

Nevada County  
Civil Grand Jury  
950 Maidu Ave.  
Nevada City, CA 95959



# NEVADA COUNTY GRAND JURY

Final Report  
with  
Responses

2008 - 2009



**GRAND JURY  
COUNTY OF NEVADA**  
Eric Rood Administration Center  
950 Maidu Avenue  
Nevada City, California 95959  
Phone Number: 530-265-1730  
Email: grandjury@nevadacountycourts.com

February 19, 2010

The Honorable Thomas M. Anderson  
Presiding Judge of Grand Jury  
C/O Carolyn McFadden, Deputy Jury Commissioner  
201 Church Street, Suite 6  
Nevada City, CA 95959

Dear Judge Anderson:

It is my pleasure to forward to you the enclosed Consolidated Final Report from the 2008/09 Grand Jury. This Consolidated version includes all specific subject Reports issued by that Jury and all responses thereto. This Final Report completes our process of making Reports and Responses available to the public.

The Jury's review of the responses was limited to determining whether they complied with the requirements for responses in California Penal Code section 933.05. This review was conducted by the successor Jury due to the fact that the responses were received after the close of the 2008/09 Jury.

The original responses to three of these reports, Presidential Election, Code Compliance and Grass Valley Animal Shelter, were determined to be incomplete and follow up Responses were requested and received. One Report, regarding Homelessness in Nevada County, did not require a written response because all recommendations therein were directed to the public rather than to a governmental official or body. Responses were also referred to committees of the current Jury for follow up as to the actual implementation of recommendations. However, this activity is not reported on in this Consolidated Report.

Copies of this Report will be placed on file with the Clerk of the Court, who will forward one copy to the California State Archivist. The Clerk of Nevada County will also receive copies. Additional copies will be placed on file in County libraries and made available to the media. The Jury will, as required, send one copy to the University of California, Government studies library, Berkeley, California.

In closing, the Jury wishes to express their appreciation to you and your staff for your valuable assistance and support.

Sincerely yours,

Robert Erickson, Foreman  
2009/10 Grand Jury of Nevada County

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## **MEMBERS OF THE NEVADA COUNTY CIVIL GRAND JURY 2008-2009**

Larry Schwartz  
Foreman

Robert Erickson  
Foreman Pro Tem

Diana Beer  
Secretary

Jim Purcell  
Sergeant-at-Arms

Ian Dobson  
Business Manager

Bob Arnds  
Lennie Biundo  
Pete Brost  
Vicki German

Brenda Herbert  
Ray Hoffman  
Angela Lamb  
Rolf Manfred

Marc Matthias  
Marilee Marshall  
Carol Merjil  
Jim Pearce

### **RESPONSE REQUIREMENTS**

Following are the pertinent excerpts from the current California Penal Code concerning responses to the Civil Grand Jury report.

"Section 933(c): No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city or county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable,

and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

"Section 933(d): As used in this section, "agency" includes a department.

"Section 933.05(a): For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

"Section 933.05(b): For purposes of subdivision (b) of Section 993, as to each grand jury

Recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- (3) The recommendation requires further analyses, with an explanation and the scope and parameters of an analysis or discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. The time frame shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

"Section 933.05(c): However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department of the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department."

The penal code also requires that the Grand Jury be available to the respondents for 45 days to clarify the recommendations of its report.

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# **CITY GOVERNMENT**

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**Nevada City's Financial Oversight Committee –  
Asset or Annoyance?**



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# **Nevada City's Financial Oversight Committee – Asset or Annoyance?**

## **Summary**

The City Council of Nevada City abolished their Finance and Administration Committee in favor of taking on this role themselves. Although the Council was within its authority to take this action, the Nevada County Grand Jury (Jury) believes the citizens of Nevada City have lost a valuable resource. The Jury urges the Council to take a second look at the benefits this type of committee can provide. Other actions are also recommended.

## **Reason for Investigation**

The Jury received a citizen complaint regarding the Nevada City Council's decision to abolish its Finance and Administration Committee (Finance Committee). In addition, the Jury was interested in following up on two previous Jury investigations of Nevada City government, particularly the City Council's oversight of City finances cited in the two previous reports.

## **Background**

Nevada City is a General Law City with a city manager form of government. A five-member City Council is responsible for overseeing operations of the City.

In its report on Nevada City Government the 2006-2007 Jury found the City deficient in a number of areas, including financial practices and the City Council's oversight of administration and operations. The City had already begun to address these deficiencies and had hired a qualified Finance Manager who has worked to bring the City's financial systems up to high standards.

The 2007-2008 Jury in a follow-up investigation found marked improvement in the City's operations and noted that "*Detailed oversight of City finances is provided by the Finance Committee...*" and concluded that this "*...financial oversight by the City Council appears appropriate.*"

## **Procedure Followed**

The Jury conducted this investigation through interviews with various Nevada City officials and former and current City Council members. The Jury reviewed materials provided by the interviewees, and also reviewed the 2006-2007 & 2007-2008 Grand Jury Reports regarding management issues with Nevada City government.

## Findings

1. There has been a "Finance Committee" in Nevada City government in one form or another for at least 15 years.
2. On 2/25/09 the City Council of Nevada City voted unanimously to prepare Resolution No. 2009-09, consenting to the dissolution of the Finance and Administration Committee.
3. As a result of the City Council's dissolution action on 2/25/09 (above), the City Treasurer tendered his resignation to the City Council on 3/6/09, citing an inability to make further contributions without the Finance Committee.
4. On 3/11/09 the City Council of Nevada City voted unanimously to pass and adopt Resolution 2009-09, abolishing its Finance and Administration Committee, which was made up of the City Treasurer, three appointed members of the public, and two City Council members.
5. The Jury was not provided with clear and/or compelling rationale to explain the City Council's action to abolish its Finance Committee.
6. The Jury was told that the City Council, City Manager and City Financial Officer will fill the void left by the Finance Committee.
7. In the 2006-2007 Grand Jury Report entitled NEVADA CITY GOVERNMENT: Asleep at the Wheel, which was generally critical of overall city management, the Jury made the following recommendation under the section titled "Finances": *"The City Council should exercise diligent oversight of the City's financial resources and take steps to assure its members understand the relevant processes and are given timely periodic reports."*
8. Both the City Manager and Mayor responded to the above Recommendation with the following statement: *"The City agrees and is in the process of implementing. Diligent oversight of the financial resources is being provided by the Council directly through two finance-experienced Council members serving full-time on the Finance Committee and Finance Manager and City Treasurer reports to the City Council, and additionally through the Finance Committee's citizen expertise and detailed oversight and reporting back to City Council."*
9. The 2007-2008 Grand Jury Report entitled Nevada City Government, which was a follow-up to the previous year's Report, applauded the City in finding that, *"Detailed oversight of City finances is provided by the Finance Committee, consisting of the Mayor, one other Council member, the elected City Treasurer, and three citizens appointed by the Mayor."*
10. Although the Mayor has the authority to establish or abolish any standing or Ad Hoc Committee, the Finance Committee was dissolved by action of the full City Council.

11. The Mayor has the discretion to name the Chair and appoint members to the City's various committees.
12. The Finance Committee had no written charter or mission statement from the City Council. It was clear and broadly recognized that the Committee could make recommendations only, and did not have decision-making authority.
13. The City Treasurer has no written description of duties or responsibilities other than the generic description that exists in State Code.
14. Persons interviewed by the Jury had diverse opinions regarding the role and responsibilities of the City Treasurer.
15. For at least the past several years, Finance Committee meetings were publicly noticed and open to the public, complying with the Brown Act and the Committee was transparent in its business.
16. Other than the City Treasurer, members of the Finance Committee were not paid.
17. City staff time to prepare information requested by the Finance Committee may have added to the workload, but did not significantly add cost.
18. In the past several years the Finance Committee spent time reviewing City and Department budgets as well as other aspects of City finances. The Committee also brought important financial matters, some of them previously unknown, to the attention of the City Council and others.

### **Conclusions**

1. Apparently the current Mayor and City Council feel that the Finance Committee is no longer necessary, despite endorsement by two previous councils and the previous City Manager.
2. The City Council was well within its authority to abolish the Finance Committee.
3. The City Council is responsible to provide a written description of duties, responsibilities, limitations and expectations for all its various Committees and Chairpersons in order for them to be effective.
4. The Finance Committee provided a valuable oversight function between the City Council and Staff, in addition to providing citizen involvement and transparency.
5. The services provided by a credible and efficient Finance Committee can be a valuable asset to City government and its citizens.
6. Conceptually, a Finance Committee has the unique expertise, time and ability to focus

greater energy and attention to complex financial matters than does the City Council as a body.

7. It may appear that a Finance Committee could cause additional workload for City staff due to the necessity to provide requested data and information for the Finance Committee to research and analyze; however, this oversight effort should be taken with or without a Finance Committee.
8. The Grand Jury believes that largely because of public meeting laws and their own time restrictions, it is impractical for the City Council – as a body – to research, analyze, deliberate and allow for public comment on the complex financial matters faced by City government, without assistance.
9. Proper financial oversight requires unique expertise and generous commitment of time for the necessary detailed research and analysis in today's economy and complex financial world.
10. Proper and effective financial oversight from the City Council can best be accomplished through the assistance of a third party group, in addition to that coming from City staff.

### **Recommendations**

The City Council should:

1. Consider a reconstituted oversight group, with written and well defined duties and parameters, made up of members with special financial skills and available time, to assist the City Council in its financial oversight responsibilities, while also gaining the benefits of greater transparency and additional citizen involvement.
2. Prepare a written description of duties and responsibilities for the City Treasurer.
3. Review its financial oversight responsibilities, realistically recognizing how much time it (the Council as a body) has to devote to researching, studying, analyzing, and deliberating on complex financial matters, and what level of individual expertise and experience Council members have to contribute to that effort. Following that evaluation, devise and implement a system by which it will effectively fulfill its financial oversight responsibilities.

### **Required Response**

The City Council of Nevada City October 16, 2009

# RESPONSE

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# City of Nevada City

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September 24, 2009

Honorable Robert L. Tamietti  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, California 95959

Dear Judge Tamietti:

We appreciate the opportunity to respond to the 2008-2009 County of Nevada Grand Jury report. As required by Penal Code section 933(c), we have commented on the report's findings, conclusions and recommendations within the time period specified. Our comments follow:

**Findings:**

1. There has been a "Finance Committee" in Nevada City government in one form or another for at least 15 years.

**Agree**

2. On 2/25/09 the City Council of Nevada City voted unanimously to prepare Resolution No. 2009-09, consenting to the dissolution of the Finance and Administration Committee.

**Agree**

3. As a result the City Council's dissolution action on 2/25/09 (above), the City Treasurer tendered his resignation to the City Council on 3/06/06, citing an inability to make further contributions without the Finance Committee

**Agree**

4. On 3/11/09 the City Council of Nevada City voted unanimously to pass and adopt Resolution 2009-09, abolishing its Finance and Administration Committee, which was made up of the City Treasurer, three appointed members of the public, and two City Council Members.

**Agree**



5. The Jury was not provided with clear and/or compelling rationale to explain the City Council's action to abolish the Finance Committee.

**Disagree**

**While this statement is a matter of opinion, it is important to consider the following: Then Mayor, Barbara Coffman, explained to the Jury members present the reasons the Finance Committee had been dissolved. Ms. Coffman urged the Jury to speak with Councilmember Sally Harris who had served on the Finance Committee for several years, had been a citizen member of the Finance Committee, had been the chairman during her time as mayor, and had a background in finance. Ms. Coffman explained that Ms. Harris would be able to be more articulate on the subject and better able to answer the Jury's questions. The Jury chose not to speak to Ms. Harris, or any other sitting council member. The jury also chose not to speak to the City Manager or the Finance Director as requested by Ms. Coffman. Ms. Coffman also urged the Jury to obtain video of the meeting and listen to each councilmember's reasoning. Apparently, the Jury chose not to avail themselves of that video. It would appear the Jury elected not to pursue the council's rationale for the dissolution of the Finance Committee.**

6. The Jury was told the City Council, City Manager and City Financial Officer will fill the void left by the Finance Committee.

**Disagree**

**While it is unknown as to what others told the Grand Jury, Ms. Coffman did not state that dissolution of the Finance Committee created a void. Rather, she informed the Grand Jury that the City Finance Director, City Manager, and City Council currently performed all of the finance and budget requirements of the City. The City Manager and Finance Director ensured that the Council remained well informed.**

7. In the 2006-2007 Grand Jury Report entitled NEVADA CITY GOVERNMENT: Asleep at the Wheel, which was generally critical of overall city management, the Jury made the following recommendation under the section titled "Finances": *"The City Council should exercise diligent oversight of the City's financial resources and take steps to assure its members understand the relevant processes and are given timely periodic reports."*

**Agree**

8. Both the City Manager and Mayor responded to the above recommendation with the following statement: *"The City agrees and is in the process of implementing. Diligent oversight of the financial resources is being provided by the Council directly through two finance-experienced council members serving full-time on the Finance Committee and Finance Manager and City Treasurer reports to the City Council, and additionally through the Finance Committee's citizen expertise and detailed oversight and reporting back to City Council."*

**Agree**

**Conclusions:**

1. Apparently the current Mayor and City Council feel that the Finance Committee is no longer necessary, despite endorsement by two previous councils and the previous City Manager.

**Agree**

**That the Finance Committee is no longer needed. The City has a City Manager and a Finance Director well versed in government finance, a new City Treasurer, and a new Audit Committee made up of those three individuals. In creating the Finance Director position and an Audit Committee, as well as eliminating the Finance Committee, Nevada City has adopted the model of most California cities. Neither Grass Valley, Truckee nor most California cities have finance committees.**

2. The City Council was well within its authority to abolish the Finance Committee.

**Agree**

3. The City Council is responsible to provide a written description of duties, responsibilities, limitations, and expectations for all its various Committees and Chairpersons in order for them to be effective.

**Agree. However, the amount of specificity may vary from committee to committee.**

4. The Finance Committee provided a valuable oversight function between the City Council and Staff, in addition to providing citizen involvement and transparency.

**Agree in part and Disagree in part.**

**At times in the past when there was no staff member with a government finance background, the Finance Committee provided a useful oversight function. However, that responsibility ultimately belonged to the City Council. While some citizens were able to become involved, the functions of the Finance Committee, as stated above, were not transparent.**

5. The services provided by a credible and efficient Finance Committee can be valuable asset to City Government and its citizens.

**Conceptually a committee could be specifically charged with reviewing a certain aspect of a city's finances and thus could be a valuable asset to a city.**

6. Conceptually, a Finance Committee has the unique expertise, time and ability to focus greater energy and attention to complex financial matters than does the City Council as a body.

**Disagree**

**It is the City Council's legal responsibility to pay attention to and understand the complex financial matters that come before it. It is the City Council that the citizen's look to and hold responsible for the finances of the City. The responsibility and sense of duty that comes with holding the office of City Councilmember is uniquely different from that of being a non-elected committee member.**

7. It may appear that a Finance Committee could cause additional workload for City staff due to the necessity to provide requested data and information for the Finance Committee to research and analyze; however, this oversight effort should be taken with or without a Finance Committee.

