

Truckee Fire Protection District Board of Directors

Summary

The Truckee Fire Protection District is an independent special district responsible for fire protection and emergency medical transportation services in and around Truckee, California. The Truckee Fire Protection District is governed by a Board of Directors elected by the district's voters.

The Nevada County Grand Jury received a citizen's complaint regarding the Truckee Fire Protection District. In the process of investigating this complaint, the Nevada County Grand Jury found the Truckee Fire Protection District Board of Directors lacked education and training in the roles and responsibilities of a board member. The Board of Directors failed to follow their policies and procedures. The Board of Directors lacked personal engagement, independent thinking and had insufficient communication with the district staff and the public.

The Nevada County Grand Jury recommends the members of the Board of Directors attend training regarding the roles and responsibilities of board members in a special district. The Board of Directors should augment existing policies and procedures, particularly in the areas of finance and roles and responsibilities. The Board of Directors should improve existing policies to facilitate open communication among the Board of Directors, district staff and the public. Finally, the Nevada County Grand Jury recommends the Board of Directors, the management and staff of the district work together to restore the public trust and rebuild the image of the Truckee Fire Protection District.

Reasons for Investigation

On June 23, 2010, the Nevada County Grand Jury (Jury) received a complaint regarding the Truckee Fire Protection District (TFPD). The Complainant requested the Jury review the actions of the TFPD Board of Directors (Board) and the Fire Chief. The Complainant also alleged possible violations of open meeting laws by the Board.

The Jury has the authority to investigate special purpose assessment or taxing districts, including those commonly known as special districts, in Nevada County.

Background

Special districts are a form of local government created by a community to meet a specific need. Most of California's special districts perform a single function such as sewage, water,

fire protection, pest management or cemetery management. There are approximately 2,300 independent special districts in California, each governed by an independent board of directors elected by the voters of their district or appointed to a fixed term of office by either a city council or a county board of supervisors. There are twenty-four independent special districts in Nevada County.

The TFPD is an independent special district supported by public funds. The TFPD is made up of forty-nine full-time personnel and nine part-time and/or volunteer members. The TFPD's budget for the 2010-2011 fiscal year is approximately \$9,000,000. The TFPD is responsible for 125 square miles and is one of the oldest fire districts in the Truckee-Tahoe area of Northern California.

The TFPD is governed by a five-member Board elected by district voters during the general elections held in November. The members of the Board serve four-year terms.

The Board is responsible for setting policy and general administrative procedures. The Board meets in regular session every month. These meetings take place at 5:30 p.m. on the third Tuesday of each month and are open to the public.

In the general election held in November 2010, three new members were elected to the Board.

Procedures Followed

The Jury interviewed personnel from the TFPD, members of the Board, TFPD legal counsel and citizens from the community. The Jury also reviewed related documents and attended scheduled public meetings of the Board.

The Jury's investigation focused on the time period of 2009-2010.

Facts

1. The TFPD is governed by a five-member Board.
2. There is a document entitled, *Truckee Fire Protection District Board of Directors Policies and Procedures*.
3. The Fire Chief is responsible for the day-to-day operations of the TFPD.
4. The Fire Chief is selected and appointed by the Board and is accountable to the Board. The Fire Chief administers the policies and procedures of the TFPD as set forth by the Board.

5. The Fire Chief was in the position from July 1, 2006 until June 15, 2010, at which time he was placed on administrative leave.
6. An acting Fire Chief was named by the Board on June 16, 2010 and appointed as Interim Fire Chief on July 20, 2010.
7. The California Special Districts Association provides education and information to board members and staff of special districts in California on their roles and responsibilities.
8. The *Truckee Fire Protection District Board of Directors Policies and Procedures* encourages Board members "...to attend educational conferences and professional meetings when the purpose of such activities is to improve District operation."
9. The TFPD budgets monies for the education and training of Board members.
10. All members of the Board completed ethics training in compliance with the state requirements for local officials.
11. Some members of the Board stated they knew of other educational and training opportunities, but chose not to attend.
12. Members of the Board did not complete formal education and training on their roles and responsibilities as board members.
13. A member of the Board believed the Fire Chief's employment contract did not allow the Board to question the Fire Chief's operational decisions.
14. The Fire Chief made a public statement in a Board meeting which a member of the Board knew to be false. The Board member did not divulge his knowledge to the Board, to TFPD staff or to the public attending the Board meeting.
15. The Board entered into agreements with private attorneys to provide legal counsel to the Board and to TFPD staff.
16. The Board did not utilize its legal counsel for advice regarding the creation of the Fire Chief's employment agreements.
17. The Board's legal counsel had no knowledge of the content of the Fire Chief's employment contract prior to the Fire Chief being placed on administrative leave.
18. The employment agreement between the Fire Chief and the Board prohibited the Fire Chief from acting independently in the purchase, rental or leasing of any real property on behalf of the TFPD without prior Board approval.

