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NEVADA COUNTY GRAND JURY

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NEVADA COUNTY
BOARD OF SUPERVISORS

CONFIDENTIAL

July 5, 2022

Susan Hoek, Chairperson
Nevada County Board of Supervisors
950 Maidu Avenue, Suite 200
Nevada City, CA 95959

Dear Ms. Hoek;

The Nevada County Grand Jury is authorized, by state law, to investigate, within Nevada County, the functions of city and county government, tax supported agencies and districts, and any agencies or districts created by state law.

The Nevada County Grand Jury has authored a report, *Joint Powers Authorities In Nevada County: Who Are They and Who's Watching*. The report is attached to this letter. Pursuant to California Penal Code 933 and 933.05, the Nevada County Grand Jury **requires** a response from you, no later than 90 days after your receipt of this report. This report will be published for public viewing on July 7, 2022.

Responses are to be submitted to the Presiding Judge of the Nevada County Superior Court in accordance with the provisions of California Penal Code section 933.05. Responses must include the information required by section 933.05.

Should you have any questions, you may contact me at the above e-mail address and telephone number. You may contact me directly at Keith.Overbey@yahoo.com or at 530-575-5407.

Thank you for your cooperation and interest in better government in Nevada County.

Sincerely,

Keith Overbey, Report Secretary
Nevada County Grand Jury

Joint Powers Authorities In Nevada County Who Are They and Who's Watching?

2021-2022 Nevada County Grand Jury

Report Date: June 17, 2022

Release Date: July 7, 2022

Joint Powers Authorities In Nevada County Who Are They and Who's Watching?

Summary

A Joint Powers Authority is a stand-alone organization formed by governmental entities for a specific purpose or project, such as water, sanitation, and fire districts. At their best, well-run Joint Powers Authority can save taxpayer money through combining efficiencies, expertise, and effort. At their worst, they can be sinkholes for cost overruns and cronyism, lack transparency, and evade oversight by citizens and officials.

The Nevada County Jury created a list of Nevada County-based agencies, municipalities, and organizations that were potential members of Joint Powers Authorities. A document request letter was sent to each identified source asking for Joint Powers Authority information. The responses were used to compile an initial list of Nevada County Joint Powers Authorities. Additional research continued into the Joint Powers Authority reporting procedures of the State of California, Nevada County, the Nevada County Local Agency Formation Commission, and other entities.

As a separate legal entity, each Joint Powers Authority self-monitors its actions and activities for its members since no county agency directly oversees it. A county grand jury is the only entity with civil authority to investigate Joint Powers Authorities. The Jury was not able to identify a government agency that is responsible for analyzing Joint Powers Authority risk. Nevada County does not have a central authority responsible for oversight, minimal reporting requirements, tracking, monitoring, and compliance for all Nevada County Joint Powers Authorities.

The Jury recommends the Nevada County Board of Supervisors identify a county resource/department to be responsible for obtaining, maintaining, and tracking an active list of all Joint Powers Authorities associated within Nevada County. The Jury also recommends the Nevada County Board of Supervisors identify a county resource/department to audit Joint Powers Authority compliance against Government Code 6500.

Glossary

• Agreement	Joint Powers Agreement
• County	Nevada County
• GC	California Government Code
• Governmental Entity	A state, county, city or other governmental entity listed in G.C. §6500.
• JPA	Joint Powers Authority or Joint Powers Agency (these terms are often used interchangeably with government/public agencies)
• LAFCo	Nevada County Local Agency Formation Commission

- | | |
|---------|---|
| • PFA | Public Financing Authority |
| • RDA | Redevelopment Agency |
| • SCO | California State Controller's Office |
| • SoS | California office of the Secretary of State |
| • State | State of California |

Background

The following information is an excerpt from the 2020-2021 Nevada County Grand Jury Report: *Joint Power Authorities, What You Need to Know*.

A Joint Powers Authority (JPA) is a stand-alone organization formed by governmental entities for a specific purpose or project. At their best, well-run JPAs can save taxpayer money through combining efficiencies, expertise, and effort. At their worst, they can be sinkholes for cost overruns and cronyism, lack transparency, and evade oversight by citizens and officials.

This report discussed the purpose, governance structure, and services JPAs provide. It also pointed out the hidden dangers of those JPAs that do not comply with the spirit of the law or the state's reporting requirements.

The Jury performed an initial inquiry and determined there is no central source in either the state or county that could provide an authoritative listing of JPAs in Nevada County (County).