**Agree in part and Disagree in part.**

**The oversight of the City's finances is an ongoing process involving every staff member as well as the Council. Having a separate Finance Committee making demands on staff time and diverting attention from matters at hand is counterproductive.**

8. The Grand Jury believes that largely because of public meeting laws and their own time restrictions, it is impractical for the City Council – as a body – to research, analyze, deliberate and allow for public comment on the complex financial matters faced by City government, without assistance.

**Disagree.**

**It is unfortunate that the Grand Jury has such a belief in that such an undertaking is indeed the responsibility of each councilmember. This Council, individually and collectively, does have assistance in the form of a very knowledgeable City Manager and City Finance Director, conscientious staff members, and an outstanding audit firm.**

9. Proper financial oversight requires unique expertise and generous commitment of time for the necessary detailed research and analysis in today's economy and complex financial world.

**Agree**

10. Proper and effective financial oversight from the City Council can best be accomplished through the assistance of a third party group, in addition to that coming from the City staff.

**Disagree.**

**A City Council must be able to rely upon its City Manager, City Finance Director and other staff members for sound financial information and oversight. For very specific matters outside consultants are occasionally employed.**

**There is nothing preventing any number of citizens from forming an oversight committee if they are so-minded. All of the relevant information is available and city staff would cooperate fully. It is also worthy to note that no interest was shown for that idea and, that no one showed up for the long Saturday budget workshop or to comment/participate at any of the council meetings that had the Finance Director's detailed and informative presentations.**

**Recommendations:**

1. Consider a reconstituted oversight group, with written and well defined duties and parameters. made up of members with special financial skills and available time, to assist the City Council in its financial oversight responsibilities, while also gaining the benefits of greater transparency and additional citizen involvement.

**The City declines to reconstitute a finance committee. However, the City has put in place an Audit Committee consisting of the City Manager, City Finance Director and City Treasurer. These individuals have years of accounting and finance experience, they understand the rules and regulations of Generally Accepted Accounting Principles and Generally Accepted Audit Principles, the numerous Government Accounting Standards Board requirements, and the Unqualified Audit Opinion received by the City on the 2007-2008 audit of the City's financials. An annual four to five hour budget workshop has been held on a Saturday for the past two years in order that the public may view and participate in the budget process.**

2. Prepare a written description of duties and responsibilities for the City Treasurer.

**A job description for the City Treasurer was adopted on May 13, 2009.**

3. Review its financial oversight responsibilities, realistically recognizing how much time it (the Council as a body) has to devote to researching, studying, analyzing, and deliberating on complex financial matters, and what level of individual expertise and experience Council members have to contribute to that effort. Following that evaluation, devise and implement a system by which it will effectively fulfill its financial oversight responsibilities.

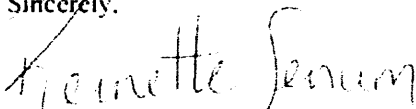
**As set forth above, the City Council is aware of its responsibility as elected officials for the financial condition of the City. The City Council continues to have faith in and rely upon the expertise of our City Manager, Finance Director, City Treasurer, Audit Firm, and public input to provide the information necessary to make reasoned choices in these difficult financial times and to undertake the financial oversight necessary to keep the City solvent.**

**Financial reports are presented monthly or more frequently if needed along with quarterly financial condition reports related to the current economic conditions along with three year projections. This information is presented at public meetings. In addition to the budget workshops, public hearings are held prior to the adoption of the annual City budget.**

**Additionally, as part of the council's three-year strategic goals, the Finance Director has an ongoing written objective to provide financial education and training to the city council.**

We thank you again for the opportunity to clarify and respond to the Grand Jury report. Please let us know if there is anything further that you require.

Sincerely,

  
ReNette Senum, Mayor

cc: City Council

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# **COUNTY GOVERNMENT**

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**Nevada County Presidential Election –  
November 2008**

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**Nevada County Grand Jury Report with Responses  
2008-2009**

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# **Nevada County Presidential Election – November 2008**

## **Summary**

Many Grand Jury reports are complaint driven and often after the fact. The Nevada County Grand Jury (Jury) decided in August of 2008 to conduct an investigation prior to and during the 2008 November General Election. Conducting an election with almost 300 volunteers located in over 50 polling places utilizing over 20 separate ballots is a monumental organizational task. Additionally, the task must be completed in one day.

Realizing the incredible organizational requirements of any election, and especially one of this magnitude, the Jury was concerned that the recent staff changes within the Elections Department and Clerk Recorders Office increased the risk of a poor elections performance.

The Jury looked at the pre-elections training, conducted interviews prior to the election, attended many of the training sessions, observed polling places during the election and debriefed both county staff and volunteers.

The Jury is pleased to report to the citizens of Nevada County that the election ran smoothly, the problems were minor, and that generally the conduct of the election went very well.

The Jury did recommend that the Nevada County Board of Supervisors authorize additional funds for poll worker training.

## **Reason for Investigation**

The Jury decided to conduct an inquiry into the conduct of the November 2008 Presidential Election. The Jury was aware of the nationwide public concern about the integrity of local elections generally, as well as the public perception of security issues surrounding the use of electronic voting machines, and of the anticipated high voter participation in this election. The Jury was also aware of the turnover in the elected Clerk Recorder position, as well as key staff changes within the Elections Office. Pursuant to California Penal Code Section 925, the Jury undertook an investigation of the Nevada County Elections Office's management of the November election.

## **Approach**

The Jury interviewed staff of the Nevada County Elections Office prior to and after the election, attended both machine and procedures training for poll workers, observed the validation and counting of vote-by-mail ballots, observed the conduct of the elections, and had personal



conversations with some Inspectors and Judges at each of the 53 polling places in Nevada County on November 4, 2008. The Jury also reviewed the summaries, prepared by the Elections Office after the election, of comments from the poll workers and the Field Election Deputies (FEDs). Members of the Jury also observed operations at the Elections Office as the polls were closing. For purposes of clarity, this report is divided into the following sections:

- Preparations for the election
- The conduct and effectiveness of training sessions
- Polling places
- “Hands-on” support provided by the FED Assistance System
- Conduct of the election itself

## **Preparations for the Election**

### **Background**

The Elections Office, prior to the election, reviewed operating procedures, established contingency measures, updated training manuals and procedures, recruited and trained poll workers, temporary Elections Office staff and FEDs, and cleared and tested all of the electronic voting machines. They also determined the number of different ballots required; 21 physically different ballots were printed for the November 2008 election. There were 99 consolidated precincts; 53 precincts had polling places and 46 were vote-by-mail.

The Elections Office has the responsibility, under the State of California Election Code (State Code), to select polling places in accordance with State guidelines. Each polling place contains one or more precincts. Each precinct is staffed by a Precinct Board, consisting of an Inspector and two or more Judges. State Code requires a minimum of three workers to staff a polling place (one Inspector and two Judges). Nevada County tries to maintain a minimum of four workers at each polling place due to voter load, but most polling places require five to six workers to handle the load.

Just as locating optimum polling places is a delicate balance between a variety of considerations, so is the recruitment and retention of volunteers to staff the polling places. Among the volunteers’ duties are knowing and enforcing State Code and regulations, the individual voting process, ballot security procedures, instructing voters in the proper operation of the Hart electronic voting equipment, as well as troubleshooting same, answering voter’s questions and resolving problems wherever possible. The Inspector has overall responsibility for the election activities for that precinct. Inspectors are responsible for setting up, supervising and closing the electronic voting machines, and transporting the ballots to the appropriate collection center. All poll workers are volunteers, although they are nominally compensated for their time on Election Day. Judges receive \$80 and Inspectors receive \$100 for their services on Election Day.

Although the Elections Office made efforts to recruit new poll workers, the recruitment effort

concentrated on returning poll workers and canvassing the local high schools. The hours required of poll workers are long; workers are required to attend uncompensated training and to be at the polling places an hour before the polls open to set up, and cannot leave until the closing procedures have been completed. A typical day consists of at least 16 hours.

The Elections Office had a pool of approximately 284 volunteer workers to staff polling places. Because of high last minute worker dropout problems this year, that pool was completely exhausted. The Elections Office also attempted to recruit and train back up workers to replace workers absent on the day of the election.

### **Findings**

1. Voting machines were delivered to the 53 precincts with security seals intact.
2. Inspectors are responsible for picking up all election day material for their precincts, except for the machines, from the Elections Office prior to election day,
3. Due to accidents and illness, several poll workers had to be replaced on or shortly before the day of the election. In spite of this, the Elections Office was able to find enough replacement poll workers to fully staff each precinct.
4. Last minute replacements resulted in some poll workers having minimal or no training.
5. Several polling places had students as poll workers; they performed well and were particularly effective with the voting machines.
6. Two polling places were staffed with community organizations: The Grey Goose was staffed by the National Association of Retired Federal Employees (NARFE) serving in their second election, and the American Legion Women's Auxiliary staffed the Rough & Ready Firehouse for their first election.

### **Conclusions**

1. With few exceptions, all equipment and supplies were delivered to the appropriate polling places in a timely manner.
2. The pool of trained back up Inspectors and Judges was not sufficient to staff all polling places with properly trained substitutes.
3. Untrained substitutes performed adequately because they were paired with trained, experienced poll workers.
4. The use of student poll workers was effective.

5. Organized community groups staffing a polling place is easier on the Elections Office as the group oversees their own staffing, schedules, last minute worker problems, assures attendance at training, etc. Because of their self-oversight, they enjoy some privileges regular volunteers don't get, such as split shifts.

## **Recommendations**

1. The Nevada County Clerk Recorder should work to increase the pool of back up Inspectors and Judges to provide adequate, trained poll workers in case of cancellations.
2. The Nevada County Clerk Recorder should work to increase the recruitment efforts in high schools and Sierra College to interest more students in participating in the election as poll workers.
3. The Nevada County Clerk Recorder should look into expanding the use of organized community groups for the purpose of staffing a precinct with qualified poll workers.

## **Training**

### **Background**

The Help America Vote Act (HAVA), enacted by Congress in 2002, required all states to provide voters having disabilities with a means of voting independently, and provided Federal funding which the states could use to purchase electronic voting machines to provide these means. Nevada County used these funds to purchase electronic voting machines manufactured by Hart InterCivic. The Hart machines included two components, an electronic voting machine (ESLATE) to record the voters' choices electronically, and an electronic scanning machine (ESCAN) to scan and record paper ballots. California Secretary of State Debra Bowen certified the Hart machines as meeting the HAVA requirements in 2008.

The Elections Office developed training, with the assistance of Hart InterCivic, on the use of the Hart machines as a separate curriculum from training on the procedures to use on the day of the election. This training was first used for the Presidential Primary election in February 2008, modified for the California Primary election in June, and modified again for the November election. Training on procedures was also modified after each 2008 primary.

The Elections Office conducted six sessions of the procedures training and thirteen sessions of the machine training in Nevada City and in Truckee. Inspectors and Judges received the same training. Training is mandatory for all Inspectors and all first time poll workers. This year the Elections Office made several exceptions to that policy because of last minute staffing problems.

The Elections Office developed an optional on-line training for returning poll workers. Field

Election Deputies (FEDs) received special training over and above what the poll workers received.

Each poll worker was provided with a detailed election manual. In addition, all precincts were provided with a flip chart booklet, with illustrated instructions detailing the proper procedure for setting up and closing the electronic voting equipment.

## **Findings**

1. The Elections Office provides a variety of training and tools for workers:
  - a. Machine operations
  - b. Procedures
  - c. On-line training
  - d. Official Precinct Board Manual
  - e. Opening/Closing Procedures Flip Chart
2. A very high percentage of poll workers interviewed had positive comments about the quality and effectiveness of the training for this election.
3. Some poll workers did not attend any training for this election.
4. The Board of Supervisors (BOS) did not allow compensation for training.
5. Some volunteers reported that insufficient time was allocated in the equipment sessions to allow enough "hands-on" practice with the machines.
6. Inspectors have numerous duties and responsibilities beyond those of Judges, both prior to and on election day.
7. Despite additional duties and responsibilities, Inspectors receive no specialized training to cover these.

## **Conclusions**

1. Providing quality training and instruction for poll workers is vital for a secure and problem-free election.
2. Compensation for mandatory training would be an incentive for greater training participation as well as attracting more volunteers.
3. More "hands-on" time in equipment training would be beneficial.
4. Specialized training to cover Inspector's duties would be beneficial.

5. Most poll workers were satisfied with the training provided by the Elections Office.

## **Recommendations**

1. The Nevada County Board of Supervisors should support additional compensation for mandatory training.
2. The Nevada County Clerk Recorder should direct staff to arrange training to allow more time for “hands-on” machine experience for the poll workers.
3. The Nevada County Clerk Recorder should direct staff to provide separate training for Inspectors to include their additional responsibilities.

## **Polling Places**

### **Background**

Polling places in Nevada County come in a variety of forms: firehouses, bar/restaurants, government buildings, citizen-owned garages, and much in between. Some are warm, comfortable, and inviting, others are unheated and cluttered.

Although the State Code specifies certain requirements for a polling place, it is often difficult to meet these requirements as the Elections Office also must balance the rental cost and quality of a facility, whether it is centrally located for its intended voters, if it's easy or difficult to find, physical factors such as road surface, and available parking, and weather factors such as being located in a heavy snow zone.

There are Home Precincts and Consolidated Precincts. Home Precincts are arranged into Consolidated Precincts, attempting to keep the number of voters to less than 1000. Special Districts (e.g., School Districts, Fire Districts, etc.) are an important consideration in the formation of a Consolidated Precinct, so that only one ballot type is used at each precinct. The Elections Office arranges these Consolidated Precincts, and they can be different for each election cycle, depending on the ballot contests.

When a Home Precinct has fewer than 250 registered voters, the Clerk/Recorder may choose to establish it as a Mail Ballot Precinct. Each voter in a Mail Ballot Precinct receives their ballot in the mail and is instructed to return it by mail, bring it to any polling place on Election Day, or bring it to the Elections Office.

Casting a ballot at a neighborhood polling place is a long and valued tradition for Nevada County voters. However, in the absence of adequate numbers of volunteer poll workers, the Elections Office would not be able to operate local polling places. The current system is entirely dependent on volunteers. The alternative is vote-by-mail or driving to fewer more centrally located voting

sites.

California Elections Code Sections 12280-12288 describe the responsibilities of the Elections Official, in this case, the Nevada County Clerk Recorder, in establishing polling places.

California Election Code Section 12280 states the following: "When designating polling places, the elections official shall undertake necessary measures in the locating of polling places to ensure that polling places meet the guidelines promulgated by the Secretary of State for accessibility by the physically handicapped."

California Election Code Section 12288 states the following: "A place where the primary purpose of the establishment is the sale and dispensation of alcoholic beverages may not be used as a polling place. A polling place may not be connected by a door, window, or other opening with any place where any alcoholic beverage is sold or dispensed while the polls are open."

