

# **NEVADA COUNTY CONSOLIDATED FIRE DISTRICT TO BE OR NOT TO BE, THAT IS THE QUESTION**

## **Summary**

Nevada County Consolidated Fire District is an independent special district responsible for fire protection and emergency medical services in unincorporated areas of Nevada County. Nevada County Consolidated Fire District has Joint Operating Agreements with the cities of Grass Valley and Nevada City. Nevada County Consolidated Fire District is governed by a Board of Directors elected by the district's voters.

Of grave interest was a five-year projection report prepared by an interim finance manager which indicates that Nevada County Consolidated Fire District will be experiencing cumulative budget deficits possibly as high as \$4,000,000 by Fiscal Year 2018-2019.

It is the feeling of the Nevada County Grand Jury that Nevada County Consolidated Fire District will be required to take actions that may include closure of fire stations and layoff of personnel if immediate steps are not taken to reduce spending and control costs.

The Nevada County Grand Jury feels that rising costs, especially in employee benefits, will soon place all fire agencies in a difficult budget situation.

Nevada County Consolidated Fire District, the City of Grass Valley, and the City of Nevada City are all without a full time fire chief. Penn Valley Fire Protection District will be without a full time fire chief by the end of June 2014.

It is the opinion of the Nevada County Grand Jury that these issues combined have created a perfect opportunity for reorganization of fire and emergency services in western Nevada County. We recognize this is a major project requiring a great deal of flexibility on the part of all the affected agencies and will not happen overnight, but feel that this reorganization is in the best interest of all the residents of the area. The Nevada County Grand Jury is aware of discussions which are currently being undertaken regarding some form of agreement.

The benefits to be realized by such reorganization include reduced administrative costs and overhead, standardized training, standardized equipment, enhanced advancement opportunities for employees, and improved accountability to the taxpayers.

The Nevada County Grand Jury found a great disparity in special assessments for fire protection between various districts. Any reorganization will need to address this concern.

The Nevada County Grand Jury recommends all fire protection agencies in western Nevada County work diligently and with an enhanced sense of urgency to form a single unified fire authority.

Failing that, we recommend the Nevada County Board of Supervisors direct the Local Agency Formation Commission to undertake the mission of reorganization allowed by the California Government Code, creating a single fire authority whose administration reports to a board of directors appointed and apportioned by supervisorial district.

## **Reasons for Investigation**

In March 2012, the voters of Nevada County Consolidated Fire District (NCCFD) passed an initiative known as the Special Tax of 2012. This initiative increased assessments on improved parcels by \$52.00 per year.

The initiative included a provision that the NCCFD Board of Directors (Board) appoint a Citizens' Oversight Committee (COC) to monitor the revenues received and money spent from the new tax to ensure the money was used for purposes stated in the ballot literature used to educate the voters on the initiative.

The 2013-2014 Nevada County Grand Jury (Jury) learned of new financial difficulties for NCCFD which indicate the district may be facing a severe long term deficit.

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 district's voters 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.

NCCFD is an independent special district supported by public funds. NCCFD is made up of approximately thirty-two full-time personnel. The NCCFD budget for Fiscal Year 2013-2014 is approximately \$5,300,000. NCCFD is responsible for approximately 150 square miles of western Nevada County and serves an estimated 35,000 residents.

NCCFD is governed by a seven-member Board elected by district voters. The Board is responsible for setting policy and general administrative procedures. The Board meets in regular session every month. These meetings take place at 7:00 pm on the third Thursday of each month and are open to the public.

NCCFD has forecast itself as deficit spending in two years, and potentially \$2,000,000 to \$4,000,000 debt in five years.

## Procedures Followed

The Jury interviewed NCCFD financial officers, board members, members of the COC, public officials and administrators, other fire district representatives and officials, and members of the Nevada County Board of Supervisors (BOS).

The Jury obtained financial documents, which are public record, distributed during regular Board meetings of NCCFD.

The Jury reviewed the 2012-2013 Jury Report and its supporting documents relating to the time period of November 2011 through June 2013.

## Facts

- Fa. 1** NCCFD is governed by a seven-member Board elected by registered voters of the NCCFD during the general elections held in November. The members of the Board serve four-year terms.
- Fa. 2** California Special Districts Association provides education and information to board members and staff of special districts in California on their roles and responsibilities.
- Fa. 3** Nevada County Local Agency Formation Commission (LAFCo) provides education and information to board members and staff of special districts in Nevada County on their roles and responsibilities.
- Fa. 4** Since March 2012, there have been four different Fire Chiefs within NCCFD.
- Fa. 5** There have been three interim Fire Chiefs and a full time chief. At present the duties of Fire Chief are being performed by two appointed temporary Division Chiefs. The last interim chief left this post on March 30, 2014 due to expiration of allowed work hours under the State's guidelines for retirees in temporary positions.
- Fa. 6** In March 2012, NCCFD voters approved a \$52.00 per parcel tax, known as the Special Tax of 2012 which is collected with the Nevada County property tax bill.
- Fa. 7** Total NCCFD taxes collected on the Nevada County Secured Property Taxes are \$156.00 per residential parcel.
- Fa. 8** The Special Tax of 2012 includes an annual 3% Cost Of Living Adjustment with no expiration date. Increases must be approved annually by the Board.
- Fa. 9** A clause in the Special Tax of 2012 required the Board to establish a COC.
- Fa. 10** The Special Tax of 2012 ballot measure established the requirement for the COC to ensure proper expenditures. The expenditures, as stated in the ballot measure, were to ensure NCCFD maintains current levels of service:

- Keep all existing fire stations open and prevent station closures on a rotating basis.
- Preserve rapid emergency response time to all emergency calls.
- Preserve local emergency medical services and rescue services.
- Maintain current protection from wild land fires.
- Prevent the layoff of critically needed firefighting personnel.
- Spend funds only to maintain emergency services.

**Fa. 11** In September 2013 the Board appointed the COC, 18 months after the passage of the Special Tax measure, by which time three tax installments had been collected.

### **Budget and Projections**

**Fa. 12** NCCFD has not previously produced a long-range budget plan or forecast to enable advance planning for continuation of fire services for the district.