The 2021-2022 Nevada County Grand Jury (Jury) launched an investigation to develop a comprehensive list of JPAs in the County and their regulated reporting status.

Approach

The Jury created a list of County-based agencies, municipalities, and organizations that were potential members of JPAs. A document request letter was sent to each identified source asking for JPA information. The responses were used to compile an initial list of County JPAs. Additional research continued into the JPA reporting procedures of the State of California (State), the County, Nevada County Local Agency Formation Commission (LAFCo), and other entities.

While writing this report, the Jury utilized the following resources:

- State publications
- County publications
- County municipality publications
- multiple websites

- other Grand Jury reports
- LAFCo
- applicable statutes, regulations, and policies

This investigative report contains the results of research, documentation, and information gathered to enumerate the JPAs operating in the County.

Discussion

The Jury reviewed the report and findings of *Joint Powers Authorities: What You Need to Know* issued by the 2020-2021 Nevada County Grand Jury. The report provided insight into JPAs, what they are, and what their purposes include. The report also identified risks associated with certain JPA governance structures that could subject the taxpayers to higher tax rates in the event a JPA defaults on financing arrangements.

The Jury initiated the investigation to identify the JPAs currently in effect in the County by examining the relevant statutes and government codes.

Government Codes

The Jury identified key codes associated with JPAs in the Government Code (GC), Title 1, Division 7, Chapter 5: Joint Exercise of Powers [6500-6599.3].

6500.1 This chapter shall be known and may be cited as the Joint Exercise of Powers Act. The Act is a comprehensive set of codes that define and describe the authorities and obligations of JPAs. There is a subset of these codes that address obligations for reporting and audits associated with the JPAs in California.

In addition to the Joint Exercise of Powers Act, two other GC sections are often cited that reference requirements of JPAs. Specifically, GC sections:

- **12463(d)(2)(B)** Joint Powers Authorities are considered special districts and are required to submit their Financial Transactions Report (FTR) to the State Controller's Office (SCO) within seven months after the close of the fiscal year.
- **26909** requires an audit to be completed and filed with the SCO within 12 months of the end of the fiscal year(s) under examination.

Key provisions of the Joint Exercise of Powers Act in summary are:

- **6503.5** Whenever a JPA is created that is separate from the parties to the agreement, notice of the agreement must be filed with the California Office of the Secretary of State (SoS) within 30 days. A copy of the agreement shall be forwarded by the SoS to the

SCO. Failure to file timely will prevent the agency to issue bonds or incur indebtedness of any kind.

- **6503.6(a)** Whenever an agency or entity files a notice of agreement or amendment with the SoS, the agency or entity shall file a copy of the full text of the original joint powers agreement, and any amendments with the SCO.
- **6503.8** An agency or entity that meets the definition of a joint powers authority or joint powers agency and was formed for the purpose of providing municipal services prior to 1/1/2017, and that includes a local agency member that is a city, district, or county, shall cause a copy of the agreement and any amendments to the agreement to be filed with the local agency formation commission in each county within which all or any part of the local agency member's territory is located. (Until the filing is made, the agency may not issue bonds or incur indebtedness of any kind.)
- **6505** Describes the strict accountability of all funds and report of all receipts and disbursements. Describes the role of auditor and controller for an audit that meets the requirements of the Controller and the generally accepted auditing standards. Describes filing requirements for audits to be filed with the contracting parties and with the county auditor of the county where the home office of the joint power authority is located.

JPA's are also subject to the California Government Code, the California Public Records Act, the Political Reform Act, and other public interest laws.

Nevada County JPAs

The Jury was unable to identify a state or county entity with oversight responsibility for JPAs in the County. The SoS, SCO, the California Debt and Investment Commission, Nevada County Auditor/Controller, and LAFCo serve primarily as repositories of JPA reports. In addition, the Jury found no evidence that these agencies are analyzing and acting upon the information received.

JPA records are not easily discoverable since there is no consolidated source of recordkeeping. The Jury investigated many sources and received conflicting information or no information at all. The complexity of this investigation due to data integrity and accuracy issues resulted in an extensive investigation spanning two jury years and hundreds of person hours. Despite these efforts the Jury cannot be certain of the list's accuracy or completeness.