### **Findings**

1. At least three polling places were not in compliance with the guidelines for accessibility established by the Secretary of State under the Americans With Disabilities Act (ADA), for example, thresholds exceeded ½" in height, making wheel chair access difficult.
2. Poll workers were instructed to provide "curbside" service for voters with disabilities who were unable to enter the polling place.
3. Some polling places have convenience limitations, e.g., lack of heat, equipment in the way, muddy parking lots, lack of snow removal equipment, etc.
4. Two polling places, serving four precincts, were located in establishments which were selling alcoholic beverages during part of the election period. There was not the required separation described in State Code Section 12288.
5. Personnel in the Elections Office were aware that they were not in compliance with the State Code, and were actively seeking replacement polling places for those polling places located in bars.
6. As of the date of this report, one of these polling places has been replaced and another has been reconfigured to meet State Code requirements. A third, although it did not serve alcohol during election hours, has been replaced to avoid the perception of impropriety.
7. The Nevada County Clerk Recorder estimates the cost of processing a ballot cast at a polling place to be \$14.00 vs. \$7.25 for a vote-by-mail ballot.
8. The Elections Office is aware of the problem of accessibility in some of the polling places, and is pursuing the possibility of providing portable wheelchair ramps and other ADA mitigation supplies.

## **Conclusions**

1. It is not easy in a rural environment to find polling facilities that meet all State and Federal requirements, as well as comfort and convenience for all poll workers and voters.
2. Some of the polling places are in violation of the State Code governing accessibility for persons with disabilities.
3. Some of the polling places were in violation of the State Code prohibiting connection of a polling place with any place where any alcoholic beverage is sold or dispensed while the polls are open.

## **Recommendations**

1. The Nevada County Clerk Recorder should direct staff to continue to seek to remedy accessibility issues where they exist.
2. The Nevada County Clerk Recorder should continue to make every reasonable effort to secure polling places which are in compliance with State Code Section 12288 regarding polls located in bars.

## **Field Election Deputy System (FED)**

### **Background**

The current Nevada County Clerk Recorder established a network of FEDs. The FEDs were responsible for providing assistance to polling places, and received extensive training on procedures and equipment. The FEDs consisted of Nevada County department heads, elected officials, and others. Each FED had between two and seven precincts for which he/she was responsible, and was to be accessible to the precincts by telephone and in person. Typically each FED spent the entire day driving on a route basis to their assigned polling places and/or responding to phone calls, troubleshooting or delivering supplies while maintaining phone contact to the Elections Office and Polling Places.

### **Findings**

1. In most cases, the FED responded within 30 minutes of being contacted.
2. There were eleven FEDS in the November election.
3. In a number of areas, there was either no cell service/land line at the poll location, or the

FED was in a location where he/she had no cell service.

4. The Elections Office was aware of the potential cell phone problem prior to the election, and had established procedures to deal with this issue.

### **Conclusions**

1. The provision of on-site assistance through the FED system was very successful, and the Jury commends the Nevada County Clerk Recorder for its implementation.
2. Lack of cell phone reception will continue to be a problem.

### **Recommendations**

1. The Nevada County Clerk Recorder should continue the FED system.
2. The Nevada County Clerk Recorder should consider reducing the number of polling places assigned to each FED where telephone coverage is spotty or not available.
3. The Nevada County Clerk Recorder should investigate the use of supplemental communication methods.

### **Election Day**

#### **Background**

At the invitation of the Clerk Recorder, a member of the Jury was present as an observer at each of the 53 polling locations in the county on the day of the election. Each juror had a questionnaire to be completed either through personal observation, or talking with the Inspector.

Jurors looked at opening procedures, ease of operation of the Hart machines, accuracy of the rosters provided by the Elections Office, physical location, etc. Jurors also looked at the handling of provisional ballots, which are used when there is a discrepancy on the official roster. These provisional ballots require special handling and must be verified at the Elections Office.

#### **Findings**

1. In the majority of precincts, poll workers experienced no difficulty with overall operations.



2. Minor equipment problems were experienced in approximately one third of the precincts during set up or closing. Most problems were resolved by rebooting the equipment or jiggling the electrical connections.
3. The majority of polling places completed the closing procedures without calls to the Elections Office for assistance.
4. A few poll workers did call for assistance and had their questions resolved.
5. Security procedures are in place for both opening and closing of each polling place.
6. Written procedures exist, and are followed, to assure security of electronic and written ballots.
7. Some poll workers experienced confusion when voters from a nearby vote-by-mail precinct, whose name was not on that precinct's roster, wanted to cast a ballot in person and did not have their vote-by-mail ballot.
8. In the November 2008 election, 56,177 votes were cast, representing approximately 88% of Nevada County's registered voters. Approximately 70% (39,454) of the votes cast were vote-by mail.

### **Conclusions**

1. The Elections Office is to be commended on the overall conduct of this election, which recorded the largest voter participation in Nevada County history.
2. The Elections Office has developed adequate procedures to smoothly open, operate and close the Hart equipment.
3. For the most part, the Hart equipment functioned properly. Most problems were due to operator error.
4. More "hands-on" experience in the equipment training should clear up any confusion in opening and closing procedures.
5. Dealing with voters not on the precinct roster is not sufficiently addressed in the procedures training.

### **Recommendation**

1. The Nevada County Clerk Recorder should direct staff to include additional time in the training for dealing with all types of voters not listed on the precinct roster.

## **Required Responses**

Nevada County Clerk Recorder August 18, 2009

Nevada County Board of Supervisors (Response only for Training, Recommendation 1) August 18, 2009

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# RESPONSE

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# COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue, Suite 200 • Nevada City, California 95959-8617

## BOARD OF SUPERVISORS

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Ed Scofield, 2nd District  
John Spencer, 3rd District  
Wm. "Hank" Weston, 4th District (Chair)  
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Telephone: (530) 265-1480  
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Cathy R. Thompson  
Clerk of the Board

E-Mail: [bdofsupervisors@co.nevada.ca.us](mailto:bdofsupervisors@co.nevada.ca.us)  
Web: [www.mynevadacounty.com/clerkofboard](http://www.mynevadacounty.com/clerkofboard)

July 7, 2009

The Honorable Judge Robert Tamietti  
Presiding Judge of the Nevada County Grand Jury  
Nevada County Courthouse  
201 Church Street  
Nevada City, CA 95959

Re: Board of Supervisors' Response to the 2008-2009 Nevada County Civil Grand Jury Report, *Nevada County Presidential Election-November 2008*.

Dear Judge Tamietti:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its response to the 2008-2009 Nevada County Civil Grand Jury Report, dated April 15, 2009, entitled *Nevada County Presidential Election-November 2008*. As the Grand Jury required, the Board has responded to Training, Recommendation #1.

This response to the Grand Jury's Recommendation was approved by the Board of Supervisors at their special meeting on July 7, 2009. The Response is based on either personal knowledge, examination of official County records, information received from the County Clerk-Recorder, the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2008-2009 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Respectfully submitted,

A handwritten signature in black ink that reads "Hank Weston". The signature is written in a cursive, slightly slanted style.

Hank Weston

Chairman, Board of Supervisors

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**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO  
2008-2009 CIVIL GRAND JURY REPORT  
DATED APRIL 15, 2009**

**Nevada County Presidential Election – November 2008**

*Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Clerk-Recorder and the County Executive Officer, or testimony from the Board of Supervisors and county staff members.*

**Training: RESPONSE TO RECOMMENDATION #1**

- 1. The Nevada County Board of Supervisors should support additional compensation for mandatory training.**

The recommendation will not be implemented at this time.

The Board does not have sufficient information in which to make a decision to support additional compensation for mandatory training. The Board will consider this issue as a regular business matter after the Clerk-Recorder has had the opportunity to fully analyze the issue and prepare a recommendation for the Board's consideration.



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## Nevada County Clerk Recorder/ Registrar of Voters

County Clerk - Recorder  
950 Maidu Avenue, Suite 210  
Nevada City, CA 95959  
Phone: (530) 265-1221  
Fax: (530) 478-1275  
[mynevadacounty.com/recorder](http://mynevadacounty.com/recorder)

**Gregory J. Diaz**  
County Clerk - Recorder

**Debra L. Russell**  
Asst. County Clerk-Recorder

County Elections  
950 Maidu Avenue, Suite 250  
Nevada City, CA 95959  
Phone: (530) 265-1298  
Fax: (530) 265-9829  
[mynevadacounty.com/elections](http://mynevadacounty.com/elections)

June 24, 2009

The Honorable Robert L. Tamietti  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, California 95959

**RE: RESPONSE TO GRAND JURY REPORT:  
NEVADA COUNTY PRESIDENTIAL ELECTION-NOVEMBER 2008**

To the Honorable Robert L. Tamietti:

It was my pleasure and distinct honor to serve as Nevada County's Registrar of Voters for the 2008 presidential election. This election saw the largest turnout of registered voters in the history of Nevada County Elections (according to county records) with 88.1% of eligible voters participating. The election ran smoothly and the Grand Jury concurred "generally the conduct of the election went very well".

As the Nevada County Clerk-Recorder/Registrar, it is important that everyone in the department understand the professional values and behaviors needed to deliver outstanding customer service. I also want you, our customers, to understand my values and how I run the department. I would like to share an excerpt from a memo I drafted and handed to all employees in the County Clerk-Recorder's office soon after my appointment.

*"Thank you for serving the citizens of Nevada County, the citizens of California and all people who need and request services from the Nevada County Clerk-Recorder/Registrar's Office. I am dedicated to setting a standard of excellence in the Nevada County Clerk-Recorder/Registrar's office. Toward that end, we will use the following organizational core competencies to guide our policies and behaviors in the workplace: Customer Focus, Integrity & Trust, Listening, Interpersonal Savvy, Compassion and Priority Setting.*

### Organizational Core Competencies-Definitions

#### Customer Focus

*Is dedicated to meeting the expectations and requirements of internal and external customers; gets first-hand customer information and uses it for improvements in products and services; acts with customers in mind; establishes and maintains effective relationships with customers and gains their trust and respect.*

**Integrity & Trust**

*Is widely trusted; is seen as a direct, truthful individual; can present the unvarnished truth in an appropriate and helpful manner; keeps confidences; admits mistakes; doesn't misrepresent him/herself for personal gain.*

**Listening**

*Practices attentive and active listening; has the patience to hear people out; can accurately restate the opinions of others even when he/she disagrees.*

**Interpersonal Savvy**

*Relates well to all kinds of people, up, down and sideways, inside and outside the organization; builds appropriate rapport; builds constructive and effective relationships; uses diplomacy and tact; can diffuse even high-tension situations comfortably.*

**Compassion**

*Genuinely cares about people; is concerned about their work and non-work problems; is available and ready to help; is sympathetic to the plight of others not as fortunate; demonstrates real empathy with the joys and pains of others.*

**Priority Setting**

*Spends his/her time and the time of others on what's important; quickly zeros in on the critical few and puts the trivial many aside; can quickly sense what will help or hinder accomplishing a goal; eliminates roadblocks; creates focus.*

*I ask that all staff be cognizant of the organizational core competencies outlined above. They reflect the professional values I demand and Clerk-Recorder staff must embody these principles in their behavior at the workplace. Excellence in government is grounded in action; what you actually do and how you do it, rather than what you say you believe. By understanding and adhering to these values, our department will continuously improve the experience each one of our customers will have when we provide services to them. "*

Many personnel and process changes were made as we made a commitment to strive for excellence in our elections. No wonder the Grand Jury was concerned that those types of changes within the Elections Department and Clerk Recorders Office would increase the risk of a poor elections performance. I am pleased to report that our changes coupled with our commitment to excellence has been greatly beneficial for us and for our valued constituents.

For purposes of clarity, my responses are divided into the following sections: Preparations for the election; The conduct and effectiveness of training sessions; Polling places; "Hands-on" support provided by the FED Assistance System and Conduct of the election itself.

To finish, I would like to attach a letter I received from one of our inspectors. I have redacted the name and address. I would like to thank the Grand Jury for their work in conducting an

inquiry into the conduct of the November 2008 Presidential Election.

Respectfully,

  
Gregory J. Diaz  
Nevada County Clerk-Recorder

May 26, 2009

Gregory Diaz  
Registrar of Voters  
Nevada County  
950 Maidu Avenue  
Nevada City, CA 95959-9910

Dear Mr. Diaz,

I have worked every election since 2000 except for the Presidential Primary in 2008 when I was injured. Since you have taken over as Registrar of Voters each successive election has been better organized and more efficient than the preceding one. The team you have put together has really streamlined the procedure greatly improving a long and sometimes tedious day. I would like to commend Beth for her continuously updating the instruction material and creating easy references for the poll workers, as well as her patience and good nature toward us at all times. I have noticed more people voting electronically each election, and Sandy did an outstanding job of training us on the equipment so we were eager to explain how simple it is to use to the voters.

Although we were all very tired at the close of the polls on May 19<sup>th</sup>, we were not frustrated or frazzled in the closing procedures because of our FED Rob had the foresight to review the procedure for the electronic closing with the three inspectors located in the Alta Sierra Country Club in the late afternoon. When 8:00 p.m. arrived the review had the correct procedures fresh in our minds and we were able to proceed quickly and correctly.

I view working the Polls as a civic duty, but past experiences had made me less than eager to continue. You have changed my attitude one hundred percent. Thanks to you and your wonderful staff for all the improvements.

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## Elections Grand Jury Response

### Preparations for the Election: Findings

1. Voting machines were delivered to the 53 precincts with security seals intact.  
Agree.
2. Inspectors are responsible for picking up all Election Day material for their precincts, except for the machines, from the Elections Office prior to Election Day.  
Agree.
3. Due to accidents and illness, several poll workers had to be replaced on or shortly before the day of the election. In spite of this, the Elections Office was able to find enough replacement poll workers to fully staff each precinct.  
Agree.
4. Last minute replacements resulted in some poll workers having minimal or no training.  
Agree.
5. Several polling places had students as poll workers; they performed well and were particularly effective with the voting machines.  
Agree.
6. Two polling places were staffed with community organizations: The Grey Goose was staffed by the National Association of Retired Federal Employees (NARFE) serving in their second election, and the American Legion Women's Auxiliary staffed the Rough & Ready Firehouse for their first election.  
Agree.

### Preparations for Elections: Recommendations

1. The Nevada County Clerk Recorder should work to increase the pool of back up Inspectors and Judges to provide adequate, trained poll workers in case of cancellations.

*The recommendation has been implemented.*

**Nevada County Elections had a much larger list of back up Poll Workers for the May Statewide Special Election, and required these workers to attend the training sessions. However, due to dropouts, many of these back up workers were called to serve in precincts prior to Election Day, once again leaving few trained workers available for Election Day vacancies. Even after implementing the Grand Jury's recommendation, the Elections Office still had difficulty finding qualified replacements for Poll Workers who dropped out on Election Day. This issue has less to do with the size of the back up worker pool than the fact that after making a commitment to serve as a Poll Worker, people quit, not understanding the effect that their decision has on the Elections Office, their fellow workers, and the conduct of elections in Nevada County. Finding**

**qualified and dedicated poll workers is a statewide and national issue. We are very concerned about this as the average age of our 300 poll workers is 72 years. Every county in the state is constantly looking for ways to increase their poll worker pool, including Nevada County.**

2. The Nevada County Clerk Recorder should work to increase the recruitment efforts in high schools and Sierra College to interest more students in participating in the election as poll workers.

