

**Measure A  
Financial Oversight Committee**

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

August 10, 2012

The Honorable Diane Price  
Presiding Judge  
Superior Court of the State of California  
County of Napa  
825 Brown Street  
Napa, CA 94559

RE: 2011-2012 Grand Jury Report  
Measure A

Dear Judge Price:

The Financial Oversight Committee thanks the Napa County Grand Jury for its investigation of the Calistoga projects and the process of approval and funding under Measure A. Although we disagree on specifics, the Grand Jury has brought additional information to light and we will take this opportunity to investigate these matters further.

In accordance with Section 933(a) of the California Penal Code, please find the attached responses from the Financial Oversight Committee as requested to findings 11, 12, 13 and recommendations 5, 6, 8, 9 and 10. If you have any additional questions or need any further information, please do not hesitate to contact me at (707) 940-0290.

Sincerely,



Carl Ebbeson  
Committee Chair

Enclosure

Cc: David B. Gilbreth, Foreman 2011-2012 Napa County Grand Jury  
Napa County Board of Supervisors  
Tracy A. Schulze, Auditor-Controller

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AUG 13 2012

Napa Superior Court

**Napa County**  
**Responses to Grand Jury Report**  
**Measure A**  
**Fiscal Year 2011-2012**

**Responses to Findings:**

**Finding #11.** The Financial Oversight Committee exemplifies the disability of the system by being placed at the end of the approval process. The Ordinance intended the Financial Oversight Committee to “Ensure ongoing community input in the finalization of all projects...”.

***Response, Financial Oversight Committee.*** The Financial Oversight Committee (FOC) disagrees with this finding. There is no disability of the system with respect to Measure A projects' approval process. All projects are subject to review and oversight by qualified engineers, including the Flood Authority and Flood District. As set forth in Measure A itself (enacted as Napa County Flood Protection and Watershed Improvement Authority Ordinance No. 1), the role of the FOC with respect to approving projects is limited to making a recommendation on proposed replacement projects. (See Measure A, Section 8, concluding paragraph). Section 9(A)(2) sets forth the responsibilities of the FOC, and approval of projects is not a listed responsibility. Rather, the role of FOC is to ensure that Measure A funds are being properly expended. The Grand Jury's quote with respect to the intent of the FOC is misplaced. That quotation is from Section 3, entitled Purpose and Intent, with respect to the Napa County Flood Protection and Watershed Improvement Expenditure Plan as a whole, not the specific role of the FOC.

**Finding #12.** The Financial Oversight Committee is the community “watchdog” for Measure A projects and should constantly monitor the projects in all stages, instead of only after the termination of those projects.

***Response, Financial Oversight Committee.*** The Financial Oversight Committee (FOC) agrees that its role could be construed as a community "watchdog" with respect to the expenditure of Measure A tax funds, as Section 9 states the FOC's "purpose and charge is to inform the public regarding the expenditure of the Flood Protection Sales Tax proceeds that will be generated as a result of the approval of this Ordinance by the Authority and the electorate." The FOC disagrees it should monitor projects in all stages. FOC members have neither time nor expertise to fulfill roles currently performed by qualified engineers of the Flood Authority and Flood District. FOC members are community volunteers and serve without compensation. The FOC's role is to monitor the expenditures of tax proceeds, not monitor actual project design and construction.

**Finding #13.** The Financial Oversight Committee is improperly constituted and has passively performed its role.

***Response, Financial Oversight Committee.*** The Financial Oversight Committee (FOC) disagrees with this finding. The FOC is properly constituted in accordance with the membership requirements of Measure A, Section 9(A)(3). The fact that there are vacant Committee positions does not mean the Committee is improperly constituted. The FOC also disagrees that it has performed its role passively. The FOC has complied with its financial oversight duties as set forth in Section 9 of Measure A.

**Responses to Recommendations:**

**Recommendation #5.** Financial Oversight Committee receives the information on proposed expenditures prior to approval by the Flood Protection and Water Improvement Authority.

