

TRUCKEE DONNER PUBLIC UTILITY DISTRICT

Summary

The Truckee Donner Public Utility District is an independent special district providing electrical power and water services in and around Truckee, California. The Truckee Donner Public Utility District is governed by a Board of Directors elected by the district's voters.

On April 19, 2011, the Nevada County Grand Jury received a complaint from a member of the public. The complainant asked the Nevada County Grand Jury to review the eligibility of a Director of the Truckee Donner Public Utilities District to serve on the Board of Directors.

The Nevada County Grand Jury finds the Truckee Donner Public Utilities District does not have written policy outlining procedures for an investigation of a complaint concerning a member of the Board. The Nevada County Grand Jury finds there was a lack of responsiveness to the complaint by the General Manager and the Board of Directors. The Nevada County Grand Jury finds;

- the General Manager failed to advise the Board of Directors of the complaint;
- the Board of Directors, when it learned of questions concerning the eligibility of the Director, failed to give direction to the General Manager or to seek advice from its legal counsel.

The Nevada County Grand Jury recommends the Truckee Donner Public Utilities District Board of Directors develop written policy which outlines procedures clearly defining the roles and responsibilities of the General Manager, the Truckee Donner Public Utility District's legal counsel and the Board in response to a complaint concerning a member of the Board. The Nevada County Grand Jury also recommends the Truckee Donner Public Utilities District improve communication among management, legal counsel and the Board of Directors of the Truckee Donner Public Utilities District.

Reasons for Investigation

On April 19, 2011, the Nevada County Grand Jury (Jury) received a complaint regarding a member of the Truckee Donner Public Utility District (TDPUD) Board of Directors (Board). The complaint requested the Jury review the eligibility of a Director to serve on the Board at the time of the November 2010 election or the date of the complaint.

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 specific needs. Most of California's special districts perform a single function such as sewage treatment, water services, 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 approximately thirty independent special districts in Nevada County.

The TDPUD is an independent special district responsible for providing electrical power and water services in and around Truckee, California. The TDPUD is a non-profit, publicly owned utility. The TDPUD is governed by a five-member Board. The Board is elected by district voters during the general elections held in November. In the general election to be held in November 2012, three of the five Directors will stand for election. The members of the Board serve four-year terms.

The Board is responsible for setting policy and general administrative procedures. The Board selects and appoints a General Manager (GM). The GM is responsible for the day-to-day operations of the TDPUD and is accountable to the Board.

The Board meets in regular session every month. These meetings are scheduled at 6:00 P.M. on the first and third Wednesday of each month and are open to the public.

Procedures Followed

The Jury interviewed TDPUD staff, four members of the Board, the TDPUD's legal counsel, United States Postal Service (USPS) personnel and residents of the TDPUD. The Jury also reviewed related documents provided by the TDPUD and the USPS.

During the review of the complaint, the Jury also reviewed the policies and procedures of the TDPUD. The Jury's inquiry focused on the time period between August 2010 and June 2011.

Facts

F.A.1. The TDPUD is governed by a five-member Board elected by the voters of the TDPUD.

F.A.2. Only residents of the TDPUD who are registered voters are eligible to serve as TDPUD Directors (*California Public Utilities Code section 15952*).

- F.A.3.** There is a governing document for the TDPUD titled *District Code*.
- F.A.4.** The *District Code* provides that;
- the GM is selected and appointed by the Board and is accountable to the Board;
 - the GM administers the policies and procedures of the TDPUD as directed by the Board;
 - the GM is responsible for the day-to-day operations of the TDPUD;
 - the Board is responsible for establishing policy, approving plans and programs and delegating authority to the GM;
 - the GM is responsible for responding to citizens' complaints and requests for information;
 - the GM is to keep the Board informed of customer complaints;
 - the GM will inform the Board of significant problems so the Board can provide necessary direction to District staff.
- F.A.5.** There is no written policy in the *District Code* outlining the roles and responsibilities of the GM, the TDPUD's legal counsel or the Board when a complaint is made concerning a member of the Board.
- F.A.6.** On December 15, 2010, the TDPUD legal counsel received a complaint questioning the residency of a member of the Board (Director).
- F.A.7.** The Board met in a regularly scheduled meeting on December 15, 2010.
- F.A.8.** At the December 15, 2010 Board meeting, the Director made a public statement and said he was aware of questions regarding his residency status. He further stated he was a resident of Truckee.
- F.A.9.** Prior to the Director's public statement, the GM was aware of the complaint which questioned the residency of the Director.
- F.A.10.** The GM met with the Director and TDPUD legal counsel prior to the Director's public statement. At that time, the Director told the GM that he was a resident of Truckee.
- F.A.11.** The GM accepted the Director's statement that the Director was a resident of Truckee
- F.A.12.** The GM did not further investigate the complaint.
- F.A.13.** The GM did not advise the Board of the complaint or of any actions taken to investigate the complaint in any open or closed session of the Board.
- F.A.14.** After the Director's public statement at the December 15, 2010 Board meeting, the Board failed to seek advice from its legal counsel regarding the issues raised by the Director's statement.

