’s financial reporting records...NVHA staff would also propose that the overage of FY 05-06 revenue be allocated to the increased capital improvements costs...”*

The independent auditor’s report on basic financial statements for the NVHA for the year ended June 30, 2005 was provided.

“The Calistoga Center was officially able to have residents on Saturday, July 1, 2006! A preliminary cost analysis log is being completed and should be available to the Board to review by the September meeting [Note: a preliminary report was attached to the FWHOC July 27 meeting]... Staff will be presenting a request to apply to the County of Napa Affordable Housing Fund for additional funds to cover the costs of the filed changes...to the NVHA Board at it’s August 14th meeting. The Mondavi Center continues to progress quickly and consistently...The additional requirements to the Mondavi plans...which will be included...A change order log sheet...is attached for your review”

FWHOC August 24, 2006 Meeting: Cancelled. Calistoga Center opening ceremony.

NVHA September 11, 2006 Meeting: Cancelled [no quorum]

FWHOC September 28, 2006 Meeting: Cancelled. Mondavi Center opening ceremony.

NVHA October 9, 2006 Meeting: Cancelled [no quorum]

FWHOC October 26, 2006 Meeting: Cancelled. Staff report: *“With the renovation[s] now complete, final overall project costs have been calculated. Both projects ultimately had significant cost overages, due to various issues...NVHA staff would like to update the FWOOC on the Fundraising Strategic Plan, and discuss additional alternatives, and provide staff direction and a recommendation to the NVHA Board.*

At this time, the NVHA staff has been working with the County of Napa staff to prepare an application to Napa Affordable Housing Fund...Although Napa

County staff is generally supportive of the application...limits the amount of funds that can be spent on rehabilitation of existing farmworker housing centers. NVHA and County staff are making efforts to contact plaintiffs...NVHA staff has also been in contact with representatives of the Vintners and Growers Associations and the Farm Bureau who have also shown support for funding requests...Further, NVHA staff would like to propose the sale of the Yurts...

The NVHA also has reserve funds available to apply to the cost of the renovation of the centers. Until the City of Napa prepares a final fiscal year end closing, staff is only able to estimate the available fund balances for each of the NVHA's funds. The NVHA currently has three funds, the overall General Fund, the Farmworker Housing Operations Fund, and the Capital Improvements Fund. Staff requests that the FWOC members consider the staff recommendation of the level of depletion of [CSA#4] reserves and include that in the recommendations to the NVHA Board."

A summary table was attached which showed the sources and uses of funds, including funding shortfalls of \$715,663.59 for Calistoga Center and \$898,240.10 for Mondavi Center for a total overrun of \$1,613,90.69. A list of potential funding sources was provided including the County, CSA#4 reserve funds and the sale of yurts which still left a shortfall of \$715,777.69.

NVHA November 13, 2006 Meeting: The Agenda notes a closed session with Legal-Counsel-Anticipated Litigation-Government Code section 54956.9(b); significant exposure to litigation; one-case.

FWHOC December 7, 2006 Meeting: *"Approval of Minutes of July 27, 2006 meeting...The Executive Director provided a status report...The total overall cost is \$4.7 million, with \$1.5 million attributable to the new construction component..."* A request was made to see a break down of the costs and potential funding sources...how were the bills paid and when were they paid? The Executive Director said, "due to legal issues he cannot release that information at this time." One person said that *"a lot of information was given to the FWOC post event without a cumulative total so that the oversight committee could have weighed the pros and cons of continuing construction to open the camps and stopped the project."* *"...several meetings were cancelled due to the lack of a quorum, which was frustrating that some of this information would have been communicated but wasn't because not enough committee members attended the meetings."*

NVHA December 11, 2006 Meeting: The Executive Director reported both projects ultimately had significant cost overages totaling 29% of the total costs or \$1.4 million dollars...The County Counsel in his capacity as NVHA Legal

Counsel, reported the NVHA met in closed session on the noted item and there was no reportable action.