The Jury's investigation has determined there are at least 44 JPAs in the County:

JPA NAMES	PURPOSE
1. AVAP - Abandoned Vehicle Abatement Program	Provide funds to County Administrators for the removal of abandoned vehicles

JPA NAMES	PURPOSE
2. A4AA - Area 4 Agency on Aging JPA	Fund A4AA grant writing to implement the Older Americans Act
3. ABAG Finance Authority for Nonprofit Corporations	Assist non-profit corporations and other entities to obtain financing for projects and purposes serving the public interest
4. CAPRI - California Association for Park and Recreation Indemnity	Provide specialized combination of self-insurance, excess insurance, and reinsurance to recreation and parks districts throughout California
5. California Counties Cooperative Audit Services Exchange Agreement	Cooperative audit services exchange agreement for investigatory, auditing, and appraisal services among counties
6. California Counties Lease Financing Authority	Develop and Fund lease financing between certain counties
7. County Medical Services Program Governing Board	Medical services program pertaining to eligibility and Health Care Services for County Indigent Residents
8. CalMHSA - California Mental Health Services Authority	Develop and fund mental health services and education programs
9. CMFA (California Municipal Finance Authority)	Issue bonds to support economic development, job creation and social programs throughout California
10. California Rural Home Mortgage Finance Authority	Finance the construction, acquisition, and rehabilitation of homes
11. CSRMA - California Sanitation Risk Management Authority	Provide excellent coverage and comprehensive risk management services in a reliable and cost-effective manner
<i>California State Assoc. of Counties JPA</i>	<i>See #33 PRISM - Public Risk, Innovation, Solutions, and Management JPA</i>
12. California Statewide Automated Welfare System Consortium IV	Design, development, implementation an on-going operation and maintenance of an automated welfare system
13. California Transit Systems Joint Powers Insurance Authority	Provide liability coverage for the Gold Country Stage Transit System
14. ESJPA - Rural Counties Environmental Services Authority (Also known as RCRC - Regional Council of Rural Counties.)	Provides regulatory advocacy and technical assistance, supports local public education campaigns, administers grants for recycling and hazardous waste management programs

JPA NAMES	PURPOSE
15. Foster Economic Development in the Counties of Nevada, Placer, Sierra and other Counties and Cities	Foster economic development in multiple counties. Nevada County withdrew in 2017, although it is still listed as active
16. GSCA - Golden State Connect Authority	Expand broadband access and quality in rural counties
17. GSFA (Golden State Finance Authority)	Provide affordable housing and contribute to the social and economic well-being of California residents
18. GSRMA - Golden State Risk Management Authority	Risk-sharing pool that offering a full line of programs to cover the many unique exposures of public entities throughout the State of California
<i>Golden Sierra Job Training Agency</i>	<i>See NoRTEC Consortium</i>
19. Grass Valley Capital Improvements Authority	Provide for the financing of all or a prescribed portion of the cost and expense of acquisition, construction, or installation of authorized Public Capital Improvements for the members
20. NCPA - Northern California Power Agency	Provide joint investments in energy resources that ensure an affordable, reliable, and clean supply of electricity
21. NCTA - Nevada County Transportation Agency.	Establish public transportation services in Western Nevada County
22. Nevada County Finance Authority	Refinancing of any improved real and personal property to be used by or for the Nevada County Housing authority
23. Nevada County Fire and Emergency JPA	Provide district response to all types of emergencies, including structure fires, vegetation fires, vehicle fires, medicals, water rescues, large animal rescues, confined space rescues, vehicle accidents, electrical hazards, gas hazards and many more
24. Nevada County Solid & Hazardous Waste Commission	Assist the County in the management of solid and hazardous waste
25. Nevada Irrigation District - Placer County Water Agency Joint Powers Authority	Study the feasibility of members taking over ownership and or operation of the Drum-Spaulding Project
26. Nevada Power Authority	Production of hydroelectric power in Nevada County
27. Nevada-Sierra Connecting Point Authority	Create Nevada County In-Home Supportive Services