***The recommendation has been implemented.***

**Nevada County Elections continues to improve its high school student recruitment program, and is currently working to partner with Sierra Community College on recruiting and training Student Poll Workers.**

3. The Nevada County Clerk Recorder should look into expanding the use of organized community groups for the purpose of staffing a precinct with qualified poll workers.

***The recommendation has been implemented.***

**Nevada County Elections has already begun to create and implement an extensive outreach program to local groups who may be interested in staffing polling places.**

## **Training: Findings**

1. The Elections Office provides a variety of training and tools for workers:

Machine operations

Procedures

On-line training

Official Precinct Board Manual

Opening/Closing Procedures Flip Chart

**Agree.**

2. A very high percentage of poll workers interviewed had positive comments about the quality and effectiveness of the training for this election.

**Agree.**

3. Some poll workers did not attend any training for this election.

**Agree.**

4. The Board of Supervisors (BOS) did not allow compensation for training.

**Partially disagree.**

**The current Board of Supervisor's resolution authorizing poll worker pay does not address compensation for training.**

4. Some volunteers reported that insufficient time was allocated in the equipment sessions to allow enough "hands-on" practice with the machines.

**Agree.**

5. Inspectors have numerous duties and responsibilities beyond those of Judges, both prior to and on Election Day.

**Agree.**

6. Despite additional duties and responsibilities, Inspectors receive no specialized training to cover these.

**Partially disagree.**

**While Judges and Inspectors receive the same training, the training is geared more toward Inspectors and covers all their job duties. Instead, the Judges are receiving specialized training beyond what their job actually requires.**

### **Training: Recommendations**

1. The Nevada County Board of Supervisors should support additional compensation for mandatory training.

***The recommendation requires additional analysis.***

**As Clerk-Recorder I have always maintained that Poll Workers in Nevada County and across the state deserve far more compensation than they are currently getting. Their job is complex, and requires dedication, knowledge of voting laws and they are required to attend several training sessions prior to each Election Day. However, given current budget constraints the Elections Office must balance the desire to increase Poll Worker compensation with our commitment to fiscal responsibility. A preliminary survey shows that many surrounding counties pay Poll Workers for attending training classes (up to \$40 for a class), and if Nevada County were to pay \$10 for each training session a Poll Worker attends, this would bring us more in line with Poll Worker compensation in surrounding counties. Our office will conduct an in-depth study of Poll Worker compensation in surrounding counties and make a recommendation to the board on this matter prior to December 31, 2009.**

2. The Nevada County Clerk Recorder should direct staff to arrange training to allow more time for "hands-on" machine experience for the poll workers.

***The recommendation has already been implemented.***

**In the May Statewide Special Election, Poll Workers were given the option of attending an additional equipment lab session that allowed students who needed or wanted additional hands-on time with the Hart Voting Machines the chance to further familiarize themselves with and practice procedures on the equipment. No Poll Workers attended.**

3. The Nevada County Clerk Recorder should direct staff to provide separate training for Inspectors to include their additional responsibilities.

***The recommendation will not be implemented at the present time.***

**The Poll Worker curriculum in Nevada County is primarily targeted toward Inspectors. At this time, all the information an Inspector needs to perform his or her job duties are covered in the class; a Judge taking the same class is receiving training beyond his or her job duties. In past elections, the office attempted to offer separate trainings for new Poll Workers and experienced**



**Poll Workers, but found that Poll Workers attended the class that fit their schedule and not their experience level.**

### **Polling Places: Findings**

1. At least three polling places were not in compliance with the guidelines for accessibility established by the Secretary of State under the Americans With Disabilities Act (ADA), for example, thresholds exceeded ½" in height, making wheel chair access difficult.

**Agree.**

**My office has been working in partnership with FREED ever since I took office to resolve any ADA issues at polling locations. In conjunction with FREED, an accessibility study has begun, outlining the ADA needs, if any, for each of the polling places in Nevada County. We are now looking for funding to make each of our sites ADA compliant. This year, we received a \$145,200 HAVA VOTE grant to complete our surveys and resolve any ADA issues.**

2. Poll workers were instructed to provide "curbside" service for voters with disabilities who were unable to enter the polling place.

**Agree.**

3. Some polling places have convenience limitations, e.g., lack of heat, equipment in the way, muddy parking lots, lack of snow removal equipment, etc.

**Agree.**

4. Two polling places, serving four precincts, were located in establishments which were selling alcoholic beverages during part of the election period. There was not the required separation described in State Code Section 12288.

**Agree.**

**This issue has been solved. See recommendation #2.**

5. Personnel in the Elections Office were aware that they were not in compliance with the State Code, and were actively seeking replacement polling places for those polling places located in bars.

**Agree.**

6. As of the date of this report, one of these polling places has been replaced and another has been reconfigured to meet State Code requirements. A third, although it did not serve alcohol during election hours, has been replaced to avoid the perception of impropriety.

**Agree.**

7. The Nevada County Clerk Recorder estimates the cost of processing a ballot cast at a polling place to be \$14.00 vs. \$7.25 for a vote-by-mail ballot.

**Agree.**

8. The Elections Office is aware of the problem of accessibility in some of the polling places, and is pursuing the possibility of providing portable wheelchair ramps and other ADA mitigation supplies.

**Agree.**

## **Polling Places: Recommendations**

1. The Nevada County Clerk Recorder should direct staff to continue to seek to remedy accessibility issues where they exist.

*The recommendation has been implemented.*

**The Nevada County Elections Office has received a HAVA VOTE Grant in the amount of \$145,200 to survey polling places for accessibility, purchase mitigation supplies, and upgrade training materials. The Elections Office will continue conducting surveys of the remaining polling places throughout the summer and fall and hopes to have all polling place accessibility issues solved in time for the June 8, 2010 Primary Election.**

2. The Nevada County Clerk Recorder should continue to make every reasonable effort to secure polling places which are in compliance with State Code Section 12288 regarding polls located in bars.

*The recommendation has been implemented.*

**In the May Statewide Special Election, no bar or location where there was dispensation of alcohol was used as a Polling Place.**

## **Field Election Deputy System (FED): Findings**

1. In most cases, the FED responded within 30 minutes of being contacted.  
**Agree.**
2. There were eleven FEDS in the November election.  
**Agree.**
3. In a number of areas, there was either no cell service/land line at the poll location, or the FED was in a location where he/she had no cell service.  
**Agree.**
4. The Elections Office was aware of the potential cell phone problem prior to the election, and had established procedures to deal with this issue.  
**Agree.**

## **Field Election Deputy System (FED): Recommendations**

1. The Nevada County Clerk Recorder should continue the FED system.

*The recommendation has been implemented.*

**The Elections Office has no plans to discontinue use of the FED Program.**

2. The Nevada County Clerk Recorder should consider reducing the number of polling places assigned to each FED where telephone coverage is spotty or not available.

*This recommendation will not be implemented because reducing polling places in areas without coverage would eliminate service to some areas.*

**Unfortunately due to the rural nature of the county, most territories have several areas where there is no cell phone reception. Before each election, FED territories are redrawn, and this recommendation will be taken into consideration, however, once again given the rural nature of the county, the Nevada County Elections Office would be unable to implement this recommendation to everyone's satisfaction.**

3. The Nevada County Clerk Recorder should investigate the use of supplemental communication methods.

*This recommendation will not be implemented because the reasonable solution is what we already have in place.*

**Switching to another cell phone service provider would create blind spots in other areas. Whenever possible, the Elections Office attempts to find multiple ways to contact a polling place, including board member cell phones, land lines at the facility, etc. Supplemental communication methods likely would result in the same communication issues that the office currently encounters on Election Day.**

### **Findings: Election Day**

1. In the majority of precincts, poll workers experienced no difficulty with overall operations.  
**Agree.**
2. Minor equipment problems were experienced in approximately one third of the precincts during set up or closing. Most problems were resolved by rebooting the equipment or jiggling the electrical connections.  
**Agree.**
3. The majority of polling places completed the closing procedures without calls to the Elections Office for assistance.  
**Agree.**
4. A few poll workers did call for assistance and had their questions resolved.  
**Agree.**
5. Security procedures are in place for both opening and closing of each polling place.  
**Agree.**
6. Written procedures exist, and are followed, to assure security of electronic and written ballots.  
**Agree.**
7. Some poll workers experienced confusion when voters from a nearby vote-by-mail precinct, whose name was not on that precinct's roster, wanted to cast a ballot in person and did not have their vote-by-mail ballot.  
**Agree.**

8. In the November 2008 election, 56,177 votes were cast, representing approximately 88% of Nevada County's registered voters. Approximately 70% (39,454) of the votes cast were vote-by mail.  
Agree.

### **Election Pay: Recommendation**

1. The Nevada County Clerk Recorder should direct staff to include additional time in the training for dealing with all types of voters not listed on the precinct roster.

*The recommendation has been implemented.*

**The Elections Office continues to cover how to handle all types of voters in Poll Worker training. Although Poll Workers have always had the tools in their training manual and have received this information in training, the Elections Office made this information more explicit and added additional tools to the Poll Worker supplies to eliminate confusion about how to process voters not on the roster.**

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# COUNTY OF NEVADA

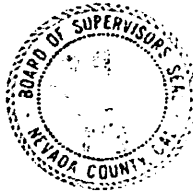
STATE OF CALIFORNIA

950 Maidu Avenue, Suite 200 • Nevada City, California 95959-8617

## BOARD OF SUPERVISORS

Nate Beason, 1st District (Vice Chair)  
Ed Scofield, 2nd District  
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Wm. "Hank" Weston, 4th District (Chair)  
Ted S. Owens, 5th District

Cathy R. Thompson  
Clerk of the Board



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November 2, 2009

The Honorable Judge Thomas Anderson  
Presiding Judge of the Nevada County Grand Jury  
Nevada County Courthouse  
201 Church Street  
Nevada City, CA 95959

Re: 2008-2009 Nevada County Civil Grand Jury Report, *Nevada County Presidential Election-November 2008*.

Dear Judge Anderson:

On July 7, 2009 the Board of Supervisors submitted its response to Training, Recommendation #1 of the 2008-2009 Nevada County Civil Grand Jury Report, dated April 15, 2009, entitled *Nevada County Presidential Election-November 2008*. That response is as follows:

The recommendation will not be implemented at this time.

The Board does not have sufficient information in which to make a decision to support additional compensation for mandatory training. The Board will consider this issue as a regular business matter after the Clerk-Recorder has had the opportunity to fully analyze the issue and prepare a recommendation for the Board's consideration.

In a letter dated July 15, Grand Jury Foreman Robert Erickson responded, "We note that your response indicates that further analysis, in the form Board [sic] review of a report from the Clerk-Recorder will be undertaken....We understand this to be in conformance with Penal Code section 933.05 (b) (3). As such, a further Response is due to the Grand Jury within 6 months from the release date of the Report."

Although the Board did not respond that the recommendation requires further analysis, it did, as a regular business matter, hear a report by Clerk-Recorder Gregory Diaz at its regular meeting on October 27, 2009. Attached is a copy of the staff report by Mr. Diaz, and Resolution 09-538, authorizing precinct inspectors and judges to receive a \$10 stipend for attending a procedural training session and a \$10 stipend for attending an equipment session, a maximum of \$20 for training per election.

Respectfully submitted,

A handwritten signature in black ink that reads "Hank Weston". The signature is written in a cursive, flowing style.

Hank Weston  
Chairman, Board of Supervisors

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# Nevada County Clerk Recorder/ Registrar of Voters

County Clerk - Recorder  
950 Maidu Avenue, Suite 210  
Nevada City, CA 95959  
Phone: (530) 265-1221  
Fax: (530) 478-1275  
[mynevadacounty.com/recorder](http://mynevadacounty.com/recorder)

Gregory J. Diaz  
County Clerk - Recorder

County Elections  
950 Maidu Avenue, Suite 250  
Nevada City, CA 95959  
Phone: (530) 265-1298  
Fax: (530) 265-9829  
[mynevadacounty.com/elections](http://mynevadacounty.com/elections)

October 15, 2009

RECEIVED

Honorable Board of Supervisors  
Eric Rood Administrative Center  
950 Maidu Avenue  
Nevada City, CA 95959

OCT 20 2009

NEVADA COUNTY  
BOARD SUPERVISORS

**DATE OF MEETING:** October 27, 2009

**SUBJECT:** Analysis of Precinct Board Members stipend increase for procedural and/or equipment training. Resolution to accept analysis of stipend increase.

**RECOMMENDATION:** Approve the attached Resolution.

**BACKGROUND:** At the July 7, 2009 special meeting of the Board of Supervisors, the response to the 2008-2009 Nevada County Civil Grand Jury Report, dated April 15, 2009, entitled Nevada County Presidential Election-November 2008 was approved. As the Grand Jury required, the Board has responded to Training, Recommendation #1. The Board did not have sufficient information to make a decision to support additional compensation for mandatory training. The Board asked the Clerk-Recorder to conduct further analysis on the issue and to prepare a report and recommendation for the Board's consideration. Based on the report by the Clerk-Recorder, it is recommended the Board approve an additional stipend of ten (\$10) dollars per training class attended with a maximum of twenty (\$20) dollars additional per poll worker. The Clerk-Recorder makes this recommendation understanding the County's current budget constraints and our commitment to fiscal responsibility.

**FISCAL IMPACT**

If all 300 poll workers attended both training classes, the increased cost would be approximately six thousand (\$6000) dollars.

Respectfully submitted,

Gregory J. Diaz  
County Clerk-Recorder



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## Poll Worker Pay in Surrounding Counties

Counties surveyed:  
Sierra, Plumas,  
Butte, Yuba, Sutter,  
Placer, El Dorado,  
and Sacramento



## Poll Worker Facts

- For each Election, Nevada County needs approximately 300 Poll Workers.
- The average Poll Worker serves between 14 and 16 hours on Election Day (6AM until 9 PM or later).
- Nevada County offers two Poll Worker training classes—Equipment Training and Procedures Training. Each class lasts two hours.
- There are two types of Poll Workers in Nevada County: Inspectors and Judges. Inspectors serve as the supervisor for their Precinct Board and have more responsibility than a Judge.
- All Inspectors and at least one Judge from each Precinct Board, as well as all brand-new Poll Workers, are required to attend both training classes.

## Methods Used

•All Poll Worker pay information was first gathered from the County's website and subsequently verified by speaking with a representative in the county's office. In some cases, information on the county's website was not current.

•Some counties give different names to the jobs they assign to Poll Workers. "Inspector" is a standard title for the individual in charge of a polling place. Some counties use "Judge" or "Clerk" to indicate a regular Poll Worker; other counties use both "Judge" and "Clerk" and assign separate duties to workers in each category. For the purposes of this study, we have shown the job titles and the pay associated with each title per county. In showing the total pay (stipend plus training), the categories of "Judge" and "Clerk" have been combined and are represented by a pay range if both job titles are used in the county.