APPENDIX 7: Portions of Memorandum from County Counsel to Board of Supervisors, December 18, 2006

Thus the question arises as to whether the language of...the Bylaws could or should be interpreted in a manner that permits the Executive Director to enter into construction contracts and related change orders if a resolution of the NVHA board exists, as is the case here, which expressly delegated to the Executive Director the right to 'execute the contract documents as necessary'. On the one hand it seems unlikely the intent was to require all change orders, not matter how small, to be approved by the NVHA and the bylaws seem to anticipate that some delegation of authority would be involved. On the other hand, it would be highly unusual to expect change orders that amount to hundreds of thousands of dollars to be approved by the Executive Director without any input from the NVHA.

Reviews are continuing to determine why cost overruns of such a magnitude were not reported earlier to the oversight committee or the NVHA. We are also investigating why individual agenda items were not prepared to discuss the financial situation of the NVHA. A transcript of the October 2005 meeting is also being prepared to determine what discussion occurred at that meeting relative to these cost overruns. Finally, an independent review of the manner in which the finances of the NVHA were being handled has been ordered. It is expected that this review will identify how payment of such huge cost overruns could have occurred considering the fact that there were no NVHA funds available to cover such costs and the two principal sources of additional revenues, Joe Serna Jr. Farmworker Housing Funds and Housing Trust Funds, were not guaranteed.

ENDNOTES

¹ Napa County Farmworker Housing Oversight Committee, Minutes of September 22, 2005 Meeting as reported in the October 27, 2005 Meeting package.

² NVHA Minutes, Agenda item #5B, February 13, 2006.

³ Basic Financial Statements and Independent Auditor's Reports for the interim period July 1 through December 31, 2006. Caporicci & Larson Certified Public Accountants.

⁴ Recommendations to Management, Napa Valley Housing Authority for the fiscal year ended June 30, 2006, and the interim period ended December 31, 2006. Caporicci & Larson Certified Public Accountants March 9, 2007.

⁵ Memo from Chair, NVHA Board of Commissioners to Caporicci & Larson, June 26, 2007.

⁶ Until April 2007, the NCHA existed only on paper, as a means to facilitate the creation and operation of NVHA. The County Board of Supervisors act as the Board of the NCHA.

⁷ The California Legislature approved the formation of the Napa County CSA#4 assessment district in 2001.

⁸ Ordinance 02-02, an ordinance of the people of the County of Napa, State of California, adopting a change to the Napa County general plan for the purpose of authorizing the creation of parcels two (2) acres or larger in size by direct conveyance or lease to a local government agency authorized to develop farm labor camps in areas of the county designated on the general plan as agricultural resource or agriculture, watershed and open space, provided the use of such parcels is limited to providing farm labor camps owned or operated by a local government agency authorized to develop farm labor camps.

⁹ Statement on the Calistoga/Mondavi Projects to the NVHA Board, HACN, FWOOC Committee, Farmworker Committee, Napa Vintners, Napa Grapegrowers, Farm Bureau and the Public, Peter Dreier, Executive Director NVHA & HACN [received January 20, 2008: the original is written in all caps, we have added punctuation].

¹⁰ Dreier: County not stepping up on farmworker fiasco, *Napa Valley Register*, December 24, 2006.

¹¹ Letter dated November 30, 2006, from Director of Napa Valley Grapegrowers to Board of Supervisors, et al.

¹² Letter dated November 30, 2006, from the President of the Napa Valley Vintners to the NVH. Board of Directors, et al.

¹³ Farmworker Advocate's Report-May 2006.

¹⁴ "The buck doesn't stop with Dreier", *Napa Valley Register*, December 31, 2006.

¹⁵ "Eight months late, housing authority OKs budget" *Napa Valley Register* February 13, 2007.

¹⁶ NVHA March 13, 2006, Agenda item #5C to adopt resolution 06/01.

¹⁷ Ordinance 05-01, an ordinance of the people of the County of Napa enacting the read and understand act initiative.

¹⁸ Memorandum from Napa County Counsel to Board of Supervisors, File No. 1773.056 .

¹⁹ Napa Valley Housing Authority Farmworker Housing Settlement Agreement, May 24, 2007.

²⁰ NVHA Meeting Agenda for Regular Meeting of the Board of Commissioners, May 14, 2007.

²¹ City Council of the City of Napa Agenda Summary Report May 15, 2007.

²² Napa County Farmworker Housing Oversight Committee Agenda item #5A for October 27, 2005 Meeting package.

PASSED and ADOPTED by the 2007-2008 Napa County Grand Jury on this 28th day of February, 2008.



William E. Trautman
Foreperson