- F.A.15.** After the Director’s public statement at the December 15, 2010 Board meeting, the Board failed to give direction to the GM regarding the issues raised by the Director’s statement.
- F.A.16.** The Board met in a regularly scheduled meeting on February 16, 2011
- F.A.17.** At the February 16, 2011 Board meeting, the Director made a public statement that he still considered himself a resident of Truckee.
- F.A.18.** At the February 16, 2011 Board meeting, after the Director’s public statement, the President of the Board stated the Board was glad to keep the Director on the Board, “as long as we can.”
- F.A.19.** After the Director’s public statement at the February 16, 2011 Board meeting, the Board again failed to seek advice from its legal counsel regarding the issues raised by the Director’s statement.
- F.A.20.** After the Director’s public statement at the February 16, 2011 Board meeting, the Board again failed to give direction to the GM regarding the issues raised by the Director’s statement.
- F.A.21.** The *District Code* does not require the Board or the GM to notify the complainant of the disposition of a complaint made concerning a member of the Board.
- F.A.22.** The TDPUD did not notify the complainant of any disposition of the complaint.
- F.A.23.** The Director resigned from the Board on June 22, 2011.

Findings

- F.I.1** The *District Code* does not specifically address the process for responding to a complaint concerning a member of the Board.
- F.I.2** The *District Code* does not specifically require the GM to keep the Board informed of a complaint concerning a member of the Board.
- F.I.3** The GM’s failure to notify the Board of the complaint regarding the Director denied the Board an opportunity to address the complaint.
- F.I.4** After the Director’s public statements at the December 15, 2010 and February 16, 2011 Board meetings, the Board showed a lack of engagement and responsiveness by failing to address the issues raised by the Director’s statement.
- F.I.5** The *District Code* does not require the complainant be notified of the disposition of a complaint made concerning a member of the Board.

Recommendations

The Nevada County Grand Jury recommends:

- R.1.** All members of the Board should seek out and attend training regarding the roles and responsibilities of Board members in special districts.
- R.2.** The Board should develop written policy which clearly defines the roles and responsibilities of the GM, the TDPUD legal counsel and the Board in response to a complaint concerning a member of the Board.
- R.3.** The Board should amend the *District Code* to require the complainant be notified of the disposition of a complaint made concerning a member of the Board.
- R.4.** The Board should develop written policy that requires the GM to keep the Board informed of a complaint concerning a member of the Board.
- R.5.** The Board should improve communication among TDPUD management, TDPUD legal counsel and the Board.

Responses

Truckee Donner Public Utility District Board of Directors: Date : August 21, 2012



Truckee Donner Public Utility District

June 8, 2012

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

Directors
Joseph R. Aguera
Jeff Bender
J. Ron Hemig
Tony Laliotis
Vacant Position
General Manager
Michael D. Holley

Subject: 2012 Grand Jury of Nevada County report on the Truckee Donner Public Utility District

Grand Jury Findings

Note: **TDPUD Response in Bold**

F.I.1. *The District Code does not specifically address the process for responding to a complaint concerning a member of the Board.* **Agree.**

F.I.2. *The District Code does not specifically require the GM to keep the Board informed of a complaint concerning a member of the Board.* **Agree.**

F.I.3. *The GM's failure to notify the Board of the complaint regarding the Director denied the Board the opportunity to address the complaint.* **Disagree. The Board was given the opportunity to address the issue when Director Hillstrom made his statements in open session. Additionally, there is no requirement, regulation, or law for the GM to notify the Board in this circumstance.**

F.I.4. *After the Director's public statements at the December 15, 2010 and February 16, 2011 Board meetings, the Board showed a lack of engagement and responsiveness by failing to address the issues raised by the Director's statement.* **Disagree. Director Hillstrom addressed the question of his residency multiple times in open session, indicated that he had consulted with legal counsel on this issue, and the Board was satisfied with his statements. The Board and GM were aware of their responsibilities regarding this issue, followed District code and State law, and took appropriate actions. The State of California, Office of the Attorney General and the courts, have jurisdiction regarding issues relating to residency requirements for local government officials.**

F.I.5. *The District Code does not require the complainant be notified of the disposition of a complaint made concerning a member of the Board.* **Agree.**

Grand Jury Recommendations

Note: **TDPUD Response in Bold**

R1. *All members of the Board should seek out and attend training regarding the roles and responsibilities of Board members in special districts.* **The recommendation has been implemented. The District has an on-going program to train Board members.**

R2. *The Board should develop written policy which clearly defines the roles and responsibilities of the GM, the TDPUD legal counsel and Board in response to a complaint concerning a member of the Board.* **The recommendation has not yet been implemented, but will be implemented within 120 days.**

R3. *The Board should amend the District Code to require the complainant be notified of the disposition of a complaint made concerning a member of the Board.* **The recommendation has not yet been implemented, but will be implemented within 120 days.**

R4. *The Board should develop written policy that requires the GM to keep the Board informed of a complaint concerning a member of the Board.* **The recommendation has not yet been implemented, but will be implemented within 120 days.**

R5. *The Board should improve communications among TDPUD management, TDPUD legal counsel and the Board.* **This recommendation will not be implemented because it is not warranted. See the District's response to F.I.3 and F.I.4. The District strives to continually improve communications among the TDPUD management, TDPUD legal counsel and the Board.**

Feel free to contact me if I can be of any assistance.

Regards,



Tony Laliotis
Board President
Truckee Donner Public Utility District