## Pay Rates By County

County	Inspector Pay	Judge Pay	Clerk Pay	Training Pay
Nevada	\$100	\$80	N/A	NONE
Butte	\$115	N/A	\$75	\$30
El Dorado	\$120	\$110	\$95	NONE
Placer	\$100	\$90	\$85	\$20-40
Plumas	\$115	\$90	N/A	\$10
Sacramento	\$150	N/A	\$100	\$25
Sierra	N/A	N/A	N/A	N/A
Sutter	\$85	N/A	\$70	\$10
Yuba	\$90	N/A	\$75	\$10

### Total Pay (Training and Stipend) by County

County	Total Inspector Pay	Total Judge/Clerk Pay
Nevada	\$100	\$80
Butte	\$145	\$105
El Dorado	\$120	\$95-110
Placer	\$120-140	\$110-130
Plumas	\$125	\$100
Sacramento	\$175	\$125
Sierra	N/A	N/A
Sutter	\$95	\$80
Yuba	\$100	\$85

### Additional Information

•Butte County's \$115 stipend includes an additional \$30 for picking up and returning their Poll Worker materials, including the electronic voting equipment, bringing the total to \$145 with training pay.

•Sierra County conducts all Elections by mail; they have no polling places.

•Placer County offers two training classes: Equipment and Procedures. The Equipment Training is separate from the Procedures class, takes 2.5-3 hours, and is mandatory for every Poll Worker that has not had machine training in the last six months. Placer County pays each Poll Worker \$20 for the Procedures Training class, and \$20 for attending the Equipment Training class if they have not already done so in the last six months, hence the \$20-40 range for training pay.

## Recommendation

Allow for a \$10 stipend per training class attended (maximum of \$20).

If all 300 Poll Workers attended both training classes, the increased cost would be approximately \$6000.

County	Total Inspector Pay	Total Judge/Clerk Pay
Nevada	\$120	\$80-100
Butte	\$145	\$105
El Dorado	\$120	\$95-110
Placer	\$120-140	\$110-130
Plumas	\$125	\$100
Sacramento	\$175	\$125
Sierra	N/A	N/A
Sutter	\$95	\$80
Yuba	\$100	\$85



**RESOLUTION No. 06-507**  
**OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

**RESOLUTION ESTABLISHING STIPEND FOR PRECINCT BOARD OFFICIALS**

WHEREAS, California Elections Code Section 12310 provides that precinct board officials shall receive a stipend for services fixed by the Board of Supervisors;

WHEREAS, California Elections Code Section 12310 provides that the inspector may receive more compensation than the other members of the precinct board for additional services rendered;

WHEREAS, the amount of the pollworker stipend in Nevada County has increased incrementally over the years and was last increased in FY 2000/01;

THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Nevada that the following compensation shall be in effect for precinct board officials within the County of Nevada:

- |                  |                  |
|------------------|------------------|
| 1. Inspectors    | \$100.00 per day |
| 2. Judges/Clerks | \$ 80.00 per day |

FURTHER RESOLVED that Resolutions No. 80-30, 84-386, 87-220, and 92-641 be and are hereby rescinded.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 10th day of October, 2006, by the following vote of said Board:

Ayes: Supervisors Nate Beason, Sue Horne, John Spencer, Robin Sutherland & Ted S. Owens.  
Noes: None.

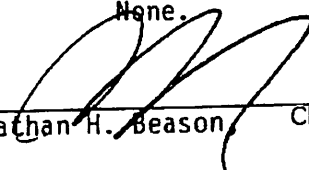
Absent: None.

Abstain: None.

ATTEST:

CATHY R. THOMPSON  
Clerk of the Board of Supervisors

By: Donna Landi, Deputy

  
\_\_\_\_\_  
Nathan H. Beason, Chair

DATE	COPIES SENT TO
10/12/06	Clerk-Recorder
	A-C*



# RESOLUTION No. 09-538

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### RESOLUTION INCREASING STIPEND FOR PRECINCT BOARD MEMBERS

WHEREAS, California Elections Code Section 12310 provides that precinct board members shall receive a stipend for service as fixed by the Board of Supervisors; and

WHEREAS, California Elections Code Section 12310 provides that the inspector may receive more compensation than the other members of the precinct board for additional services rendered; and

WHEREAS, a ten dollar increase for each required training session in the stipend for precinct board members is necessary and appropriate to recruit and retain qualified precinct board members.

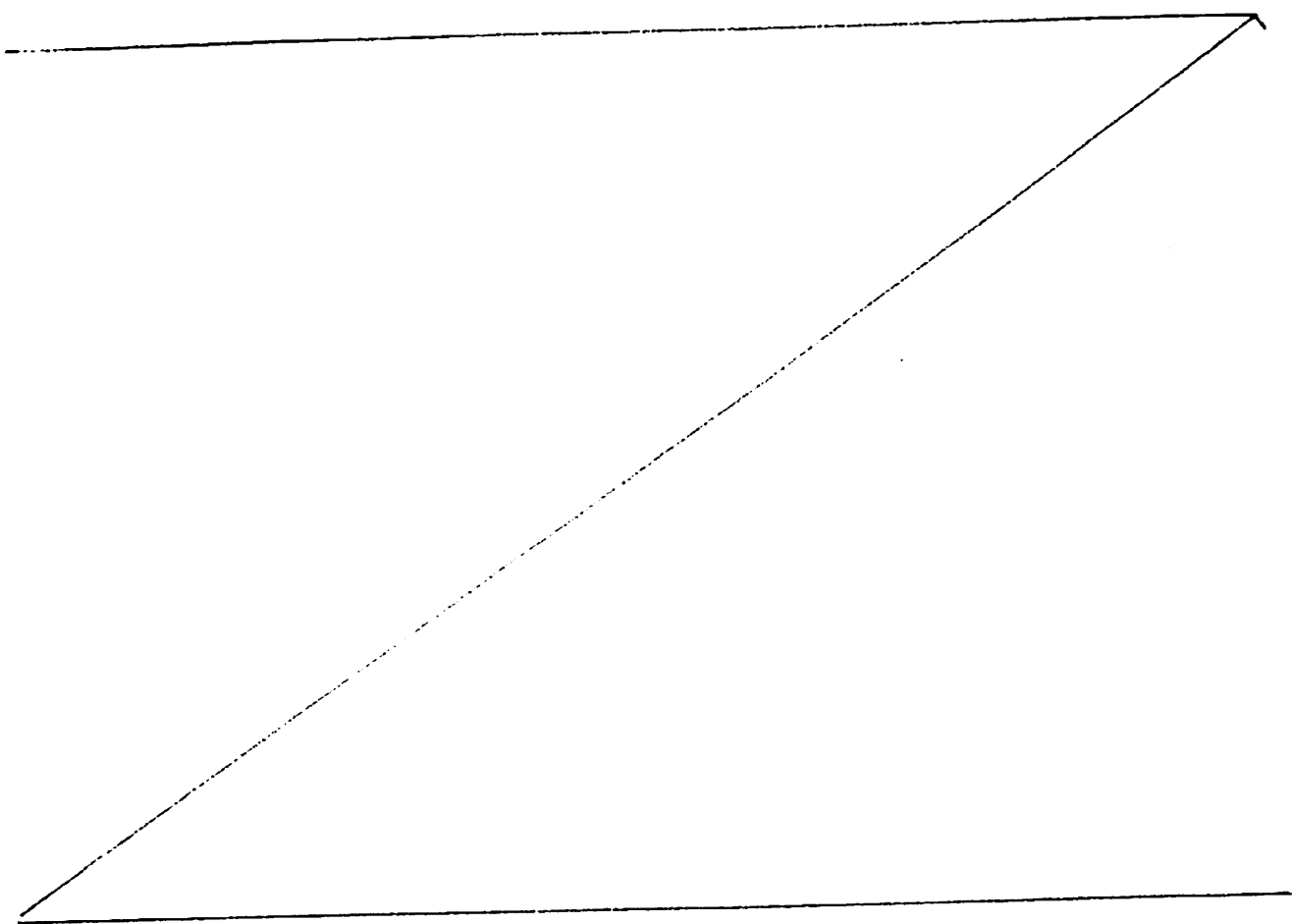
THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Nevada that the following compensation shall be in effect for duly appointed precinct board members within the County of Nevada:

1. Inspectors: \$100 for Election day services  
    \$ 10 Procedural Training  
    \$ 10 Equipment Training  
    Maximum of \$20 for training/per election
2. Judges: \$ 80 for Election day services  
    \$ 10 Procedural Training  
    \$ 10 Equipment Training  
    Maximum of \$20 for training/per election

To be eligible for payment of the stipend each precinct board member shall attend training in election procedures and use of election equipment, pursuant to Elections Code §12309, prior to each election. This training requirement may be waived by the County Elections Official at his discretion based upon the prior training and experience of the individual precinct board member.

FURTHER RESOLVED, that Resolution No. 06-507 be and is hereby rescinded.





PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 27th day of October, 2009, by the following vote of said Board:

Ayes: Supervisors Nate Beason, Ed Scofield,  
John Spencer, Hank Weston & Ted S. Owens.

Noes: None.

ATTEST:

Absent: None.

CATHY R. THOMPSON  
Clerk of the Board of Supervisors

Abstain: None.

By Cathy R. Thompson

Hank Weston  
Hank Weston, Chair

DATE	COPIES SENT TO
10/29/09	Co. Clerk
	A-C*

# **COUNTY GOVERNMENT**

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## **County Code Enforcement – A Continuing Concern**

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**Nevada County Grand Jury Report with Responses  
2008-2009**

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# **County Code Enforcement – A Continuing Concern**

## **Summary**

The Nevada County Grand Jury (Jury), in following up on citizen's complaints and prior Jury Reports, developed concern regarding the County Code Compliance Division's and Building Department's responses to complaints regarding code violations. The current Jury finds there is too much emphasis on voluntary compliance versus enforcement and too much opportunity for delay in correction or abatement of violations. The Jury observed that this allows some violations to continue for excessive periods of time. The Jury recommends measures to strengthen both the Code Compliance Division's and the Building Department's approaches in dealing with code violations. These recommendations include implementation of existing but under-used authority and establishment of new authorities and procedures for achieving compliance with applicable County codes.

## **Reason for Investigation**

The Jury received several citizen complaints from County residents regarding longstanding Code violations of the Land Use Development Code (LUDC). The complainants had been unsuccessfully trying for many years, (one for nearly a decade) to get the violations corrected by working with the County's Code Compliance Division. As the Jury began its investigation, it noted that two prior Grand Jury Reports (2001/02 and 2003/04) had been issued based on very similar concerns. The Jury concluded that a new investigation was required to assess the current situation.

## **Background**

The Code Compliance Division (Code) and the Building Department (Building) are components of the Community Development Agency (CDA). CDA is an umbrella agency for several departments: Planning, Building, Environmental Health, Housing and the Agricultural Commissioner. Code is a Division of the Planning Department. Code functions as a complaint-driven operation only. It responds to and investigates written complaints received from County residents with regard to perceived violations of the LUDC, and any other County codes relating to land use. Examples include building without proper permits, accumulation of trash, failing septic systems, abandoned vehicles and excess accumulations of inoperable vehicles visible from off the property. Building reviews plans, issues construction permits, assesses fees for construction inspections and conducts required inspections to assure construction is done properly.

## Procedure Followed

The Jury interviewed the complainants and reviewed the information they supplied. The Jury reviewed prior Jury reports. This review found striking similarities between the current complaints and the issues addressed by the prior Jury reports. The Jury also interviewed County staff and managers in the Planning and Building Departments in an effort to get a complete and accurate understanding of the way Code and related departments function.

In addition to interviews with these persons, the Jury requested, obtained and studied files kept by both Code and Building regarding the properties that were the subjects of the complaints received by the Jury.

The Jury also reviewed a document titled: Procedural Guidelines of the Code Compliance Department (sic). This document was produced at a time when Code was a Department in CDA rather than a Division of the Planning Department. Its latest form states, on its cover, that it was revised by staff in January 2004. This document was accepted by the Board of Supervisors (Board) on February 10, 2004. An appendix (A-18, Fee Schedule) to this document was approved by the Board on December 14, 2004. This was not reviewed because it could not be located as of March 4, 2009. The Jury also reviewed code and policy sections and correspondence obtained from several of the managers interviewed. Members of the Jury also visited one of the subject properties during its public hours.

## Findings

1. The Code Compliance Division is organizationally separated from the Building Department.
2. The philosophy of Code is to secure voluntary compliance with applicable codes rather than to punish violators, although fines and penalties are included in the tools available to Code in pursuit of this objective. In discussion, staff continually distinguished between *compliance* and *enforcement*, noting that the County's preference was for the former. The Jury understood this to mean the Board's preference.
3. It is the practice of the County that neither Code staff nor any other County staff members are to proactively look for Code violations. Code opens an investigation only after receipt of a written complaint.
4. Code does not issue permits. This is done by other departments in the CDA, e.g., Building and Environmental Health.
5. Code officers have authority to issue infraction-level citations in cases in which they are not able to secure voluntary compliance. Infractions are the lowest level of criminal complaint. As are all crimes, they are adjudicated through the Superior Court (Court). Fines are the maximum level of punishment for infractions.

The dollar amounts of fines for Code violations are set by County Code (LUDC Section L-II 5.21, F, 1, a-c).

6. Most citations are issued only after numerous and time consuming efforts are made to secure compliance. Health and safety issues may be handled in a more timely manner.
7. The Court does not always assess fines in response to citations and sometimes suspends fines it does assess, pending compliance, and waives them if compliance is achieved.
8. An existing Ordinance provides for "Nuisance Abatement," a process by which Code Officers obtain authority to abate an ongoing violation. This is done without the property owner's consent, and the cost of abatement is charged to the property owner.
9. Code has been in consultation with County Counsel, for about a year, on fine tuning procedures to assure due process in implementation of the Nuisance Abatement Ordinance, following about five years of disuse.
10. An alternative to the criminal infraction would be the Administrative Citation. These are non-criminal citations adjudicated by Administrative Hearing Officers, with backgrounds in land use issues. This would provide an alternative to going to Court. Administrative Citations are in use in other jurisdictions. Code is working with County Counsel to develop an Administrative Citation Ordinance for their division, providing a more efficient and effective citation process. Efforts to implement this tool have also been in discussion for approximately one year.
11. The Procedural Guidelines of the Code Compliance Department document, which was adopted by the Board of Supervisors on February 10, 2004, contains conflicting guidance as to when Code cases may be closed:
  - a. The following guidance appears on page 11: "Do not close a case until the necessary permits have been obtained, a complete abatement has occurred, inspections have been made to verify compliance (Zoning, Building, Environmental, and Safety) and Code Compliance billings have been sent and collected."
  - b. Contradictory guidance is found on page 24: "When it is determined that a complaint needs to be remedied with a permit, the Code Enforcement Officer shall work cooperatively together with the other department to determine what permits are needed. Once that is done, the case can be closed: the needed permit(s) and permit fee(s) shall be noted in the contact report."
12. All County staff interviewed stated that Code's standard operating procedure is to consider issuance of a building permit (by Building) as *compliance*, and to close the Code case at that point.