**Fa. 13** NCCFD officials stated that the chiefs and Board had requested a five-year budget plan to be published by the finance staff. That request was not fulfilled.

**Fa. 14** NCCFD contracted with an interim finance manager who authored a five-year projection for use by the Board to make informed decisions. This projection was presented to the Board at a Special Meeting held November 12, 2013.

**Fa. 15** The interim finance manager is an independent contractor providing finance-related services.

**Fa. 16** The five-year projection made certain tax revenue presumptions which included:

- increases in tax revenue and expenses,
- a pending contract for firefighters that will have an increased effect on expenses,
- a Fiscal Year (FY) 2013-2014 deficit of \$81,525,
- if leasing new equipment at a base of 3.9% for a ten-year amortization, the FY 2018-2019 cumulative deficit is forecast to be approximately \$2,300,000.

**Fa. 17** In early 2014 the interim finance manager amended the five-year projection for the COC:

- FY 2013-2014, NCCFD will remain in a deficit position of approximately \$81,525,
- cumulative deficits by FY 2018-2019 will total \$862,528.00, not including any replacement equipment.

- Fa. 18** The COC report, dated March 5, 2014, referenced NCCFD Board Resolution R011-18 outlining accountability requirements, as follows:
- **"Annual Report:** In accordance with California Government Code §50075.3 the District's Fire Chief, as Chief Fiscal Officer shall file a report with the District's Board of Directors at least once per year, no later than January 1 of each year. The Annual Report shall contain each of the following:
    - the amount of funds collected and expended;
    - the status of any project required or authorized to be funded with the proceeds of the Special Tax.
  - **Special Tax Account:** Upon receipt of the Special Taxes the District shall cause same to be deposited in a Special Tax Account or other such account established by the District which allows the District to properly account for the Special Taxes in accordance with the provisions of California Government Code §50075.3."
  - The COC report concluded that the Fire Chief's report requirement had not been submitted as of March 5, 2014; therefore the requirement was not met.
- Fa. 19** The COC report reflected that the Board was remiss by not disclosing a late 2011 side letter agreement regarding contract negotiations which committed the District, in part, *"to reopen negotiations after the March/April joint review of the District incomes."* The COC construed this as misleading the public.
- Fa. 20** The Board reinstated a \$39,800.00 holiday stipend for safety personnel. The COC report stated that based upon information concerning the Special Tax of 2012, approval of this reinstatement payment is considered inconsistent with the statements made in support of the ballot measure.
- Fa. 21** The COC requested of the Board a copy of the Audit of the Special Tax Fund or instructions to the auditor to conduct an audit of Special Tax Funds. The COC report concluded that the requirement for an audit of tax proceeds had still not been satisfied as of March 5, 2014.
- Fa. 22** Teeter Funds are a state-wide, special district Cash Flow Program where counties "buy" future tax receipts of the special district. This program is authorized by Government Code §8520 et seq (Distribution of Tax Sale Proceeds: Teeter Plan, CA State Controller, John Chiang).
- Fa. 23** NCCFD employs the use of Teeter Funds in conjunction with oversight from the Nevada County Auditor-Controller Office. This allows NCCFD to make withdrawals against anticipated tax revenue from the Auditor-Controller Office. There are prescribed limits to the percentage of withdrawals for each six-month time period as it is tied to property tax collection dates. This amount is 55% of balance up to the December 10 apportionment date, and 40% up to the April 10 apportionment date.

- Fa. 24** New California Public Employees Retirement System (CalPERS) requirements for employees significantly increase the employee contribution to the fund. The Board has expressed the intent to fund this increase by granting pay increases corresponding to the increased mandatory employee contribution.
- Fa. 25** CalPERS will be requiring municipalities and special districts to increase the dollar amounts submitted to this state fund. This will force some entities to require cuts in services, maintenance, and other operations they perform.
- Fa. 26** A Board member has publicly stated that in two years NCCFD will be broke if current financial practices are continued.

## **Reorganization**

- Fa. 27** There are currently three Joint Operating Agreements (JOA):
- between NCCFD and Grass Valley Fire Department (GVFD),
  - between NCCFD and Nevada City Fire Department (NCFD),
  - between GVFD and NCFD.
- Fa. 28** Current “911” emergency calls are primarily answered by the Nevada County Sheriff’s Office (NCSO). NCSO serves as the Public Safety Answering Point. Fire and medical calls are routed to the Grass Valley Interagency Emergency Command Center (ECC), managed by CalFIRE.
- The ECC dispatch center takes all pertinent information of the emergency, enters the information into the Computer-Aided-Dispatch (CAD) system and emergency units are automatically dispatched.
  - The CAD is programed to dispatch a pre-determined amount of emergency personnel and equipment to the emergency, based upon the nearest available resource. This is referred to as Boundary Drop.
  - There may be resources from surrounding fire districts dispatched to assist the primary district where the emergency occurred.
- Fa. 29** NCCFD, GVFD and NCFD are currently without a Fire Chief.
- Fa. 30** Penn Valley Fire Protection District's (PVFPD) current Fire Chief will retire June 2014. An interim chief has been appointed.
- Fa. 31** NCCFD has two temporary Division Chiefs acting as Fire Chief until a permanent chief is hired. At that time, the Division Chiefs are expected to revert back to the rank of Battalion Chief.
- Fa. 32** GVFD has an interim Fire Chief, 15 career staff and 20 paid call personnel.

**Fa. 33** NCFD has a part-time Fire Chief, one Captain and one Engineer. The fire station has been staffed by 20 volunteers and one full time NCCFD career firefighter. The City Council recently voted to disband the volunteer program.

**Fa. 34** Discussions between the Nevada County Fire Chiefs Association have been ongoing since early 2014 to form a Joint Powers Authority (JPA), designed to integrate administrative functions under one command and one administrative organization.

**Fa. 35** Currently active participants in the JPA discussions include NCCFD, PVFPD, GVFD and NCFD.

**Fa. 36** Witness testimony revealed that reorganization into a single fire authority would allow:

- enhanced opportunities to staff for promotion,
- advanced training uniformity,
- diversity of assignments,
- cost savings for taxpayers,
- uniform operations for the residents across the western county.