19. The employment agreement between the Fire Chief and the Board prohibited the Fire Chief from acting independently in contracting for services, other than for the day-to-day operations of the TFPD, without prior Board approval.
20. The only mention of Finance Committee responsibilities in the *Truckee Fire Protection District Board of Directors Policies and Procedures* states: "...two members as selected by the Board to attend designated finance meetings to review the check register and sign checks with the fire chief or his designee."
21. The Fire Chief entered into an agreement for the rental of real property, specifically the lease of a condominium to house ambulance crews, without prior Board approval.
22. Two Board members of the Finance Committee signed a check paying a private party for the rental of real property, specifically the lease of the condominium contracted by the Fire Chief.
23. The Fire Chief entered into a contractual agreement for the services of outside legal counsel without prior Board approval.
24. Two Board members of the Finance Committee signed a check paying for the outside legal counsel retained by the Fire Chief.
25. The Fire Chief entered into a contractual agreement for the services of a public relations firm without prior Board approval.
26. Two Board members of the Finance Committee signed a check paying for the services of a public relations firm contracted by the Fire Chief.
27. The *Truckee Fire Protection District Board of Directors Policies and Procedures* includes a policy, *Relationship with Staff*, which states: "Directors should maintain an open relationship with all staff of the Fire Department. It is the philosophy of this organization that dialogue between staff and the governing Board will foster a healthy relationship and understanding of each other's roles within the Fire District. At no time shall a director give instructions to or assign District staff to projects or various work related tasks."
28. Members of the TFPD staff stated they were fearful of and intimidated by the Fire Chief and would not question his actions or decisions.
29. A member of the TFPD staff feared employment termination because of intimidation by the Fire Chief. As a result, the employee sought legal assistance from a private attorney.
30. Members of the Board first became aware of the perceived hostile work environment at the TFPD only after the Fire Chief was placed on administrative leave.

31. The *Truckee Fire Protection District Board of Directors Policies and Procedures* includes the following duties of a board member:
 - solicit public opinion.
 - communicate with constituency.
 - represent the District in the community.
 - work cooperatively with other directors, management and the public.
32. A succession of contentious public board meetings and adverse newspaper articles and editorials preceded the Board's June 15, 2010 meeting, at which time the Fire Chief was placed on administrative leave.
33. The Jury was unable to substantiate alleged violations of open meeting laws.

Findings

1. The members of the Board lacked the education and training to perform their roles and responsibilities as Board members.
2. There is education and training available to Board members, regarding the roles and responsibilities of a board member in a special district.
3. The members of the Board knew of education and training opportunities and had budgeted funds for training available to them yet failed to take advantage of many opportunities.
4. The lack of education and training of the Board members in their roles and responsibilities contributed to insufficient oversight and lack of control of the actions and activities of the District.
5. The Financial policy in the *Truckee Fire Protection District Board of Directors Policies and Procedures* does not provide adequate guidance to the Finance Committee in the exercise of due diligence.
6. The Board failed to seek advice and review from its legal counsel regarding the Fire Chief's employment contract.
7. The Board members' lack of education and training allowed ongoing improper actions by the Fire Chief including multiple violations of his employment contract.
8. The Board's failure to follow the policy regarding *Relationship with Staff* resulted in insufficient oversight, control and engagement with the TFPD staff. This permitted an atmosphere of fear and intimidation to exist among the personnel of the TFPD.
9. The lack of communication between the Board and TFPD personnel prevented the Board from recognizing eroding staff morale.

10. The Board members failed to communicate actively with their constituents; as a result, the Board members were unaware of growing negative public opinion.

Recommendations

1. All members of the Board should actively seek out and attend training regarding the roles and responsibilities of board members in special districts.
2. The Board should improve their finance policy to require both the thorough review of checks to be signed and the detailed supporting documentation for all District expenditures.
3. The Board should improve existing policy to facilitate open and ongoing communication with TFPD personnel.
4. The Board, management and staff should forge an active partnership in the rebuilding of the District's public image and should actively communicate with their constituents to restore and maintain the public's trust.

Responses

Truckee Fire Protection District Board of Directors: Date – September 19, 2011

1 BRENT P. COLLINSON, Esq. (SBN 088568)
JASON LACHANCE, Esq. (SBN 232397)
2 LAW OFFICE OF BRENT P. COLLINSON
9709 Highway 267, Suite A
3 Truckee, CA 96161
(530) 587-9233 Phone
4 (530) 587-0443 Fax

5 Attorneys for
TRUCKEE FIRE PROTECTION DISTRICT

7 GRAND JURY

8 IN AND FOR THE COUNTY OF NEVADA

10)
11 GRAND JURY OF NEVADA COUNTY) RESPONSE TO GRAND JURY REPORT
OF 2010-2011
12)
RE: TRUCKEE FIRE PROTECTION)
13 DISTRICT (2010-2011))
14)
15)
16)

17 To the Honorable Thomas M. Anderson, Presiding Judge:

18 I. INTRODUCTION

19 TRUCKEE FIRE PROTECTION DISTRICT (through its Board of Directors), hereby
20 submits its response to the Grand Jury Report published on June 21, 2011 at 11:00 a.m. as
follows:

21 II. RESPONSE TO GRAND JURY FINDINGS

22 The following are the responses to the Grand Jury findings:

23 FINDING NO. 1.: The members of the Board lacked the education and training to
24 perform their roles and responsibilities as Board members.