13. Code will re-open a case if notified by Building that a permit had expired without abatement of the condition that caused the original complaint. However, there is no written guideline or policy that would require Building to provide this notice.
14. In the first case that brought this matter to the Jury's attention, there was already a multi-year history of attempts to resolve the issues through both an informal process and formal complaints to Code.
15. Building permits are valid for six months.
16. Building has the authority to issue permits with a shorter time-limit. This authority covers issues resulting in dangerous, substandard or illegal conditions.
17. One of the outstanding violations in the first case was a safety issue of such importance that the property owner had been ordered by both Code and Building to not allow public use until it was corrected.
18. The property owner in the first case continued to allow public use of this building on a regular basis, in defiance of the above order. This was verified by Jury members, on site.
19. Since the Jury investigation began, all outstanding permits on the property involved have been closed with a final inspection, except for one. This remaining permit, open since 2003, is a subject of the original complaint to the Jury. The work required for the permit has not yet been completed.
20. Building does not always use its authority to double inspection fees in cases in which construction was initiated without a permit.
21. Building is considered a fee-based department. Money collected by this department for building permits and inspection fees is used to fund Building.
22. Code is not a fee-based division. Only ½ of 1% of the budget comes from fines resulting from infraction level citations issued by Code officers.
23. Code has only three case officers; each officer averages between 80 and 100 active cases at any one time.

### **Conclusions**

1. The current organizational separation between Code and Building inhibits communication and contributes to the problems in achieving compliance.
2. The Board has gone too far in emphasizing *compliance over enforcement*.

3. Enforcement versus seeking voluntary compliance would, in many cases, be faster, reduce officer caseload and generate funds for the County budget.
4. It is ironic that the public doing business with Building pay for their services through building permits and inspection fees. Services for those in violation are paid from the General Fund.
5. The effort to use the existing Nuisance Abatement Ordinance is laudable but too slow in implementation.
6. The effort to establish an Administrative Citation process is also laudable but too slow in being implemented.
7. Issuance of a permit is no guarantee a violation will be corrected; dangerous, substandard and illegal conditions may persist.
8. Conflict in Code's Procedural Guidelines causes confusion, inconsistency and premature closure of cases.
9. Permits can be continually renewed, resulting in failure to fully abate code violations.
10. The current procedures used by Code are not sufficient to secure the level and speed of compliance that the residents of Nevada County should reasonably expect. This sometimes allows continuation of a safety hazard to residents of and visitors to the County.
11. Failure to charge applicable double inspection fees for late permits results in loss of revenue to the County.

### **Recommendations**

1. The Board should direct staff to consolidate the Code Compliance Division with the Building Department.
2. The Board should modify its philosophy to emphasize enforcement over voluntary compliance.
3. The Board should direct staff to give greater urgency to the implementation of the existing Nuisance Abatement Ordinance.
4. The Board should also direct staff to develop a plan for the approval and implementation of the proposed Administrative Citation Ordinance. This plan should include dates that can be tracked.



5. The Board should direct staff to revise the Procedural Guidelines of the Code Compliance Department to clearly state that Code cases resulting in permits shall not be closed until the final inspection(s) on the permit(s) are completed and all fines and fees collected.
6. The Board should direct Building to issue limited-term permits in all cases in which a Code case involving dangerous, substandard or illegal conditions led to the permit application.
7. The Board should direct Building to follow up to close existing permits initiated because of a code violation.
8. The Board should direct Building to routinely charge double inspection fees for permits resulting from Code actions.
9. The Board should direct staff to find a means of limiting the number of permit renewals or extensions.

### **Required Responses**

Board of Supervisors October 6, 2009

# RESPONSE

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# COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue, Suite 200 • Nevada City, California 95959-8617

## BOARD OF SUPERVISORS

Nate Beason, 1st District (Vice Chair)  
Ed Scofield, 2nd District  
John Spencer, 3rd District  
Wm. "Hank" Weston, 4th District (Chair)  
Ted S. Owens, 5th District



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Cathy R. Thompson  
Clerk of the Board

E-Mail: [bdofsupervisors@co.nevada.ca.us](mailto:bdofsupervisors@co.nevada.ca.us)  
Web: [www.mynevadacounty.com/clerkofboard](http://www.mynevadacounty.com/clerkofboard)

August 11, 2009

The Honorable Judge Thomas Anderson  
Presiding Judge of the Nevada County Grand Jury  
Nevada County Courthouse  
201 Church Street  
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2008-2009 Nevada County Civil Grand Jury Report. *County Code Enforcement - A Continuing Concern.*

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2008-2009 Nevada County Civil Grand Jury Report, dated June 8, 2009, entitled *County Code Enforcement - A Continuing Concern.*

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on August 11, 2009. The Responses are based on either personal knowledge, examination of official County records, information received from the Community Development Agency Director, the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2008-2009 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Respectfully submitted,

A handwritten signature in black ink that reads "Hank Weston". The signature is written in a cursive, slightly slanted style.

Hank Weston  
Chairman, Board of Supervisors

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**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO  
2008/2009 CIVIL GRAND JURY REPORT  
DATED JUNE 8, 2009  
RE: COUNTY CODE ENFORCEMENT – A CONTINUING CONCERN**

*Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by County Counsel, the Community Development Agency, the County Executive Officer, or testimony from the Board Chair and county staff members.*

**A. RESPONSES TO FINDINGS**

- 1. The Code Compliance Division is organizationally separated from the Building Department.**

Partially disagree.

Code Compliance is a division within the Planning Department. This department, along with the Building Department, Environmental Health Department, Public Works Department, Department of Sanitation, and the Agricultural Commissioner/Sealer of Weights and Measures are all constituent parts of the Community Development Department. As such, all of these departments and their respective duties and responsibilities are "organizationally" related and connected.

- 2. The philosophy of Code is to secure voluntary compliance with applicable codes rather than to punish violators, although fines and penalties are included in the tools available to Code in pursuit of this objective. In discussion, staff continually distinguished between *compliance* and *enforcement*, noting that the County's preference was for the former. The Jury understood this to mean the Board's preference.**

Agree.

- 3. It is the practice of the County that neither Code staff nor any other County staff members are to proactively look for Code violations. Code opens an investigation only after receipt of a written complaint.**

Partially disagree.

If Code staff or other County staff observe either imminent health or safety issues (e.g., surfacing septic) or unpermitted construction in progress, those issues will be brought to the attention of the Code Division program manager. In instances involving imminent health and safety concerns, a Code case will be opened immediately. Construction without permits requires a "red tag" (stop work order) be issued. If there is no response by the property owner to notifications from the Building department stating that permits are required, the matter will become a Code case.

Members of the County Board of Supervisors may request a code case be opened, as well as officers of the Nevada County Sheriff's Office.

4. **Code does not issue permits. This is done by other departments in the CDA, e.g., Building and Environmental Health.**

Agree.

In addition to the Building and Environmental Health Departments, the Planning and Public Works Departments also issues permits.

5. **Code officers have authority to issue infraction-level citations in cases in which they are not able to secure voluntary compliance. Infractions are the lowest level of criminal complaint. As are all crimes, they are adjudicated through the Superior Court (Court). Fines are the maximum level of punishment for infractions. The dollar amounts of fines for Code violations are set by County Code (LUDC Section L-II 5.21, F, 1, a-c).**

Agree.

6. **Most citations are issued only after numerous and time consuming efforts are made to secure compliance. Health and safety issues may be handled in a more timely manner.**

Partially disagree.

Health and safety issues are handled in a timely manner.

7. **The Court does not always assess fines in response to citations and sometimes suspends fines it does assess, pending compliance, and waives them if compliance is achieved.**

Agree.

8. **An existing Ordinance provides for "Nuisance Abatement," a process by which Code Officers obtain authority to abate an ongoing violation. This is done without the property owner's consent, and the cost of abatement is charged to the property owner.**

Agree.

9. **Code has been in consultation with County Counsel, for about a year, on fine tuning procedures to assure due process in implementation of the Nuisance Abatement Ordinance, following about five years of disuse.**

Agree.

(Note: Subsequent to the issuance of this Grand Jury report, Code completed the first Nuisance Abatement case using the newly formatted process.)

- 10. An alternative to the criminal infraction would be the Administrative Citation. These are non-criminal citations adjudicated by Administrative Hearing Officers, with backgrounds in land use issues. This would provide an alternative to going to Court. Administrative Citations are in use in other jurisdictions. Code is working with County Counsel to develop an Administrative Citation Ordinance for their division, providing a more efficient and effective citation process. Efforts to implement this tool have also been in discussion for approximately one year.**

Partially disagree.

Rather than an alternative to criminal infractions the administrative citations would provide an additional enforcement tool to Code. There will remain situations where a criminal citation would be more likely to gain compliance than an administrative citation. Examples of cases where criminal citations are more effective include out-of-county roadside vendors and long-term cases where the property owner is on probation.

- 11. The Procedural Guidelines of the Code Compliance Department document, which was adopted by the Board of Supervisors on February 10, 2004, contains conflicting guidance as to when Code cases may be closed:**
- a. The following guidance appears on page 11: "Do not close a case until the necessary permits have been obtained, a complete abatement has occurred, inspections have been made to verify compliance (Zoning, Building, Environmental, and Safety) and Code Compliance billings have been sent and collected."**
  - b. Contradictory guidance is found on page 24: "When it is determined that a complaint needs to be remedied with a permit, the Code Enforcement Officer shall work cooperatively together with the other department to determine what permits are needed. Once that is done, the case can be closed: the needed permit(s) and permit fee(s) shall be noted in the contact report."**

Agree.

(Note: See response to Recommendation #5)

- 12. All County staff interviewed stated that Code's standard operating procedure is to consider issuance of a building permit (by Building) as *compliance*, and to close the Code case at that point.**



Agree.

(Note: In an effort to ensure that compliance is reached on all cases, Code staff has established a "Resolved" status for cases that have had all other violations resolved, and all required Building permits issued, but where Building permits have not been finalized. "Resolved" cases are monitored by Code staff until the permit is finalized (all work completed and subsequently approved by the Building department), or the permit expires, in which instance the Code case will be reactivated).

- 13. Code will re-open a case if notified by Building that a permit had expired without abatement of the condition that caused the original complaint. However, there is no written guideline or policy that would require Building to provide this notice.**

Partially disagree.

Written guidelines for such instances where, "... a permit had expired without abatement of the condition that caused the original complaint." were addressed in an April 30, 2009 policy memo from the Code Compliance program manager. That policy directive requires Code Compliance staff to monitor permit status and pursue alternative methods of achieving compliance as necessary.

- 14. In the first case that brought this matter to the Jury's attention, there was already a multi-year history of attempts to resolve the issues through both an informal process and formal complaints to Code.**

Unable to respond.

Information concerning the property owner, the property's address and the assessor's parcel number of the "first case that brought this matter to the Jury's attention" was not disclosed to Code during interviews with the Grand Jury, nor is it provided in the report to which this document is responding.

- 15. Building permits are valid for six months.**

Agree.

(Note: Automatic building permit extensions are provided for in the state building code which is adopted by the County. Building permits are automatically extended if one (1) inspection is completed while the permit remains valid.)

- 16. Building has the authority to issue permits with a shorter time-limit. This authority covers issues resulting in dangerous, substandard or illegal conditions.**

Agree.

- 17. One of the outstanding violations in the first case was a safety issue of such importance that the property owner had been ordered by both Code and Building to not allow public use until it was corrected.**

Unable to respond.

Information concerning the property owner, the property's address and the assessor's parcel number of the "first case that brought this matter to the Jury's attention" was not disclosed to Code during interviews with the Grand Jury, nor is it provided in the report to which this document is responding.

- 18. The property owner in the first case continued to allow public use of this building on a regular basis, in defiance of the above order. This was verified by Jury members, on site.**

Unable to respond.

Information concerning the property owner, the property's address and the assessor's parcel number of the "first case that brought this matter to the Jury's attention" was not disclosed to Code during interviews with the Grand Jury, nor is it provided in the report to which this document is responding.

- 19. Since the Jury investigation began, all outstanding permits on the property involved have been closed with a final inspection, except for one. This remaining permit, open since 2003, is a subject of the original complaint to the Jury. The work required for the permit has not yet been completed.**

Unable to respond.

Information concerning the property owner, the property's address and the assessor's parcel number of the "first case that brought this matter to the Jury's attention" was not disclosed to Code during interviews with the Grand Jury, nor is it provided in the report to which this document is responding.

- 20. Building does not always use its authority to double inspection fees in cases in which construction was initiated without a permit.**

Agree.

(Note: Double inspection fees may be waived by the Building Official under the following circumstances:

1. When the permit will be issued to a property owner who was not responsible for the creation of the code violation; or

2. When it is determined, in consultation with Code staff, that waiving the double inspection fee is likely to lead to expedited compliance and case closure, ultimately thereby saving the County money by no longer requiring ongoing code compliance activities)

**21. Building is considered a fee-based department. Money collected by this department for building permits and inspection fees is used to fund Building.**

Agree.

**22. Code is not a fee-based division. Only ½ of 1% of the budget comes from fines resulting from infraction level citations issued by Code officers.**

Agree.

**23. Code has only three case officers; each officer averages between 80 and 100 active cases at any one time.**

Agree.

## **B. RESPONSES TO RECOMMENDATIONS**

**1. The Board should direct staff to consolidate the Code Compliance Division with the Building Department.**

The recommendation will not be implemented.

The Code Compliance Division is responsible for compliance activities for all County codes enforced by the various Departments within the Community Development Agency. Many of the most complex cases that Code deals with stem from Chapter H of the Land Use and Development Code (Zoning Ordinance). These zoning matters fall under the Planning Department where the Code Compliance Division is currently housed. Although a significant number of cases do involve Building Code violations these cases also typically involve Zoning Ordinance and/or Health Code violations as well.

Code staff works primarily with the Planning Department, Environmental Health Department and Building Department with the CDA. Outside of this agency, Code staff works with Child Protective Services and the Sheriff's Department as necessary. No foreseeable advantage would be gained by shifting the Code Compliance Division to the Building Department.

- 2. The Board should modify its philosophy to emphasize enforcement over voluntary compliance.**

The recommendation will not be implemented.

One of the three "Priority A" objectives adopted by the Board of Supervisors for 2009 was, "Enable Code Enforcement division to enforce compliance violations and achieve faster results and cost recovery." This is an indication of the Board of Supervisors' support for a strong and effective code compliance program.

The Board has determined, however, that when progress is being made toward voluntary compliance, the use of vigorous enforcement methods often serves to stop progress and divert funds of the property owner from mitigating the violations to paying fines.

- 3. The Board should direct staff to give greater urgency to the implementation of the existing Nuisance Abatement Ordinance.**

The recommendation has been implemented.

One of the three "Priority A" objectives for 2009 adopted by the Board of Supervisors was, "Enable Code Enforcement division to enforce compliance violations and achieve faster results and cost recovery." Code has been given clear direction to implement the provisions of the County's nuisance abatement process.

Code Compliance staff has now successfully completed the first Nuisance Abatement hearing utilizing a new protocol. Based on this successful case each Code Compliance officer has been assigned a case to carry through the nuisance abatement process.

- 4. The Board should also direct staff to develop a plan for the approval and implementation of the proposed Administrative Citation Ordinance. This plan should include dates that can be tracked.**

The recommendation has not yet been implemented, but will be implemented within the year.