**Fa. 37** Witness testimony revealed that collective bargaining agreements differ between NCCFD, GVFD, NCFD and PVFPD for benefits, pay and other negotiated employment issues.

**Fa. 38** California Government Code allows for special district reorganizations to be initiated by a petition or by resolution of application by a county board of supervisors.

**Fa. 39** LAFCo has the authority by California Government Code to:

- review and approve district changes of organization or reorganization,
- consolidate a district,
- reorganize a district.

**Fa. 40** There are eight separate fire districts operating in western Nevada County. Each district has:

- their own Fire Chief,
- general overhead costs,
- their own accountant,
- administrative staff,
- facilities,
- garage facilities with a mechanic,
- assessment fees/taxes supporting operations.

- Fa. 41** Higgins Fire Protection District (HFPD) is a CalFIRE contract station which relies on CalFIRE for a Fire Chief. The district has a Battalion Chief as its highest ranking officer.
- Fa. 42** HFPD attempted twice in the last three years to raise Special Assessments from \$25.00 per year to \$125.00 per year. Both measures were defeated.
- Fa. 43** Currently, HFPD is able to fully staff their three fire stations as a result of a two-year SAFER (Staffing for Adequate Fire and Emergency Response) Grant from the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS). These grants are for two years only.

## **Findings**

- Fi. 1** NCCFD, although receiving additional revenues from the Special Tax of 2012, is currently operating at a deficit.
- Fi. 2** The long-term deficits are a result of past failure to provide long-range budget planning documents when requested by NCCFD management.
- Fi. 3** Due to the lack of a financial plan, NCCFD must borrow against anticipated future tax payments by regularly using Teeter Funds.
- Fi. 4** The five-year projection introduced in November 2013 by the interim finance manager provides a good starting point to manage district funds.
- Fi. 5** Because the COC was not formed until 18 months following the passage of the Special Tax of 2012, there were inappropriate expenditures and uses not consistent with the ballot measure's stated intent, including audits, required special bank fund accounts and tracking of expenses.
- Fi. 6** NCCFD will not achieve financial stability for this fiscal year and continuing for five years.
- Fi. 7** Since NCCFD is failing financially, LAFCo could review and approve changes of organization, reorganization, or consolidation.
- Fi. 8** The lack of fiduciary responsibility on the part of the Board may lead to the eventual downfall of NCCFD.
- Fi. 9** The Board should already have begun budget cutting actions, and should have been in contact with the Nevada County Auditor-Controller for direction.
- Fi. 10** The Jury found that Teeter Funds are needed by NCCFD to remain in operation. Even though this is a legal practice used by special districts for constant supply of operational funds, NCCFD is forced to borrow against future tax revenue.



- Fi. 11** Forming a single Nevada County fire authority would allow opportunities to staff for promotion opportunities, uniform-advanced training, diversity of assignments, cost savings for taxpayers, and uniform operations for the residents across western Nevada County.
- Fi. 12** If a JPA is successful, there will be substantial savings in administrative overhead costs.
- Fi. 13** The four fire agencies, NCCFD, GVFD, PVFPD and NCFD serving the vast majority of western Nevada County will soon be without fire chiefs, the highest level of management, creating an opportune time to explore reorganization.
- Fi. 14** When the SAFER grant expires within two years, the HFPD will be unable to fully staff their stations. This would be an ideal time to work toward reorganization.
- Fi. 15** Although the JPA will result in savings in administrative overhead cost, there will be difficulties in leveling assessments and MOU's with bargaining units.

## **Recommendations**

- R. 1** The Nevada County Fire Chief's Association should continue moving forward to integrate administrative functions under a JPA in western Nevada County.
- R. 2** The Nevada County Board of Supervisors should direct LAFCo to begin research on the steps necessary to reorganize western Nevada County fire districts into a single fire authority. This should be a priority for the safety of residents in western Nevada County.
- R. 3** The proposed new fire authority should consider:
- having one governing board selected by Board of Supervisors, using the current district designations for representation purposes,
  - having one chief and one business office,
  - retaining current fire tax fees for each current district,
  - having a plan to implement a leveling of the fees within four years,
  - being called the Western Nevada County Fire Authority,
  - not initially including Ophir Hill Fire Protection District, Peardale-Chicago Park Fire, Rough and Ready Fire, or North San Juan Fire District.
- R. 4** An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The interim board would consist of one elected official and one staff

member from each agency and one member from the Nevada County Board of Supervisors.

**R. 5** The included districts in the new fire authority should begin discussions for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County:

- Nevada County Consolidated Fire District,
- Penn Valley Fire Protection District,
- Rough and Ready Fire Protection District,
- Grass Valley Fire Department,
- Nevada City Fire Department,
- Higgins Area Fire Protection District,
- North San Juan Fire Protection District,
- Ophir Hill Fire Protection District,
- Peardale-Chicago Park Fire District,
- Washington County Water Fire District.

See Appendix A for a sample organization chart.

## **Responses**

Nevada County Board of Supervisors:

Finding: 7

Recommendations: 2-5

Due Date: September 26, 2014

LAFCO:

Findings: 7, 8, 10, 11, 12, 13, and 14;

Recommendations: 3, 4 and 5

Due Date: August 26, 2014

Nevada County Consolidated Fire District Board of Directors:

Findings: 1-10 and 13

Recommendations: 2 and 3

Due Date: September 26, 2014

Penn Valley Fire Protection District Board of Directors:

Finding: 13

Recommendations: 1, 2, 3, 4 and 5

Due Date: September 26, 2014

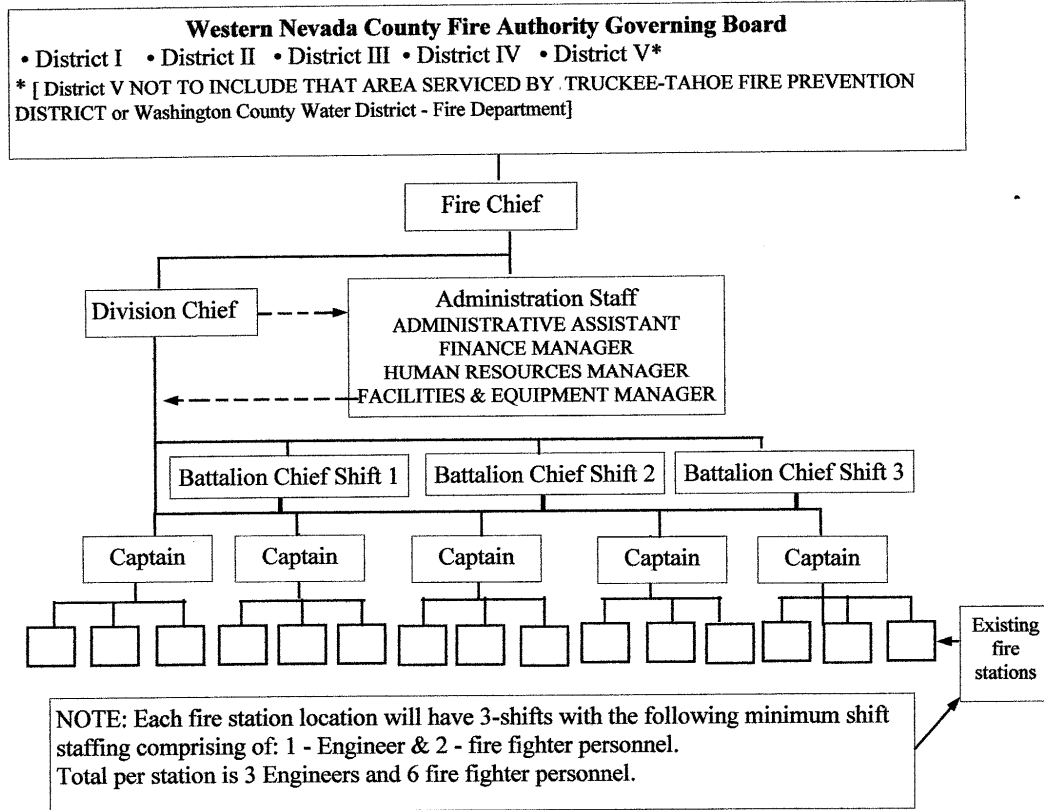
Higgins Area Fire Protection District Board of Directors:  
Finding: 14  
Recommendation: 5  
Due Date: September 26, 2014

Grass Valley City Council:  
Findings: 11, 12, and 13  
Recommendations: 1, 2, 3, 4 and 5  
Due Date: September 26, 2014

Nevada City City Council:  
Findings: 11, 12, and 13  
Recommendations: 1, 2, 3, 4 and 5  
Due Date: September 26, 2014

APPENDIX - A

**SAMPLE ORGANIZATION CHART  
WESTERN NEVADA COUNTY FIRE AUTHORITY**



**911 Service is already in place.**

911 calls are first received by Nevada County Sheriff Dispatch. [This is the Public Safety Answering Point].

- Fire or medical calls are routed to the Grass Valley Emergency Command Center managed by CalFIRE.
- Information is entered into the CAD (Computer Aided-Dispatch system and emergency units nearest the emergency are automatically dispatched.
- The CAD is programmed to dispatch a pre-determined number of assets to a particular emergency.

**DEFINITIONS and Presumptions:**

For this model, there are 15 fire stations amongst the current 8 fire districts.

- There is a reduction in management forces. • There can be redistribution of personnel.
- The Governing Board will be elected using the current Board of Supervisor districts for representation.
- The Division Chief will assume the duties of the Chief in the absence of the Chief.
- Each fire station location requires 3-Shifts for coverage. Labor laws for fire allow 48 hours on duty, 96 hours off-duty.



**GRASS VALLEY CITY COUNCIL**  
125 East Main St., Grass Valley, CA 95945  
Robert Richardson, City Manager  
Kristi Bashor, City Clerk

**Council Members**  
Dan Miller, Mayor  
Jason Fouyer, Vice Mayor  
Jan Arbuckle  
Howard Levine  
Lisa Swarhout

September 23, 2014

Honorable Candace S. Heidelberger  
Presiding Judge of the Superior Court of Nevada County  
201 Church Street  
Nevada City, CA 95959

**City of Grass Valley's Response to Nevada County Grand Jury 2013-2014 "Nevada County Fire District to be or not to be, that is the question."**

Your Honor,

The City of Grass Valley (City) appreciates the Grand Jury's concern for the fire protection in western Nevada County. The City of Grass Valley responses address the suggested reorganization of fire and emergency services in Western Nevada County. The City addresses findings 11 to 13 and recommendations 1 to 5 from the Grand Jury report.

FINDINGS

Finding 11      Forming a single Nevada County Fire Authority would allow opportunities to staff for promotion opportunities, uniform advanced training, diversity of assignment, cost savings for taxpayers and uniform operations for the residents across western Nevada County.

Response      The City agrees.

Finding 12      If a JPA is successful, there will be substantial saving in the administrative overhead cost.

Response      The City partly agrees.

The amount of savings realized depends upon the structure of the administrative staff. Saving may be expected; however, care must be taken to avoid overstating likely fiscal benefits.

Finding 13      The four fire agencies, NCCFD, GVFD, PVFPD and NCFD serving the vast majority of western Nevada County will soon be without fire chiefs, the highest level of management, creating an opportune time to explore reorganization.

Response      The City agrees.

The City of Grass Valley, Nevada County Consolidated Fire District and Penn Valley Fire District are currently managed with Interim Chief Officers; the Fire Chief of Nevada City is a half time position. The four agencies, absent a seated, full time Fire Chief had a unique opportunity for collaboration of a Fire Chief. Although Nevada County Consolidated has appointed a new Chief and Penn Valley Fire may be preparing to do so, this opportunity may arise again in the future. In any event, the City will continue to pursue cooperation with its neighboring agencies to ensure the highest level of service at the best price for residents and property owners in the City and the surrounding communities we help serve.



## RECOMMENDATIONS

Recommendation 1    The Nevada County Fire Chief's Association should continue moving forward to integrate administrative functions under a JPA in western Nevada County.

