



CITY of NAPA

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May 7, 2008

FILED

MAY - 9 2008

Clerk of the Napa Superior Court
By: C. D.
Deputy

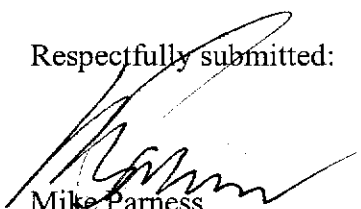
The Honorable Francisca Tisher
The Honorable Raymond A. Guadagni
Presiding Judges 2007/2008
Superior Court of the State of California
825 Brown Street
Napa, CA 94559

Dear Judges Tisher and Guadagni:

The City of Napa has received and reviewed the Findings and Recommendations of the 2007-2008 Grand Jury Final Report on Renovation of Farmworker Housing Centers by the Napa Valley Housing Authority. This correspondence represents the collective response from the required respondents as called out in the Grand Jury Report. The City Council unanimously approved the responses, as included herein, in open public session on May 6, 2008.

The City's staff and elected officials wish to recognize the effort put into the report by the Grand Jury members. The report represents a complete and concise summary of the facts surrounding a complex public process involving dozens of players who often shared contradictory views of the reality experienced. We took the Grand Jury's recommendations seriously and dedicated many staff hours in order to formulate responses. We hope that the Grand Jury will find this information helpful and that they will consider contacting us if they need clarifications regarding the attached response.

Respectfully submitted:


Mike Parness
City Manager

Encl.


Received

MAY - 8 2008

**CITY OF NAPA CITY COUNCIL
AGENDA REPORT**

CONSENT Calendar
Agenda Item No. 41
Date: May 6, 2008

To: Honorable Mayor and Members of City Council

From: Mike Parness, City Manager 

Prepared by: Carole Wilson, Finance Director, 257-9510
Mike Parness, City Manager, 257-9501
Michael Barrett, City Attorney, 257-9516

Subject: Napa Grand Jury Report

ISSUE STATEMENT:

Approve the City response to the 2007-2008 Napa County Grand Jury Final Report on Renovations to Farmworker Housing Centers by the Napa Valley Housing Authority.

DISCUSSION:

The following are the Grand Jury findings and recommendations along with proposed City responses. The responses contained in this report are provided as required and in accordance with section 933c of the California Penal Code.

Finding 9: The Executive Director of the NVHA 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.

City Response to Finding 9: The City disagrees with this finding. Using a single professional to manage two entities with comparable roles and responsibilities can serve the public interest by improving efficiency and effectiveness through improved coordination and avoidance of duplication of costs and services. In fact, the Executive did not draw resources from "commingled" funds from two agencies. The failure in the system was found in the ability of the Executive Director to expend funds for the projects in excess of those available, which drove the NVHA into a significant deficit position without detection. This situation then triggered the need for the City and HACN to transfer funds to cover that deficit. The fact that the Executive Director was able to obligate City and HACN funds without authorization was due to weak financial systems and inadequate oversight not the shared responsibilities of the Executive Director. As noted below, the City moved immediately to address these issues.

Finding 10: The NVHA Board, the FWHOC and the City of Napa were informed of the unauthorized use of the funds after all of the charges for the renovations were incurred.

City Response to Finding 10: The City agrees with this finding.

Finding 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 and HACN funds without authorization of the City of Napa and the HACN.

City Response to Finding 11: The City agrees with this finding.

Finding 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.

City Response to Finding 12: The City agrees with this finding.

Finding 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.

City Response to Finding 18: In the case of the City of Napa we have not focused all blame on the former NVHA Executive Director. The City has accepted responsibility for inadequate systems of financial control, and the City has accordingly taken immediate steps to minimize future problems.

Finding 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 the financial issue.

City Response to Finding 24: The City agrees with this finding.

Finding 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.

City Response to Finding 25: The City partially agrees with this finding. Recital L does indicate that the "Executive Director did not obtain approval of the NVHA Board of Commissioners to execute any of the additional work which resulted in the Total Cost Overages." However, it is important to note that the full text of Recital L (quoted below) actually indicates that the intent of this statement is to identify one of several issues that comprise the "Disputes" that are resolved by the Settlement Agreement. Thus, from the perspective of the City, this portion of Recital L (which was inserted by the office of the County Counsel, in the course of negotiating the terms of the Settlement Agreement between the respective offices of the City Attorney and the County Counsel) is a

representation of the County's position of an issue in dispute. The full text of Recital L provides:

"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. Nor did the NVHA Executive Director obtain authority from the City Council of Napa or the Board of Commissioners of HACN to commit the revenues of the Napa Entities to cover the Total Cost Overages. Upon learning of the Total Cost Overages, representatives of the governing boards of 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 reasons for the additional work and the cost overages and a determination of the parties responsible for payment of the cost overages are currently in dispute ("the Disputes")."