***Response, Financial Oversight Committee.*** This recommendation will not be implemented because it is unwarranted and not reasonable. Under Measure A, the FOC has no role in the approval of projects, other than providing recommendations on proposed replacement projects. It would not be in the best interest of the Measure A project to have a volunteer group scrutinizing projects for which it has no expertise. We are not engineers, environmentalists, or hydrology experts. However, the Authority Auditor-Controller has agreed to notify Committee members by email of Flood Authority Board meetings where proposed expenditures are an agenda item, which will allow individual Committee members to access the information from the Authority website. If warranted, a Committee member can then request the item be placed on the FOC agenda for further consideration consistent with the responsibilities of the FOC. An interested FOC member could attend the publically noticed Flood Authority Board meeting where the item is agenda item to request further information if deemed warranted. Note that such information is already available publically when it is posted on Flood Authority Board agenda pursuant to Brown Act requirements prior to any approval action being taken.

**Recommendation #6.** Immediate, concerted and ongoing effort to fill Financial Oversight Committee vacancies by Financial Oversight Committee and Board of Supervisors; specifically, the vacancies for representatives from: Board of Supervisors, Business Community, Local Media, Napa County Taxpayers, Environmental Community, Agricultural Industry, Health and Human Services.

***Response, Financial Oversight Committee.*** This recommendation has been implemented. At least once a year, recruitment letters are sent to those organizations responsible for nominating an FOC member, and twice a year posting and advertising of Committee vacancies takes place in compliance with the Maddy Local Appointive List Act of 1975 (Government Code Sections 54970 et seq.). Financial Oversight Committee

members are recommended by the groups listed in Measure A and are appointed by the Flood Protection and Water Improvement Authority. The Committee cannot recommend or appoint members.

**Recommendation #8.** Financial Oversight Committee be granted authority to require jurisdictions requesting Measure A funds to present proposed expenditures to that Committee prior to final approval by Flood Authority.

***Response, Financial Oversight Committee.*** This recommendation will not be implemented because it is unwarranted and unnecessary. As noted in Measure A, the FOC has no formal approval role in the approval process of "approved" projects. The FOC has adequate means to carry out its Measure A oversight duties under existing procedures. See also response to Recommendation #5.

**Recommendation #9.** Financial Oversight Committee receive and examine itemized invoices billed to Measure A projects in addition to the summarized data currently provided it.

***Response, Financial Oversight Committee.*** This recommendation has been implemented. The FOC is already able to receive and examine itemized invoices upon request to the Auditor-Controller if the FOC deems necessary. Such itemized invoices are also readily available to inspection by interested FOC members under the Public Records Act. Furthermore, to assist the Committee in their role, the Auditor-Controller has committed to making invoices paid during the quarter available at each quarterly meeting for review by the Committee.

**Recommendation #10.** Financial Oversight Committee establish subcommittees in order to more effectively fulfill its responsibilities under the ordinance, namely:

- a. Provide the public with information regarding the manner in which Measure A tax proceeds have been spent;
- b. Prepare an annual audit regarding the use of Measure A proceeds;
- c. Review the financial impact of each project and advise the public whether it is consistent with the purpose, spirit, intent and language of Measure A;
- d. Inform the public of any expenditure which is inconsistent with the purpose and intent of Measure A;
- e. Make recommendations to the Napa County Flood Control and Water Conservation District regarding proposed replacement projects if a project identified in Measure A is determined not feasible.

***Response, Financial Oversight Committee.*** This recommendation has been implemented. A standing subcommittee already exists for the annual publication, otherwise, the Committee forms subcommittees when it deems they are necessary. With respect to fulfilling the delineated FOC responsibilities, the FOC responds as follows:

- a. An annual publication is distributed in the local newspaper. And all information is available at:  
<http://www.countyofnapa.org/Pages/DepartmentContent.aspx?id=4294969811>
- b. A compliance audit of Measure A is included in the: NAPA COUNTY FLOOD PROTECTION AND WATERSHED IMPROVEMENT AUTHORITY (A Component Unit of the County of Napa, California) COMPONENT UNIT FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, XXXX annual audit.
- c. An annual publication is distributed in the local newspaper. And all information is available at:  
<http://www.countyofnapa.org/Pages/DepartmentContent.aspx?id=4294969811>
- d. An annual publication is distributed in the local newspaper. And all information is available at:  
<http://www.countyofnapa.org/Pages/DepartmentContent.aspx?id=4294969811>
- e. As of this date no Approved Projects have been determined to be "...not economically or environmentally feasible...", therefore to date there have not been any proposed replacement projects.