Code Compliance staff and County Counsel are working to develop an Administrative Citation Ordinance for Nevada County. This process has included reviewing the best practices of other jurisdictions and working to draft an ordinance that outlines a process that will be fair to property owners while also protecting the rights of the County.

- 5. The Board should direct staff to revise the Procedural Guidelines of the Code Compliance Department to clearly state that Code cases resulting in permits shall not be closed until the final inspection(s) on the permit(s) are completed and all fines and fees collected.**

This recommendation has not yet been implemented but will be undertaken during the current fiscal year.

While there is a recent (4/30/09) staff policy directive that specifically addresses this matter, it is agreed that such a policy will be adopted by being included in revisions to the Procedural Guidelines of Code Compliance.

6. **The Board should direct Building to issue limited-term permits in all cases in which a Code case involving dangerous, substandard or illegal conditions led to the permit application.**

This recommendation has been implemented.

The Building Official has the authority to issue building permits with specific, limited-term, time frames in cases involving dangerous structures. In consultation with Code Compliance staff, the Building Official will exercise this authority.

7. **The Board should direct Building to follow up to close existing permits initiated because of a code violation.**

This recommendation will not be implemented.

While the Building Department plays a role in tracking building permits issued on properties with Code cases, the Code Compliance Division has been tasked with monitoring these cases.

8. **The Board should direct Building to routinely charge double inspection fees for permits resulting from Code actions.**

This recommendation will not be implemented.

The Board does not support a blanket direction to the Building Official to impose double inspection fees in all cases. Where it is determined that waiving the double inspection fees is likely to lead to timely compliance and the case being closed, ultimately saving the County money by no longer requiring ongoing inspections, the double inspection fees may be waived by the Building Official in consultation with Code Compliance staff.

9. **The Board should direct staff to find a means of limiting the number of permit renewals or extensions.**

This recommendation has been implemented.

The Building Official has the authority to issue building permits with specific, limited-term, time frames in cases involving dangerous structures. In consultation with Code Compliance staff, the Building Official will exercise this authority.

**NEVADA COUNTY BOARD OF SUPERVISORS REVISED RESPONSES TO THE  
2008/2009 CIVIL GRAND JURY REPORT – DATED JUNE 8, 2009**

**RE: COUNTY CODE ENFORCEMENT – A CONTINUING CONCERN  
FINDINGS 14, 17, 18, 19**

*Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by County Counsel, the Community Development Agency, the County Executive Officer, or testimony from the Board Chair and county staff members.*

**RESPONSES TO FINDINGS**

**14. In the first case that brought this matter to the Jury's attention, there was already a multi-year history of attempts to resolve the issues through both an informal process and formal complaints to Code.**

Partially disagree.

Specific information regarding the "...first case that brought this matter to the Jury's attention" is not revealed in the Grand Jury report. However, there are code compliance cases of record which have multi-year histories of attempts to resolve issues through formal complaints.

**17. One of the outstanding violations in the first case was a safety issue of such importance that the property owner had been ordered by both Code and Building to not allow public use until it was corrected.**

Partially disagree.

Specific information regarding the "...first case that brought this matter to the Jury's attention" is not revealed in the Grand Jury report. However, where circumstances exist which constitute a clear danger to health and safety, the Building Official will order that a structure not be occupied until violations have been corrected.

**18. The property owner in the first case continued to allow public use of this building on a regular basis, in defiance of the above order. This was verified by Jury members, on site.**

Partially disagree.

Specific information regarding the "...first case that brought this matter to the Jury's attention" is not revealed in the Grand Jury report. However, there are code compliance cases of record where a property owner or business operator has allowed continued public uses of a building or facility in defiance of a "cease and desist" issued by Code Compliance staff.

Neither County staff nor the Board of Supervisors is able to confirm what Jury members may have observed on any particular site.

**19. Since the Jury investigation began, all outstanding permits on the property involved have been closed with a final inspection, except for one. This remaining permit, open since 2003, is a subject of the original complaint to the Jury. The work required for the permit has not yet been completed.**

Partially disagree.

Specific information regarding "...the property involved..." is not revealed in the Grand Jury report. There are, however, examples of building permits which were issued in 2003 that have yet to be finalized. Some of those permits have been cancelled, while others have been extended and are still considered to be active.

# **HEALTH and ENVIRONMENT**

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**Helping Hands for the Homeless/Needy  
in Nevada County**

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**Nevada County Grand Jury Report with Responses  
2008-2009**



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# **Helping Hands for the Homeless/Needy in Nevada County**

## **SUMMARY**

The Nevada County Grand Jury (Jury) conducted a survey of currently available assistance programs for the people in Nevada County who are temporarily homeless. This report is intended to be an informational report to the citizens of Nevada County.

The investigation focused on food, shelter and the adequacy of resources relative to the need. The Jury found there are a number of services provided by non-profit organizations as well as some local businesses. The number of people needing assistance has increased significantly in recent months.

## **Reason for Investigation**

The homeless problem is growing and is complicated by socio-economic conditions. The recent economic downturn has increased the numbers of people needing immediate services. This report is intended to provide information to the general public and to those who have recently become homeless and are unaware of services available. These needs are being addressed by groups of dedicated organizations and individuals. The resulting demands are threatening to exceed the resources available to those in need. There is a waiting period to enter the county's social service system to receive aid. Non-profit agencies provide prompt and ongoing support. The Jury is authorized to investigate any non-profit organization, which receives money from local government.

## **Background**

There are several different groups that make up the homeless population: those that prefer the homeless lifestyle, the drug and alcohol addicted, mentally challenged, disabled, and those that are victims of our economic downturn. Various agencies work to feed and shelter individuals and families who require assistance. The Nevada County Health & Human Services Agency supports these activities.

## **Procedure**

The Jury interviewed members of the following agencies: Nevada County Health & Human Services, Emergency Assistance Coalition, Hospitality House, Food Bank, Salvation Army, Nevada County Housing Development Corporation, Grass Valley Police Department and the Family Resource Center of Truckee. Members of the Jury observed and participated in a survey of homeless people in Nevada County.

## Findings

1. Available records show a sharp increase in the number of people applying for short-term assistance with food and shelter. Every agency interviewed indicated that its resources are stretched to the limit.
2. There is no indication that the increase in demand is due to new arrivals from outside the county.
3. A census of the homeless population in Nevada County was conducted on January 23, 2009. Homeless people were interviewed at meal-dispensing stations, shelters, camps, and in transit. This survey used standardized methodology developed by the U. S. Department of Housing and Urban Development (HUD). The results of the survey are yet to be released.
4. It is estimated there are 50 to 60 homeless children in Nevada County.
5. Some examples of the expanding need:
  - a. The Food Bank provided food to 770 families in January 2009 compared to 392 in the same month in 2008.
  - b. The demand for services from the Emergency Assistance Coalition, which provides food, shelter, and/or gasoline, has more than doubled.
6. Nevada County funding for the support community increased 40% over the past year.
7. Some coordination exists among the non-profit organizations for the homeless. The Nevada County Health & Human Services Agency is planning a workshop in the Fall to better coordinate these efforts.
8. The Food Bank gives food to anyone without exception.
  - a. The Food Bank utilizes 78 volunteers and employs three staff members.
  - b. The Food Bank's annual budget is approximately \$233,000. The greater portion of this money comes from private donations.
  - c. The Food Bank receives food monthly from a Sacramento farmer's group. A truckload of food is also provided by the Mountain People's Warehouse in Auburn twice a month.
  - d. The Food Bank delivers food to Hospitality House once a week.
  - e. Approximately one third of the Food Bank food is provided directly to families.

- f. The main distribution point for families to pick up their grocery supplies is located in an industrial area. The parking lot has heavy truck traffic, presenting a safety hazard for families with young children.
9. The Interfaith Food Ministry is a collective of religious groups, civic organizations, volunteers and donors, distributing groceries at their Whiting Street location.
10. Three churches serve food prepared by volunteers:
  - a. St. Patrick's Church
  - b. United Methodist Church
  - c. St. Canice Church
11. Details on time and location are available at the Hospitality House Welcome Center.
12. The Salvation Army provides shelter at the Booth Center for nine families for up to 180 days. They currently have a waiting list.
13. The Emergency Assistance Coalition provides vouchers for shelter, gasoline and/or food. Their goal is to provide short-term assistance.
14. The Family Resource Center of Truckee provides gift cards for food and sponsors a weekly hot meal night.
15. The Town of Truckee does not have a shelter for its homeless population.
16. Hospitality House receives guests at the Welcome Center where they are screened for security assurance, health conditions, sobriety, and police record check. The following services are provided year-round at the Welcome Center:
  - a. Lunch five days a week
  - b. Showers and laundry facilities
  - c. Information referral
17. In addition to the above, from October 15 thru April 30, Hospitality House coordinates the services provided by participating churches. The following is provided to approximately 30 people:
  - a. Transportation to and from the host church.
  - b. Overnight shelter at various western Nevada County churches.

c. Dinner at the host church

18. There is no limit to the number of nights of shelter for each guest from October 15<sup>th</sup> to April 30<sup>th</sup>.
19. Volunteers of the hosting church monitor and provide overnight security.
20. Pets are not allowed at these shelters.
21. The Nevada County Department of Social Services publishes a directory of organizations one can go to for support. The pamphlet is called Nevada County Community Resource Directory and is available at local libraries and online at [www.Dial211.com](http://www.Dial211.com).
22. During the months when shelter is not available, many homeless shelter in communal camps in high fire hazard areas.

### **Conclusions**

1. Nevada County, local businesses and the non-profit community are doing a commendable job providing food and/or shelter to the temporarily homeless community considering the resources available to them.
2. Non-profit resources are stretched to the limit. These organizations are in need of continued and increased community support.
3. Communal camps could be a fire hazard.
4. Coordination across the different support agencies needs to be improved.

### **Recommendations**

The Jury encourages county residents to support the needy through their organization of choice with money, food and/or time, so that services supporting the homeless and needy can be provided year-round.

### **Responses**

None required

# **LAW ENFORCEMENT**

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## **The Grass Valley Animal Shelter – Missed Opportunities**

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# **THE GRASS VALLEY ANIMAL SHELTER**

## **Missed Opportunities**

### **SUMMARY**

The Nevada County Grand Jury (Jury) investigated and compared public animal shelters within Nevada County. The Jury visited the three public animal control/shelter facilities in the County and determined that the Grass Valley Shelter has room for improvement. Deficiencies include a high rate of euthanasia, lack of a fully-accountable spay/neuter program, inadequate health and welfare practices and incomplete recordkeeping practices. This shelter also misses out on the potential benefit of volunteers.

### **REASON FOR INVESTIGATION**

Three public animal shelters exist within the County of Nevada: Grass Valley, Truckee, and the third services Nevada County. (Grass Valley provides animal control services for Nevada City.) In recent years animal control in the County has received considerable attention in the local press. Additionally, after 37 years under the direction of one individual, a management change has recently taken place at the Grass Valley shelter. The Jury determined this justified a review.

### **BACKGROUND**

Animal Control personnel of the three jurisdictions have similar enforcement and control responsibilities. Sheltering is handled in differing ways. Emphasis of the Jury's investigation was on sheltering. Sheltering includes the intake and disposition of strays and unwanted animals.

Truckee Animal Services has two animal control officers, one kennel attendant and one administrative secretary. Animal Services in the Town of Truckee are managed by the Community Development Department. The shelter took in 410 animals in fiscal year 2007/08.

Nevada County Animal Control and Protection has four animal control officers, one field services officer, 1.5 FTE kennel attendant positions and two office assistants. The Nevada County Sheriff's Office oversees the activities of Animal Control and Protection at the County shelter. The shelter took in 1,433 animals in fiscal year 2007/08.



Grass Valley Animal Control has three animal control officer positions and limited clerical services. Animal Control reports to the Grass Valley Police Department. The shelter took in 416 animals in fiscal year 2007/08.

## **PROCEDURE FOLLOWED**

The Jury conducted its investigation through interviews, and Jury teams made visits to the shelters over a period of several months. The Jury interviewed managers and staff members of the shelters as well as animal welfare advocates. The Jury reviewed a variety of regulatory and advisory documents from sources including: the Humane Society of the United States, the National Animal Control Association, American Society for the Prevention of Cruelty to Animals and the American Humane Association, among others.

Animal intake/disposition records, provided by staff of the jurisdictions involved, were inspected. The Jury also examined environmental health and treatment of the animals at the shelters as well as euthanasia rates. The spay/neuter practices of each shelter were also assessed. Based on this information, the Grass Valley shelter operations stood in contrast to the other public shelters within Nevada County. The focus of this report is the Grass Valley Animal Shelter. The two other public shelters in Nevada County are referenced as needed for comparison purposes.

For ease of understanding, the report is divided into four categories:

- A. Spay/Neuter Programs
- B. Euthanasia Rates
- C. Health and Welfare of Animals
- D. Records Management

All findings refer to the Grass Valley Animal Shelter unless otherwise noted.

### **A. SPAY/NEUTER PROGRAMS**

When and if the population of the County of Nevada exceeds 100,000, the three public shelters will be required to spay/neuter all animals prior to release, barring a medical reason not to do so [California Law, Food and Agriculture Codes Section 30503 (dogs) and Section 31751.3 (cats)]. Both The Town of Truckee and the Nevada County shelter voluntarily comply now, ensuring that all stray and unwanted animals are spayed/neutered prior to adoption.

As of January 1, 2008, the State Department of Finance estimated Nevada County's population to be 99,186.

The Jury recognizes that overpopulation of animals is a significant problem, and a contributing factor to animal cruelty. The California Legislature recognized this fact as reflected in Section 1 of historical and statutory notes, Stats. 1998, c. 747 (AB 1856):

**Section 1(a):** "The Legislature finds and declares that overpopulation of dogs and cats in California is a problem of great public concern. The overpopulation causes public health problems, adversely affects city and county animal control departments, and results in needlessly euthanized dogs and cats.

**Section 1(b):** It is the intent of the Legislature, by enacting this act, to reduce the number of unwanted dogs and cats in California. In order to reduce the number of stray dogs and cats on the streets, and the number euthanized in shelters each year, the birth rate must be reduced. Although the point may seem obvious, humans generally give birth to a single offspring, while dogs and cats give birth to litters. Additionally, dogs and cats reach sexual maturity relatively young and their gestation periods are comparatively short.

The single most effective prevention of overpopulation among dogs and cats is spaying and neutering."

### **Findings**

- A - 1. The Grass Valley shelter does not spay/neuter animals prior to adoption.
- A - 2. The Grass Valley shelter collects a refundable spay/neuter deposit when intact animals are adopted.
- A - 3. Grass Valley Department of Finance records indicate that not all adopters collect spay/neuter deposit refunds.

### **Conclusions**

- A --1. Reliance on adopters to spay/neuter their animals is not a guarantee it will be done.
- A - 2. The Grass Valley shelter does not know how many of the animals adopted from their facility were spayed/neutered.

### **Recommendations**

- A - 1. The Grass Valley shelter should institute a program to spay/neuter all animals prior to adoption.