Recommendation 6: Agreements to which local governmental agencies are parties not contain false statements in the recitals.

City Response to Recommendation 6: As to the City, this recommendation has already been implemented. As a matter of practice, the City includes in recitals background information that will assist in the interpretation of contracts. The City commonly uses recitals to define terms used throughout a contract. As one example, in the case of the Settlement Agreement, the City (in negotiations with the County, and as approved by all parties) defined the term "Disputes" in Recital L, and used that defined term in the body of the Settlement Agreement.

Recommendation 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.

City Response to Recommendation 8: The City has already taken steps to begin implementation of this recommendation, and the City will continue to implement this recommendation over the next several years. The City Finance Department has been working to establish its new financial system. The core financial system including the General Ledger, Accounts Payable and Receivable, Purchasing, and Budgeting modules are scheduled to begin operating July 1, 2008. This will complete Phase 1 of the project. Phase 2 will commence and the auxiliary financial modules are expected to begin operating January 1, 2009. Phase 3 of the payroll, position budgeting, and human resource modules are expected to begin operating January 1, 2010.

Further, the accounting records have been brought current in the old accounting system which is allowing City staff to review the City's fiscal condition and individual project information in a timelier manner.

Recommendation 9: The Finance Department be headed by an accounting professional and have sufficient trained staff to maintain operations.

City Response to Recommendation 9: The City has already implemented this recommendation. The Finance Director is a State of California licensed Certified Public Accountant. The Finance Manager is a State of Missouri licensed Certified Public Accountant. A newly created position of Finance Analyst was filled effective April 16, 2008 with an experienced professional accountant. Management is working closely and continually with existing staff providing training on the job and allows and encourages staff to obtain the appropriate formal training when opportunities arise.

Recommendation 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.

City Response to Recommendation 12: While the City understands and agrees with the underlying goal of this recommendation, the City respectfully disagrees with the particular implementation as written since it is not a reasonable method to achieve the goal. The City understands the Grand Jury's goal to be to ensure that governmental entities establish appropriate financial controls to significantly reduce the opportunity for conflict of interest and commingling or misallocation of funds. The City shares this goal not only for the separation of funds that are held by the City for the benefit of separate legal entities (such as the City of Napa, the Housing Authority of the City of Napa, and the Napa Community Redevelopment Agency), but also for the separation of dozens of segregated funds that are held by the City for separate (but similar) purposes due to their separate funding source (such as the separation of "Citywide" Street Improvement Fees from "Big Ranch Road Area" Development Impact Fees from Gas Tax revenues from CDBG grants). Just as City staff has an obligation to ensure that revenue from separate funding sources are separately accounted and utilized in accordance with their particular purposes, City staff also has an obligation to ensure that revenue held for separate legal entities is properly accounted and utilized to achieve the goals of that entity. Similarly, just as it is infeasible to establish a separate executive to monitor each separate funding source, it is also infeasible to establish a separate executive to monitor each separate legal entity for which the City provides financial services. However, the City has taken steps to establish checks and balances for the utilization of any funds managed by the City (whether separate legal entities or separate funding sources) to minimize the opportunity for conflicts of interest and commingling or misallocation of funds.

FINANCIAL IMPACTS:

None.

CEQA:

The City Manager has determined that the recommended action described in this report is not subject to CEQA, pursuant to CEQA guidelines.

DOCUMENTS ATTACHED:

None – A copy of the Grand Jury Report is available at the City Clerk office for public review.

NOTIFICATION:

None.

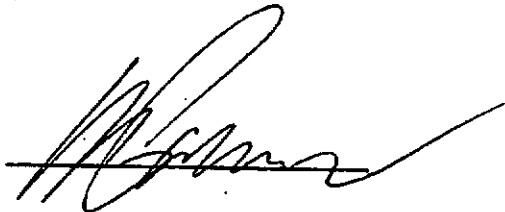
RECOMMENDED ACTION:

City staff recommends that the City Council move, second and approve each of the actions set forth below, in the form of the following motion stated as:

Move to:

Approve the City's response to the findings and recommendations of the Napa County Grand Jury 2007-2008 Final Report on Renovation of Farmworker Housing Centers by the Napa Valley Housing Authority (as outlined above, and incorporating any changes made to the responses by the City Council during the meeting), and direct the City Manager to submit the response on behalf of the City Council, the City Manager and other City officials as required, to the presiding judge of the Superior Court.

CITY MANAGER

A handwritten signature in black ink, appearing to be "M. Johnson", written over a horizontal line.