Response                The City agrees.

Recommendation 2    The Nevada County Board of Supervisors should direct LAFCo to begin research on the steps necessary to reorganize western Nevada County fire districts into a single fire authority. This should be a priority for the safety of residents in western Nevada County.

Response                The City partly agrees with the recommendation.

The City supports research into the concept of a single fire authority by a committee of Fire Chiefs and elected officials. LAFCO is an independent state-agency which is not subject to direction by the County. Moreover, a collaborative solution is, in the City's view, more likely to succeed than one imposed by others.

Recommendation 3    The proposed new fire authority should consider:

- Having one governing board selected by Board of Supervisors, using the current district designations for representation purposes
- Have one chief and one business office
- Retaining current fire tax fees for each current district

- Have a plan to implement a leveling of the fees within four years
- Being called the Western Nevada County Fire Authority
- Not initially including Ophir Hill Fire Protection District, Peardale – Chicago Park Fire, Rough and Ready Fire or North San Juan Fire District.

Response: The City partly agrees with the recommendation.

Conceptually, the City agrees that the concept of a single Western Nevada County Fire Authority has merit. The proposed Shared Administrative Services agreement had included many of the suggestions in the Grand Jury report. Complex issues such as governance and legal restrictions on revenues necessitate participation from all fire agencies. Development of a single agency for western Nevada County must include all agencies for the benefit of all residents.

Recommendation 4 An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The interim board would consist of one elected official and one staff member from each agency and one member from the Nevada County Board of Supervisors.

Response The City partly agrees with the recommendation.

Dialogue in development of the proposed Shared Services agreement between Nevada City, Grass Valley and Nevada County Consolidated included governance consisting of the City Managers and a board member from Nevada Co. Consolidated Fire. Should a JPA be established as described by this recommendation, the governance structure considered by the Shared Service proposal may be suitable in the interim and long term.



Recommendation 5    The included districts in the new fire authority should begin discussion for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County.

Response                The City partly agrees with the recommendation.

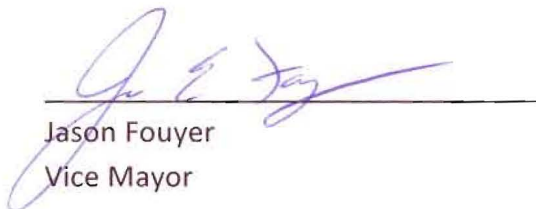
The City will participate in discussions to consider an independent fire authority in western Nevada County. Governance of an independent fire authority can only be determined by those participating in the fire authority discussions. The City must fulfill its service responsibilities in the meantime and will advocate for its residents to ensure adequate, appropriately funded services, as other local governments should do for those they serve.

This response was reviewed and approved by City Council at its September 23, 2014, meeting. Thank you for your consideration.

Sincerely,



Dan Miller  
Mayor



Jason Fouyer  
Vice Mayor

cc:        City Council  
          Tim Kiser, Public Works Director/City Engineer

Nevada County  
Local  
Agency  
Formation  
Commission

LAFCo  
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On the web at: [www.mynevadacounty.com/nc/lafco](http://www.mynevadacounty.com/nc/lafco)

Richard Anderson  
County

Patrick Flora  
Cities

Kurt Grundel  
Districts

Lisa Swarhout  
Cities Alternate

Paul Norsell, Vice-Chair  
Public

Hank Weston, Chair  
County

Nick Wilcox  
Districts

Nate Beason  
County Alternate

Ed Beckenbach  
Districts Alternate

Robert Bergman  
Cities

Josh Susman  
Public Alternate

SR Jones  
Executive Officer

P. Scott Browne  
Legal Counsel

Deborah Gilcrest  
Clerk/Analyst

Kate Duroux  
Assistant Clerk

September 22, 2014

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

**RE: Nevada LAFCo's Responses to the 2013-2014 Nevada County Civil Grand Jury Report: "Nevada County Consolidated Fire District – To Be or Not to Be, That is the Question"**

Dear Judge Anderson:

As required by California Penal Code Section 933, Nevada County's Local Agency Formation Commission (Nevada LAFCo) hereby submits responses to the subject Grand Jury Report, dated June 24, 2014. These responses were approved by the Commission on September 18, 2014.

On behalf of Nevada LAFCo, I would like to thank the 2013-2014 Grand Jury panel for their participation and effort in preparing their reports, and for participating in the Grand Jury process.

Sincerely,



Hank Weston, Chair  
Nevada LAFCo

Cc: Keith Overbey, Foreman, Grand Jury ✓  
SR Jones, LAFCo Executive Officer



**NEVADA LAFCO RESPONSES TO**  
**2013-2014 Nevada County Civil Grand Jury Report**  
“Nevada County Consolidated Fire District – To Be or Not to Be, That is the Question”  
June 24, 2014

These responses to the Grand Jury’s Findings and Recommendations were approved by Nevada LAFCo at their September 18, 2014 meeting.

**Response to Findings:**

**Fi. 7** *Since NCCFD is failing financially, LAFCo could review and approve changes of organization, reorganization, or consolidation.*

**Disagree with the first assertion and agree with the second.**

The Local Agency Formation Commission (LAFCo) does not agree with the assertion that the Nevada County Consolidated Fire District (NCCFD) is “failing financially.” The district’s FY 12-13 audit and financial reports for FY 13-14 indicate improvements in the district’s financial situation.

Relative to LAFCo’s authority to review and approve changes of organization, reorganization and consolidations, pursuant to Government Code § 56375, the Commission is responsible for reviewing all proposed changes of organization and reorganizations, including consolidations. In certain circumstances, and when supported by the recommendation or conclusion of a special study, LAFCo can initiate proposals for consolidation, dissolution, merger, establishment of subsidiary district, or formation of a new district (GC § 56375 (a) (2)). It should be noted that any reorganization proposal can be subject to an election if protested by a specific percentage of voters. Reorganizations that are initiated by LAFCo are generally subject to a lower protest threshold than proposals initiated by the affected local agencies or by voter petition. However, in the absence of a special study, it is not clear that a reorganization including NCCFD and (presumably) several other fire agencies would resolve NCCFD’s financial problems without adversely impacting the service levels of the others.