25 Response: **The respondent agrees with the finding.**

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2 FINDING NO. 2.: There is education and training available to Board members, regarding
3 the roles and responsibilities of a board member in a special district.

4 Response: **The respondent agrees with the finding.**

5 FINDING NO. 3.: The members of the Board knew of education and training
6 opportunities and had budgeted funds for training available to them yet failed to take advantage
7 of many opportunities.

8 Response: **The respondent agrees with the finding.**

9 FINDING NO. 4.: The lack of education and training of the Board members in their roles
10 and responsibilities contributed to insufficient oversight and lack of control of the actions and
11 activities of the District.

12 Response: **The respondent agrees with the finding.**

13 FINDING NO. 5.: The Financial policy in the *Truckee Fire Protection District Board of*
14 *Directors Policies and Procedure* does not provide adequate guidance to the Finance Committee
15 in the exercise of due diligence.

16 Response: **The respondent agrees with the finding.**

17 FINDING NO. 6.: The Board failed to seek advice and review from its legal counsel
18 regarding the Fire Chief's employment contract.

19 Response: **The respondent agrees with the finding.**

20 FINDING NO. 7.: The Board members' lack of education and training allowed ongoing
21 improper actions by the Fire Chief including multiple violations of his employment contract.

22 Response: **The respondent agrees with the finding.**

23 FINDING NO. 8.: The Board's failure to follow the policy regarding *Relationship with*
24 *Staff* resulted in insufficient oversight, control and engagement with TFPD staff. This permitted
25 an atmosphere of fear and intimidation to exist among the personnel of the TFPD.

1 Response: **The respondent agrees with the finding.**

2 FINDING NO. 9.: The lack of communication between the Board and TFPD personnel
3 prevented the Board from recognizing eroding staff morale.

4 Response: **The respondent agrees with the finding.**

5 FINDING NO. 10.: The Board members failed to communicate actively with their
6 constituents; as a result, the Board members were unaware of growing negative public opinion.

7 Response: **The respondent agrees with the finding.**

8 **III. RESPONSE TO GRAND JURY RECOMMENDATIONS**

9 The following are the responses to the Grand Jury Recommendations:

10 RECOMMENDATION NO. 1: All members of the Board should actively seek out and
11 attend training regarding the roles and responsibilities of board members in special districts.

12 Response: **The recommendation has been implemented. The Board and District have**
13 **taken the following actions: in addition to the required AB 1234 training (by outside legal**
14 **counsel), the Board has met with Pam Hobday, of PK Hurt and Associates, for training on**
15 **carrying out effective Board Meetings and has obtained additional training from District's**
16 **General Counsel regarding carrying out effective meetings as well as the Ralph M. Brown**
17 **Act.**

18 RECOMMENDATION NO. 2: The Board should improve their finance policy to require
19 both the thorough review of checks to be signed and the detailed supporting documentation for
20 all District expenditures.

21 Response: **The recommendation has not yet been implemented, but will be**
22 **implemented in the future. It is expected that the revised policy will be adopted and**
23 **implemented by October 31, 2011. The District's outside Auditor will be presenting various**
24 **proposals to the Board to consider and adopt at the District's September 20, 2011 Board**
25 **Meeting. Pending such formal adoption, the District's Finance Committee is reviewing all**

1 proposed expenditures and supporting documents in significant detail before approving
2 any such expenditure.

3 RECOMMENDATION NO. 3: The Board should improve existing policy to facilitate
4 open and ongoing communication with TFPD personnel.

5 Response: **The recommendation has been implemented. Board Members now speak**
6 **individually with Fire District personnel without the employee's supervisor being present.**

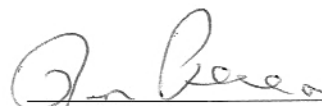
7 RECOMMENDATION NO. 4: The Board, management and staff should forge an active
8 partnership in the rebuilding of the District's public image and should actively communicate
9 with their constituents to restore and maintain the public's trust.

10 Response: **The recommendation has been implemented. The Board Members**
11 **actively discuss the District with their constituents and hosts various "open houses" or**
12 **other gatherings so that Board Members and staff can meet with members of the public.**
13 **[Staff has also worked with neighboring agencies to re-establish a good working**
14 **relationship.]**

15 IV .CLOSING COMMENTS

16 The District wishes to acknowledge and thank the Grand Jury for the time and effort devoted to
17 this investigation and also note that during the time period discussed, although morale at the
18 District had eroded, the performance of its staff, due to their professionalism and commitment to
19 serving the public, remained at the highest level and at no time was the safety and well-being of
20 the public ever compromised.

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22 Dated: 8-31-, 2011


23 RON PEREA,
24 President, Board of Directors
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Dated: 8-30, 2011

Robert Bena
ROBERT BENA,
Interim Fire Chief

Approved as to Form and Content

Dated: Aug 31, 2011

Brent Collinson
Brent P. Collinson
Law Office of Brent P. Collinson,
Attorneys for Truckee Fire Protection District