## **B. EUTHANASIA RATES**

All shelters find it necessary to euthanize some animals, primarily for medical reasons and/or aggression.

## **Findings**

- B -1. The Grass Valley shelter routinely euthanizes feral cats; the other shelters in the County do not.
- B - 2. Three days are allowed to assess whether a cat is feral.
- B - 3. The shelter took in 416 animals in fiscal year 2007/2008
- B - 4. During fiscal year 2007/2008, 85 cats and 13 dogs were euthanized.
- B- 5. Using information provided by the Grass Valley shelter, the Jury calculated a euthanasia rate of 24%. This is in contrast to the Nevada County shelter euthanasia rate (3.1 %) and the Truckee shelter rate (1.7 %) for the same time period.

## **Conclusions**

- B- 1. The euthanasia rate at the Grass Valley shelter is significantly higher than the other shelters in Nevada County.
- B- 2. The lower rate of euthanasia at the other two shelters implies there are alternatives to euthanasia.

## **Recommendation**

- B- 1. The Grass Valley Animal Shelter should consult with other shelters regarding alternatives to euthanasia.

## **C. HEALTH AND WELFARE OF ANIMALS**

People on-site at the shelters handle the day-to-day responsibilities of running a shelter. However, human interaction with the animals is equally important. Animal stress is alleviated, intellectual stimulation and socialization is provided and animals are afforded more opportunities for exercise. The Town of Truckee and Nevada County both use volunteers to supplement staff and care for the animals. As stated in the Humane Society of the United States Guidelines for the Operation of an animal shelter, the shelter "...should be a place of safety and comfort for the animals."

For each of the shelters, the Jury observed that kennels were clean, and the basics of food and water were provided.

## **Findings**

- C - 1. The Grass Valley shelter does not use a volunteer program. Truckee and Nevada County shelters have active volunteer programs to supplement staff.
- C - 2. Hours for public access to the Grass Valley shelter are limited and inconsistent.
- C - 3. Animals are not vaccinated and not generally quarantined upon entry to the shelter.
- C - 4. No common area exists for cats to move about for exercise and socialization.

- C – 5. Dog enclosures do provide both indoor and outdoor accommodations. However, there is no established program for walking the dogs.
- C - 6. Limited or no bedding for the animals was observed.
- C – 7. A small amount of litter is provided in each cat cage.
- C – 8. Unused space in the shelter was observed.
- C – 9. Public boarding is allowed.

### **Conclusions**

- C – 1. The Grass Valley shelter’s decision to not use volunteers limits its ability to offer increased and consistent hours for the public, needed exercise for the animals and day-to-day assistance for a limited staff.
- C – 2. Failure to vaccinate animals increases the probability of spreading disease throughout the shelter.
- C – 3. There is minimal socialization and exercise for both dogs and cats.
- C – 4. Bedding is inadequate to provide comfort.
- C – 5. Cats are not provided sufficient litter.
- C – 6. Space is available in the shelter to provide common areas for animals.
- C – 7. It is inappropriate for a publicly funded facility to compete with the private sector for the boarding of animals.

### **Recommendations**

**The Grass Valley Animal Shelter should:**

- C – 1. Create a volunteer program at the Grass Valley Animal Shelter. Neighboring animal shelters could provide assistance in developing and establishing a program.
- C – 2. Use volunteers to enhance and provide twice daily socialization and exercise for dogs.
- C – 3. Extend and provide consistent public hours at the shelter.
- C – 4. Vaccinate for basic diseases.
- C - 5. Provide adequate bedding for the comfort of the dogs and cats.
- C - 6. Ensure there is sufficient litter in the cat cages to contain excreta.
- C – 7. Create a common area for cats utilizing available space.
- C - 8. Discontinue public boarding.

## **D. RECORDS MANAGEMENT**

### **Findings**

- D – 1. An analysis of the Grass Valley shelter’s intake records for fiscal year 2007/08 showed that intake/disposition records were not being completely filled out. These records are hand written and less than half of the animals could be tracked from intake to disposition.

D – 2. No recent fee analysis has been conducted.

### **Conclusions**

- D – 1. Thorough record keeping is necessary for proper management of the shelter.
- D - 2. Missing items on forms, such as bite history, present liability issues.
- D - 3. Increased fees could defray the cost of spaying/neutering the animals prior to adoption.

### **Recommendations**

**The Grass Valley Animal Shelter should:**

- D – 1. Completely fill out and automate records so that each animal can be tracked from intake to disposition.
- D - 2. Review and update the fee schedule to determine if fees are sufficient.

### **REQUIRED RESPONSE**

City Council, City of Grass Valley September 14, 2009

# RESPONSE

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**GRASS VALLEY CITY COUNCIL**  
125 East Main St., Grass Valley, CA 95945

Office of the Mayor

**Council Members**  
Lisa Swarthout, Mayor  
Jan Arbuckle, Vice Mayor  
Chauncey Poston  
Dan Miller  
Yolanda Cookson

Daniel C. Holler, City Administrator

A CENTENNIAL CITY

September 1, 2009

The Honorable Robert L. Tamietti  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, California 95959

SEP - 4 2009 *Per TB*

Dear Judge Tamietti:

Please find enclosed the City of Grass Valley's response to the Nevada County Civil Grand Jury report on the Grass Valley Animal Shelter as published on May 12, 2009.

On August 11, 2009, during a regular session of the Grass Valley City Council, members of the City Council unanimously approved the responses provided by the Grass Valley Police Department on behalf of the Animal Shelter to the findings and recommendations contained in the Civil Grand Jury report.

On behalf of the City of Grass Valley, I extend to you our appreciation for the efforts of the Civil Grand Jury in preparing their report.

Regards,

Lisa Swarthout, Mayor

Enclosure



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City of Grass Valley  
Grass Valley Police Department  
Grass Valley Animal Shelter

by Grand Jury 9/16/09

Response to Nevada County Grand Jury

Please find contained herein the formal responses from the City of Grass Valley, the Grass Valley Police Department and the Grass Valley Animal Shelter with respect to the published findings and recommendations of the Nevada County Grand Jury's report on the Grass Valley Animal Shelter dated May 13, 2009.

In accordance with California Penal Code Section 933.05, we submit the following:

**A. SPAY/NEUTER PROGRAMS**

**FINDINGS:**

A 1. The Grass Valley shelter does not spay/neuter animals prior to adoption.

**AGREE**

A 2. The Grass Valley shelter supports a spay/neuter program through the collection of a refundable spay/neuter deposit when intact animals are adopted. The deposit is refunded upon having the animal spayed/neutered.

**AGREE**

A 3. Grass Valley Department of Finance records indicate that not all adopters collect spay/neuter deposit refunds.

**AGREE**

**RECOMMENDATIONS:**

A 1. The Grass Valley shelter should institute a program to spay/neuter all animals prior to adoption.

The recommendation requires further analysis to include development and completion of Requests For Proposals (RFP) for spay/neuter services. The RFPs will need to be evaluated for costs, level of services, potential liabilities and risks to the City, animals and those adopting the animal. This process (expected to take six months or less) is underway at this time. It should be noted that the City of Grass Valley is not required to provide spay/neuter services based upon Nevada County population data as cited under California Food and Agricultural Code Sections 30521 and 31761. (See attachment - Appendix A). A spay/neuter program is under review and will be considered as one of the means available to manage animal population in the City and surrounding county area.

City of Grass Valley  
Grass Valley Police Department  
Grass Valley Animal Shelter

Response to Nevada County Grand Jury

**B. EUTHANASIA RATES**

**FINDINGS:**

- B1. The Grass Valley shelter routinely euthanizes feral cats; the other shelters in the County do not.

**DISAGREE - A large number of feral cats received by the shelter have been routinely provided to patrons through an established "waiting list" who have expressed an interest in this type of cat and have accommodations to provide for them (ranch, farm, etc.). Those cats that are not "adopted out" in this fashion are then subject to euthanizing through approved methods.**

- B2. Three days are allowed to assess whether a cat is feral.

**AGREE**

- B3. The shelter took in 416 animals in fiscal year 2007/2008.

**AGREE**

- B4. During fiscal year 2007/2008, 85 cats and 13 dogs were euthanized.

**AGREE**

- B5. Using information provided by the Grass Valley shelter, the Jury calculated a euthanasia rate of 24%. This is in contrast to the Nevada County shelter euthanasia rate (3.1 %) and the Truckee shelter rate (1.7 %) for the same time period.

**AGREE - In part only as to the calculated rate for our Shelter; data was not provided for City review to support the calculated rates for the comparison shelters noted. The reason for the euthanizing action was also not stated.**

**RECOMMENDATION:**

- B1. The Grass Valley Animal Shelter should consult with other shelters regarding alternatives to euthanasia.

**The recommendation has not yet been implemented, but will be implemented in the future with an expected time frame of not more than six months.**

City of Grass Valley  
Grass Valley Police Department  
Grass Valley Animal Shelter

Response to Nevada County Grand Jury

C. HEALTH AND WELFARE OF ANIMALS

**FINDINGS:**

- C1. The Grass Valley shelter does not use a volunteer program. Truckee and Nevada County shelters have active volunteer programs to supplement staff.

**AGREE**

- C2. Hours for public access to the Grass Valley shelter are limited and inconsistent.

**DISAGREE - Hours of operation are consistent and readily posted for customer convenience. Hours are limited in part due to limited staffing levels and call response. Staffing levels have been reduced by one full-time supervising animal control officer position this past fiscal year.**

- C3. Animals are not vaccinated and not generally quarantined upon entry to the shelter.

**AGREE**

- C4. No common area exists for cats to move about for exercise and socialization.

**AGREE**

- C5. Dog enclosures do provide both indoor and outdoor accommodations. However, there is no established program for walking the dogs.

**AGREE**

- C6. Limited or no bedding for the animals was observed.

**DISAGREE - Animals are provided with appropriate bedding.**

- C7. A small amount of litter is provided in each cat cage.

**DISAGREE - Cats are provided with appropriate quantities of litter.**

- C8. Unused space in the shelter was observed.

**AGREE - While space was not being used during visit, the space is used as needed and allows for public boarding of animals upon request. Space also allows for growth in shelter activities.**

- C9. Public boarding is allowed.

**AGREE**

City of Grass Valley  
Grass Valley Police Department  
Grass Valley Animal Shelter

Response to Nevada County Grand Jury

**RECOMMENDATIONS:**

- C1. Create a volunteer program at the Grass Valley Animal Shelter. Neighboring animal shelters could provide assistance in developing and establishing a program.

The recommendation requires further analysis including, but not limited to, the identification of a job description and/or scope of work to be performed, development of training program, policy and procedures, and designation of supervision responsibility of a volunteer program at the Shelter. Program development includes review of related risks associated with volunteers in the handling of animals and any potential liability to the City. The Police Department is in the process of expanding its volunteer program. The program will ultimately be expanded to the Shelter.

- C2. Use volunteers to enhance and provide twice daily socialization and exercise for dogs.

The recommendation requires further analysis including, but not limited to, the identification of a job description and/or scope of work to be performed, supervision of a volunteer program at the Shelter, related risks associated with volunteers in the handling of animals, and any potential liability to the City.

- C3. Extend and provide consistent public hours at the shelter.

The recommendation will not be implemented because it is not warranted based upon current and established public hours and limitations of staff personnel.

- C4. Vaccinate for basic diseases.

The recommendation will not be implemented because it is not warranted as the Shelter is not designed for the provision of medical care, long term boarding or diagnosis of animals. Taking on additional medical care of animals is not achievable under current funding levels.

- C5. Provide adequate bedding for the comfort of the dogs and cats.

The recommendation has been implemented through past and existing practices. Care for animals is adequate and appropriate bedding material is provided.

- C6. Ensure there is sufficient litter in the cat cages to contain excreta.

The recommendation has been implemented through past and existing practices.

City of Grass Valley  
Grass Valley Police Department  
Grass Valley Animal Shelter

Response to Nevada County Grand Jury

C7. Create a common area for cats utilizing available space.

The recommendation will not be implemented because it is not warranted and would allow for the greater potential exchange of disease, increased violence between animals and may allow not already spayed or neutered animals to cohabitate in the common area.

C8. Discontinue public boarding.

The recommendation will not be implemented because it is not warranted and is not justified by the Grand Jury's report. This is a service that benefits the community and the Shelter.

D. RECORDS MANAGEMENT

FINDINGS:

D1. An analysis of the Grass Valley shelter's intake records for fiscal year 2007/08 showed that intake/disposition records were not being completely filled out. These records are hand written and less than half of the animals could be tracked from intake to disposition.

AGREE

D2. No recent fee analysis has been conducted.

DISAGREE - A formal "Cost of Services Study" was conducted in March 2005 by Revenue & Cost Specialists, LLC followed by a report submission to the Grass Valley City Council. Additionally, a fee analysis is conducted internally on an annual basis with any recommended adjustments being submitted for formal review and action by City Council. Minor fee adjustments have been made as part of the current budget approvals. The original fee analysis was not fully implemented and the City at the time determined to charge a reduced fee.

RECOMMENDATIONS:

D1. Completely fill out and automate records so that each animal can be tracked from intake to disposition.

The recommendation had been initiated prior to this report with manual completion of existing forms pending the complete automation of this function.

D2. Review and update the fee schedule to determine if fees are sufficient.

The recommendation had been initiated prior to this report and is a recurring step in the annual budget preparation by the Grass Valley Police Department.

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**GRASS VALLEY CITY COUNCIL**  
125 East Main St., Grass Valley, CA 95945

Office of the Mayor

**Council Members**  
Lisa Swarthout, Mayor  
Jan Arbuckle, Vice Mayor  
Chauncey Poston  
Dan Miller  
Yolanda Cookson

Daniel C. Holler, City Administrator

A CENTENNIAL CITY

November 20, 2009

NOV 24 2009 *rec'd*  
*HIS*

The Honorable Robert L. Tamietti  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, California 95959

Dear Judge Tamietti:

Please be advised that the City of Grass Valley is in receipt of a letter dated November 4, 2009 from Robert Erickson - Foreman of the Nevada County Civil Grand Jury. In his letter, Mr. Erickson requests an update on the recommendations for Spay and Neutering services at the Grass Valley Animal Shelter in accordance with Section 933.05 (b)(3).

In response to this item, I have confirmed with Captain Rex Marks of the Grass Valley Police Department that the Animal Shelter did, in fact, institute a program to address this issue in September. The Shelter secured agreements with several area veterinarians as well as Animal Save to provide services on an "as needed" basis. The Shelter now maintains a menu from which the customers may select a service provider that meets with their budgets. Animals are then transported to the selected provider by Shelter staff and picked up by the adopting customer. Thus far, the program has been relatively well received by customers frequenting our Shelter. Captain Marks and his staff will continue to monitor the program and ensure its success.

On behalf of the City of Grass Valley, we appreciate the efforts of the Civil Grand Jury.

Regards,

*Lisa Swarthout*  
Lisa Swarthout, Mayor

Cc: Robert Erickson, Grand Jury Foreman

Telephone (530) 274-4310 – Fax (530) 274-4399  
[www.cityofgrassvalley.com](http://www.cityofgrassvalley.com)