**Fi. 8** *The lack of fiduciary responsibility on the part of the Board may lead to the eventual downfall of NCCFD.*

**Neither agree or disagree.**

LAFCo does not have facts that permit it to agree or disagree with the conclusion.

**Fi. 10** *The Jury found that Teeter Funds are needed by NCCFD to remain in operation. Even though this is a legal practice used by special districts for constant supply of operational funds, NCCFD is forced to borrow against future tax revenue.*

**Agree.**

LAFCo is aware that NCCFD has utilized Teeter Plan funds. As the Grand Jury notes, this practice is legal and the County’s Auditor-Controller indicates that two other fire districts, one school district, and one city have also utilized Teeter Plan funding for FY 2013-2014.



**Fi. 11** *Forming a single Nevada County fire authority would allow opportunities to staff for promotion opportunities, uniform-advanced training, diversity of assignments, cost savings for taxpayers, and uniform operations for the residents across western Nevada County.*

**Partially Agree.**

Many of the listed benefits are already being realized through the Joint Operating Agreement and through agreements and contracts between the fire agencies.

Relative to training and operations, the Joint Operating Agreement provides for standardized operational response and joint training. This agreement was initially established in 2001 between NCCFD, Grass Valley and Nevada City; and since that time, Penn Valley Fire has joined the JOA. The JOA can be expanded to accommodate other fire agencies.

Countywide dispatch procedures already allow for the closest available resource to respond to any type of emergency, regardless of agency boundaries.

Regarding uniform operations throughout western Nevada County, LAFCo notes that each of the fire districts and cities serve a distinct community with unique service needs. Generally speaking, establishing a uniform level of operations throughout the western county will require some fire agencies to increase their service levels, the cost of which would in turn need to be financed by residents.

LAFCo also points out the progress that has been made county-wide in the last twenty-five years toward increasing the efficiency and accountability of the fire and emergency services system. Since 1990, five Western County fire districts have been consolidated (Bullion, Gold Flat, Alta Oaks-Sunset, Watt Park and Forty-Niner Fire Protection Districts). In the eastern county, the fire and emergency response operations of the Soda Springs/Kingvale area were transferred from Donner Summit Public Utility District to Truckee Fire Protection District. Each of these reorganizations involved lengthy and extensive negotiations between elected officials, labor representatives, and citizen groups. Each proceeded at its own pace, with LAFCo's involvement including the provision of technical assistance and impartial review of the resulting reorganization proposals. In several cases, an extended period of "functional consolidation" between agencies provided a very useful "adjustment period" of joint operations wherein personnel and administrative issues could be addressed in advance of a formal consolidation.

**Fi. 12** *If a JPA is successful, there will be substantial savings in administrative overhead costs.*

**Partially Agree.**

LAFCo recognizes that carefully crafted JPAs can potentially assist agencies to contain (i.e., not necessarily reduce) administrative costs. However, in the absence of the specific terms of such an agreement, the assertion of "substantial savings" appears to be speculative.

**Fi.13** *The four fire agencies, NCCFD, GVFD, PVFPD and NCFD serving the vast majority of western Nevada County will soon be without fire chiefs, the highest level of management, creating an opportune time to explore reorganization.*

**Agree.**



LAFCo is aware that the listed agencies have engaged in discussions about consolidating administrative operations and fire chief positions.

**Fi. 14** *When the SAFER grant expires within two years, the HFPD will be unable to fully staff their stations. This would be an ideal time to work toward reorganization.*

**Agree.**

LAFCo is aware that HFPD's financial position results from the district voters' decision to not approve a tax measure to fund enhanced fire and emergency services. LAFCo also observes that HFPD's financial situation could present an obstacle to its full participation in a wider fire agency reorganization (i.e., if HFPD is underfunded, consolidation would require the partner agencies to subsidize services to the Higgins area).

### **Response to Recommendations:**

**R. 3** *The proposed new fire authority should consider:*

- *having one governing board selected by Board of Supervisors, using the current district designations for representation purposes,*
- *having one chief and one business office,*
- *retaining current fire tax fees for each current district,*
- *having a plan to implement a leveling of the fees within four years,*
- *being called the Western Nevada County Fire Authority,*
- *not initially including Ophir Hill Fire Protection District, Peardale-Chicago Park Fire, Rough and Ready Fire, or North San Juan Fire District.*

**This recommendation cannot be implemented by LAFCo for the following reason.**

It is not clear whether the recommendation is to establish a Joint Powers Authority (presumably comprised of several existing fire agencies) or to reorganize the existing fire agencies.

LAFCo has no authority to either establish a JPA or to unilaterally require any agency to join a JPA.

Relative to a reorganization of several existing agencies, no such proposal has been submitted for LAFCo's consideration at this time. Although LAFCo can in certain circumstances initiate reorganization proposals, such action can only be taken after a comprehensive study of the financial and governance circumstances and implications of the proposed reorganization on all involved agency service levels. Given that several of the agencies presumably included in the recommendation appear to be financially stable and capable of providing service at the level desired by their residents, there does not appear to be justification for allocating the significant resources that would be required to conduct such a study.

As a practical matter, LAFCo notes that a plan to "level fees" throughout the western county will need to balance the service needs of each community with its financial ability to participate, and must also provide for consistency with Propositions 13 and 218.

**R. 4** *An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The*

*interim board would consist of one elected official and one staff member from each agency and one member from the Nevada County Board of Supervisors.*

**This recommendation cannot be implemented by LAFCo for the following reason.**

Local Agency Formation Commissions do not have authority to initiate the formation of Joint Powers Authorities.