JPA NAMES	PURPOSE
28. Nevada, Sutter & Yuba Counties Truck Purchase.	Purchase and place in service a heavy weight truck
29. NoRTEC Consortium (formerly Golden Sierra Job Training Agency)	Create regional employment job training services
30. Placer Nevada Wastewater Authority	Nevada County withdrew in 2006, although still listed as active
31. PACE - The Public Agency Coalition Enterprise	Establishment, operation, and maintenance of a joint program for employee benefits coverage
32. PARSAC - Public Agency Risk Sharing Authority of California	Provide quality protection at reasonable cost to members by maintaining a financially stable risk sharing pool
33. PRISM - Public Risk, Innovation, Solutions, and Management JPA (formerly CSAC - California State Assoc. of Counties JPA)	Develop and fund programs of excess insurance for worker's comp., liability, property & other coverages
34. Quarantine Inspections at the United States Post Office	Provide quarantine inspections at U S Post Office Sectional Center.
<i>RCRC - Regional Council of Rural Counties.</i>	<i>See ESJPA - Rural Counties Environmental Services Authority</i>
35. Regional Housing Authority of Sutter and Nevada Counties	Create a regional housing authority
36. SDR - Standard Data Record/Network Group	Enable electronic filing of Business Property Statements
37. Sierra-Sacramento Valley Emergency Medical Services Agency	Implement and operate a regional emergency medical services system
38. Small Counties Emergency Risk Pool	Fund Medi-Cal (FFS/MC) acute inpatient services
39. Tahoe/Truckee Workforce Housing Agency JPA	Support and promote the development of workforce housing for members
40. Transit Operational Policy Committee.	Consolidating the operational policy committee with the Nevada County Transportation Commission
41. Truckee Library JPA	Review, advise, and monitor library revenues, expenditures, and services
42. Truckee Public Financing Authority	Support and promote the development of workforce housing for members

JPA NAMES	PURPOSE
43. TSD - Truckee Sanitary District	Provide wastewater services to lands in and around the Town of Truckee
44. UAMPS - Utah Associated Municipal Power Systems	Acquire reliable and economic supplies of electric power and energy

Hidden Dangers of JPAs

Based on our investigation, the Jury has determined JPAs can expose levels of financial and other risk to the County. Some of the characteristics that identify risk include the nature and scope of the Agreement, services provided, number of members involved, and each member's responsibilities.

A JPA can be set up with a "vertical" or "horizontal" governance structure determining the reporting requirements and the level of a JPA's autonomy. Horizontal-model JPAs are made up of multiple organizations, providing a high level of oversight. Vertical-model JPAs are essentially JPAs formed within the same organization and controlled by a single authority instead of several. An example would be a city that forms a JPA with a Redevelopment Successor Agency. The JPA then issues a bond to fund a redevelopment project in the city. The practical effect of such a JPA is that while the city is in control, it can issue bonds as a JPA without voter approval.

A JPA that is a legally separate public agency can also buy and sell property, sue or be sued, acquire financing, hire staff, and form additional JPAs. The Jury found the hidden dangers of a JPA cannot be identified until the JPA and its characteristics are known, reported, and its purpose, scope and governance structure are analyzed to determine associated risk.

Conclusion

As a separate legal entity, each JPA self-monitors its actions and activities for its members since no county agency directly oversees it. A county grand jury is the only entity with civil authority to investigate JPAs. The Jury was not able to identify a government agency that is responsible for analyzing JPA risk. The County does not have a central authority responsible for oversight, minimal reporting requirements, tracking, monitoring, and compliance for JPAs.

Additionally, the Jury could not find a comprehensive list of in the County with the Secretary of State or State Controller's offices.

Findings

- F1 The Jury was unable to find a consolidated, comprehensive, and centralized list of JPAs for Nevada County.
- F2 There is no documented process or procedure to ensure the collection, maintenance, or audit for Nevada County JPA compliance.
- F3 The Jury was not able to identify a government agency that is responsible for analyzing JPA risk.
- F4 The Jury was unable to locate a JPA list with the California Secretary of State.
- F5 The California State Controller's Office has not identified all JPAs within their Special District listing.
- F6 The Jury found not all JPAs are filed with the Nevada County Controller's Office.
- F7 The Jury found that not all JPAs in Nevada County are complying with the California State reporting requirements in Government Code Section 6500.
- F8 Vertical JPAs have the potential to issue bonds and incur debt without taxpayer approval.

Recommendations

- R1 The Board of Supervisors should identify a Nevada County resource/department responsible for obtaining, maintaining, and tracking an active list of all JPAs associated within Nevada County.
- R2 The Board of Supervisors should identify a Nevada County resource/department responsible for auditing JPA compliance against Government Code 6500.

Request for Responses

Pursuant to Penal Code section 933.05, the following response is required;

- The Nevada County Board of Supervisors respond to R1 and R2 within 90 days of receipt of this report.

Responses are to be submitted to the Presiding Judge of the Nevada County Superior Court in accordance with the provisions of California Penal Code section 933.05. Responses must include the information required by section 933.05