**R. 5** *The included districts in the new fire authority should begin discussions for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County:*

- *Nevada County Consolidated Fire District,*
- *Penn Valley Fire Protection District,*
- *Rough and Ready Fire Protection District,*
- *Grass Valley Fire Department,*
- *Nevada City Fire Department,*
- *Higgins Area Fire Protection District,*
- *North San Juan Fire Protection District,*
- *Ophir Hill Fire Protection District,*
- *Peardale-Chicago Park Fire District,*
- *Washington County Water Fire District.*

*See Appendix A for a sample organization chart.*

**This recommendation cannot be implemented by LAFCo for the following reason.**

The recommendation is beyond LAFCo's authority. While LAFCo can in certain limited circumstances initiate the process for reorganization of districts, it cannot unilaterally initiate the annexation of lands within the cities of Grass Valley and Nevada City, which would presumably be required to bring the two city fire departments into the proposed "Fire Authority." In addition, as noted above in the response to Recommendation 4 above, LAFCo has no authority to create Joint Powers Authorities and likewise cannot require agencies to join a JPA.



COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Chair Nathan H. Beason, 1<sup>st</sup> District  
Vice Chair Ed Scofield, 2<sup>nd</sup> District  
Terry Lamphier, 3<sup>rd</sup> District  
Wm. "Hank" Weston, 4<sup>th</sup> District  
Richard Anderson, 5<sup>th</sup> District  
Donna Landi, Clerk of the Board

September 16, 2014

The Honorable 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 2013-14 Nevada County Civil Grand Jury Report,  
*Nevada County Consolidated Fire District – To Be or Not to Be, That is the Question*

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2013-14 Nevada County Civil Grand Jury Report, dated June 24, 2014, entitled *Nevada County Consolidated Fire District – To Be or Not to Be, That is the Question*.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their special meeting on September 16, 2014. The Responses are based on either personal knowledge, examination of official County records, information received from the Local Agency Formation Commission (LAFCo), 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 2013-14 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,



Nathan H. Beason, Chair  
Nevada County Board of Supervisors

cc: Keith Overbey, Foreman, Grand Jury  
Rick Haffey, County Executive Officer

950 Maidu Avenue, Suite 200, Nevada City CA 95959-8617  
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website: <http://www.mynevadacounty.com/nc/bos>

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO**

**2013-14 Nevada County Civil Grand Jury Report**

**Nevada County Consolidated Fire District –To Be or Not to Be, That is the Question.**

**June 24, 2014**

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their special meeting on September 16, 2014. The Responses are based on either personal knowledge, examination of official County records, information received from the Local Agency Formation Commission (LAFCo), the County Executive Officer, or the Board of Supervisors and County staff members.

**A. RESPONSE TO FINDING**

**Finding 7: Since NCCFD is failing financially, LAFCo could review and approve changes of organization, reorganization, or consolidation.**

**Partially Agree**

The Board of Supervisors does not have direct knowledge of the NCCFD financial situation and cannot confirm whether or not the District is failing financially. However, the Board agrees that LAFCo has the authority to review and approve changes of organization, reorganization, or consolidation.

**B. RESPONSES TO RECOMMENDATIONS**

**Recommendation 2: The Nevada County Board of Supervisors should direct LAFCo to begin research on the steps necessary to reorganize western Nevada County fire districts into a single fire authority. This should be a priority for the safety of residents in western Nevada County.**

**The recommendation will not be implemented.**

The Board of Supervisors does not have the legal authority to direct LAFCo to take such action. The Board of Supervisors could use Proposition 172 funding as an incentive to encourage Districts to consider consolidation.

**Recommendation 3: The proposed new fire authority should consider:**

- having one governing board selected by Board of Supervisors, using the current district designations for representation purposes,
- having one chief and one business office,
- retaining current fire tax fees for each current district,
- having a plan to implement a leveling of the fees within four years,
- being called the Western Nevada County Fire Authority,
- not initially including Ophir Hill Fire Protection District, Peardale-Chicago Park Fire, Rough and Ready Fire, or North San Juan Fire District.

**The recommendation will not be implemented.**

The recommendation is for a body that has not been formed to consider taking certain actions. The Board of Supervisors cannot respond to a recommendation on behalf of a hypothetical body.



**Recommendation 4: An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The interim board would consist of one elected official and one staff member from each agency and one member from the Nevada County Board of Supervisors.**

**The recommendation will not be implemented.**

The Board of Supervisors does not have the authority to unilaterally initiate the formation of a JPA. In addition, because the County of Nevada does not provide fire services, it would be impractical and an inefficient use of taxpayer funds for County officials to sit on a body that makes fire policy.

**Recommendation 5: The included districts in the new fire authority should begin discussions for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County:**

- Nevada County Consolidated Fire District,
- Penn Valley Fire Protection District,
- Rough and Ready Fire Protection District,
- Grass Valley Fire Department,
- Nevada City Fire Department,
- Higgins Area Fire Protection District,
- North San Juan Fire Protection District,
- Ophir Hill Fire Protection District,
- Peardale-Chicago Park Fire District,
- Washington County Water Fire District.

**The recommendation will not be implemented.**

The County agrees that consolidation of all western county fire districts into one Western Nevada County Fire Authority could be more efficient and effective in providing fire prevention, suppression and other emergency services and that LAFCo is the appropriate body to review a proposed re-organization or consolidation. As stated above, the Board of Supervisors as an incentive could use Proposition 172 funding to encourage consolidation.

The County does not agree that the Board of the Fire Authority be appointed by the Board of Supervisors. This consolidation will eliminate many elected positions, but five elected directors should be in policy control of the Fire Authority and be directly elected by the citizens of Nevada County.

# PENN VALLEY FIRE PROTECTION DISTRICT

## Interim Fire Chief

Don Wagner  
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## Directors

Kurt Grundel, Chairperson  
David Farrell, Vice-Chairperson  
John Pelonio, Director  
Bob Webster, Director  
1 Position Open -Director  
[dhughes@pennvalleyfire.com](mailto:dhughes@pennvalleyfire.com)

September 4, 2014

Nevada County Grand Jury  
201 Church Street Suite 6 *510 Church St*  
Nevada City, CA 95959

RE: Response to 2013/14 Nevada County Consolidated Fire District to be or not to be,  
that is the question

Dear Grand Jury Members,

Attached is the Penn Valley Fire Protection District's response as approved by the Board of Directors at the 9/2/14 regular board meeting.

Thank you.

Sincerely,

Kurt Grundel  
Board Chairman

SEP 8 2014

Attachments

Dhughes\WG\Grand Jury Response 2013-14

**PROTECTING OUR COMMUNITY WITH PRIDE**

# PENN VALLEY FIRE PROTECTION DISTRICT

## Grand Jury Response

Currently all the special districts fulfill the taxpayers' needs, including the level of service for which they are willing to pay.

Penn Valley Fire Protection District (PVFPD) staffs two stations. Each station is staffed 24/7 with a minimum staffing of two persons and a Chief or Duty Officer. These two personnel cross-staff the equipment at their station. Station 44 has two engines and one ambulance. Station 43 has one engine, one water tender, one ambulance and one rescue vehicle. Dispatch patterns are programmed in to the CAD system to send the most appropriate vehicle from each station or the closest engine even if it is from another fire district. While this may be inconvenient for staff, it is a cost-effective way of providing the best response with available funding.

When this report was released PVFPD duty officer coverage had been provided primarily by the Chief and Battalion Chief. As these positions are salaried, this is a cost effective way of providing coverage. When neither the Chief nor the Battalion Chief is available in or near the District, a Captain, who is paid hourly, provides duty officer coverage. As our Fire Chief retired in June we have promoted our Battalion Chief to Fire Chief, not filled the battalion chief position, and are using our Captains to be Duty Officers on the days when the Fire Chief is off. PVFPD has on-duty every day four (4) fire staff and one (1) duty officer dedicated to PVFPD. The last PVFPD ballot measure approved by the voters was to maintain this level of staffing. Providing duty officer coverage from outside the District would be a reduction in service. In addition to the fire/rescue services provided by all of the western Nevada County fire departments, PVFPD is the only agency that provides Advanced Life Support (ALS) ambulance transportation. This service has been supported by the voters of Penn Valley.

In our opinion the Grand Jury has failed to do the proper investigation into how the districts other than NCCFPD will be impacted by this reorganization. The conclusions reached by the Grand Jury were incomplete. Please see the attached responses to the Grand Jury report by the PVFPD.



Finding 13. The four fire agencies, NCCFD, GVFD, PVFPD and NCFD serving the vast majority of western Nevada County will soon be without fire chiefs, the highest level of management, creating an opportune time to explore reorganization.

**The PVFPD disagrees partially with the finding.**

**PVFPD has participated in discussions, but any reorganization would not be pursued if the same level of service were not provided to the District nor if costs were to increase.**

Recommendation 1. The Nevada County Fire Chief's Association should continue to move forward to integrate administrative functions under a JPA in western Nevada County.

**The recommendation is being implemented. A JPA is just one of the options being considered. PVFPD has participated in discussions, but any reorganization would not be pursued if the same level of service were not provided to the District nor if costs were to increase.**

Recommendation 2. The Nevada County Board of Supervisors should direct LAFCo to begin research on the steps necessary to reorganize western Nevada County fire districts into a single fire authority. This should be a priority for the safety of residents in western Nevada County.

**The recommendation will not be implemented as it is not warranted or is not reasonable. This recommendation is beyond the authority of PVFPD. All of the current special districts fulfill the taxpayer's wants and needs. The PVFPD does not have authority over the Board of Supervisors. However, prior to initiating a proposal for reorganization, LAFCo is required by Government Code (GC) 56375(a) (3) to conduct a study pursuant to GC Section 56378, 56425 or 56430, and the commission makes the determination specified in subdivision (b) of Section 56881.**

Recommendation 3. The proposed new fire authority should consider:

- Having one governing board selected by the Board of Supervisors, using the current district designations for representation purposes,
- Having one chief and one business office,
- Retaining current fire tax fees for each current district,
- Having a plan to implement a leveling of the fees within four years,
- Being called the Western Nevada County Fire Authority,
- Not initially including Ophir Hill Fire Protection District, Peardale-Chicago Park Fire, Rough and Ready Fire, or North San Juan Fire District.

**The recommendation will not be implemented as it is not warranted or is not reasonable. This recommendation is beyond the authority of PVFPD. However, the**

**Health and Safety Code Division 12 Part 2.7 addresses governing boards of fire districts. It appears that changing from an elected board to an appointed board would require an election. An appointed board would remove local control from the voters who created each district. Having one business office would make non-emergency services less accessible to the residents and businesses in each district. PVFPD would need to have personnel in its office for ambulance billing and other administrative functions not provided by the new fire authority. As taxes and parcel fees are established by ballot measures, any changes would require additional elections at additional expense.**

Recommendation 4. An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The interim board would consist of one elected official and one staff member of each agency and one member from the Nevada County Board of Supervisors.

**The recommendation will not be implemented as it is not warranted or is not reasonable. This recommendation is beyond the authority of PVFPD. As recommendation three (3) would make all districts involved dependent with appointed members, who would the elected official be?**

Recommendation 5. The included districts on the new fire authority should begin discussions for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County:

- Nevada County Consolidated Fire District
- Penn Valley Fire Protection District
- Rough and Ready Fire Protection District
- Grass Valley Fire Department
- Nevada City Fire Department
- Higgins Area Fire Protection District
- North San Juan Fire Protection District
- Ophir Hill Fire Protection District
- Peardale-Chicago Park Fire District
- Washington County Water Fire District

**The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study. Out of the ten (10) agencies listed above six (6) agencies have not participated and chose not to be involved. Grass Valley Fire and Nevada City Fire are fire departments (as opposed to Special Districts) and**

administratively managed in a different way. It has not been established that such a consolidation would benefit the public within PVFPD. Existing proposals would include significant reductions in oversight and increases in cost. Sharing one duty officer for four (4) departments would reduce oversight during significant incidents. It is common for more than one incident to occur at the same time within the ten agencies. The sample organizational chart indicates three (3) personnel for each engine. This would cause PVFPD to hire six (6) additional full-time people as these personnel are not available to staff the ambulances, there would be the additional cost for ambulance coverage. The sample organizational chart would increase staffing to 145 personnel with associated costs to all districts. Staffing for all districts is approximately ½ of that currently. Closing the PVFPD office would reduce service forcing residents and businesses to travel further for services. Ambulance billing would also have to be addressed. The sample organization chart indicates a significant increase in administrative staff over existing PVFPD staff. There is nothing to indicate any cost savings to the District.