

MYSTIC MINE ROAD COMMUNITY SERVICES DISTRICT

Summary

The Mystic Mine Road Community Services District is an independent special district responsible for public road maintenance services in the area of Mystic Mine Road in unincorporated Nevada County. The Mystic Mine Road Community Services District is governed by a Board of Directors elected by the district's voters.

The Nevada County Grand Jury received citizen complaints regarding the Mystic Mine Road Community Services District. In the process of investigating these complaints, the Nevada County Grand Jury found the Mystic Mine Road Community Services District Board of Directors lacked continuity of membership, training in the roles and responsibilities of board members, and management, accounting, and administrative skills necessary to operate a special district. These deficiencies have resulted in insufficient oversight and a lack of control of the actions and activities of the Board and volunteers of the Mystic Mine Road Community Services District.

The Nevada County Grand Jury further found the Mystic Mine Road Community Services District has no viable by-laws and has violated open meeting laws as there are no regularly scheduled meetings of the Board of Directors.

The Nevada County Grand Jury also found that the current annual property assessment is inadequate to properly maintain all public roads within the Mystic Mine Road Community Services District.

For these reasons the Nevada County Grand Jury finds that the Mystic Mine Road Community Services District is neither financially nor functionally viable as a special district. The Board of Directors should enter into discussions with the Nevada County Local Area Formation Commission and Nevada County Board of Supervisors regarding dissolution.

Reasons for Investigation

On June 20, 2012, the Nevada County Grand Jury (Jury) received a complaint regarding the Mystic Mine Road Community Services District (MMRCSD). The complainant requested the Jury review the actions of the MMRCSD Board of Directors (Board) and also alleged violations of open meeting laws.

On August 20, 2012, the Jury received a second complaint regarding the MMRCSD. The complainant alleged lack of diligence by the Board in carrying out its responsibilities for road maintenance. A third complaint was received on September 28, 2012 alleging the MMRCSD was a "failed organization" which should be dissolved.

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 or appointed to a fixed term of office by either a city council or a county board of supervisors. There are twenty-four special districts in Nevada County.

The MMRCSD is an independent special district supported by public funds. It has no full time employees and the Board is comprised of volunteers.

The MMRCSD is governed by a five-member Board elected by district voters during the general election 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 is required to meet in regular session with an agenda posted in a location of community access.

Procedures Followed

The Jury interviewed a member of the Board, a member of the Nevada County Board of Supervisors, a staff member from the Nevada County Local Area Formation Commission (LAFCo), a member of the Nevada County Department of Public Works, and district residents. The Jury also reviewed related documents.

The Jury's investigation focused on the time period of 1981 through the present date.

Facts

- F.A.1.** The MMRCSD was established in 1981 for the purpose of maintaining public access roads within the geographical boundaries of the District.
- F.A.2.** The MMRCSD is governed by a five-member Board elected by the registered voters of the District.
- F.A.3.** The Board membership has changed eight times in the past ten years.
- F.A.4.** There are a total of ninety-seven (97) parcels in the MMRCSD.

- F.A.5.** The budget of the MMRCSD has been funded since 1981 through a \$120.00 annual per parcel assessment within the District.
- F.A.6.** A current member of the Board estimates one-half of the annual revenues received are used to pay for audits, insurance and other unspecified fees.
- F.A.7.** The MMRCSD contracts with an individual to perform bookkeeping services at a cost of approximately \$500 per year. The District has no paid employees.
- F.A.8.** All members of the Board are required to complete ethics training in compliance with state mandates for local officials.
- F.A.9.** The California Special Districts Association provides education and information to board members and staff of special districts in California on their roles and responsibilities
- F.A.10.** The Nevada County LAFCo provides education and information to board members and staff of special districts in Nevada County on their roles and responsibilities.
- F.A.11.** Not all Board members have completed available training on their roles and responsibilities.
- F.A.12.** Section 54950 of the California Government Code indicates that all districts must comply with the *Ralph M. Brown Act* (Brown Act).
- F.A.13.** The Brown Act outlines the responsibilities and requirements of open public meetings held by the governing board of a public agency, including
- defining a special district as a public agency,
 - requiring a public agency to notice the public of the agenda of a meeting of the governing board of the public agency at least 72 hours in advance of the scheduled meeting,
 - allowing the governing board of a public agency to enter into closed or executive session regarding specified items,
 - requiring the governing board to report in open session any action taken on specified items in closed or executive session,
 - requiring the public agency to note any action taken by the governing board in closed session in the meeting minutes.
- F.A.14.** There is a document titled *By-Laws of the Mystic Mine Road Community Services District* (By-Laws).

- F.A.15.** Section B, Article III of the By-Laws, titled *Meetings* states: “The Committee shall hold meetings a month on the _____ of each month at _____ {p.m.} {a.m.} at _____, located at _____, CA95 _____.”
- F.A.16** The MMRCSD does not schedule regular meetings.
- F.A.17.** The MMRCSD has no written policies and procedures for bidding and purchasing of supplies and equipment.
- F.A.18.** The MMRCSD has no specific policies, procedures, nor internal controls for financial processes as noted by independent auditors in June of 2011.
- F.A.19.** Repair and maintenance of roads within the MMRCSD have been undertaken without notification to residents or Board approval.
- F.A.20.** The Nevada County Public Works Department requires that all roads maintained by Nevada County
- be a minimum of eighteen feet in width,
 - have a minimum of a ten foot easement on each side,
 - have at least fifteen feet of visibility in front of a vehicle,
 - be capable of handling loads of a minimum of 40,000 pounds.
- F.A.21.** The Nevada County Public Works Department estimates that approximately \$200,000 would be required to upgrade public roads within the MMRCSD to meet Nevada County specifications.
- F.A.22.** The current revenues received by the MMRCSD are approximately \$12,000 per year.
- F.A.23.** California Government Code sections 56870 and 56871 outline requirements for dissolution of a special district
- F.A. 24.** California Government Code Section 56375 provides the Nevada County Local Agency Formation Commission with the power of dissolution of special districts.
- F.A. 25.** The Nevada County Local Agency Formation Commission policy section V. F. 1. sets forth grounds for district dissolutions.

Findings

- F.I.1.** The MMRCSD is subject to the Brown Act.
- F.I.2.** The MMRCSD By-Laws are generic in nature and have not been amended to include specific reference to MMRCSD.
- F.I.3.** The By-Laws are incomplete.
- F.I.4.** The Board has lacked consistency and continuity due to the frequent turnover of its membership, lack of written policies and procedures, and absence of regularly scheduled meetings.
- F.I.5.** The Board members' lack of education and training in their roles has contributed to insufficient oversight and lack of control of the actions and activities of the MMRCSD.
- F.I.6.** The current annual property assessment is not adequate to upgrade or maintain roads within the MMRCSD to Nevada County standards.
- F.I.7.** The MMRCSD is neither financially nor functionally viable as a special district.

Recommendations

The Nevada County Grand Jury recommends:

- R.1.** The MMRCSD should enter into discussions with the Nevada County LAFCo and the Nevada County Board of Supervisors regarding dissolution.

Responses

Mystic Mine Road Community Services District Board of Directors: Date: August 21, 2013

MYSTIC MINE ROAD COMMUNITY SERVICE
DISTRICT RESPONSES TO THE 2012/2013
NEVADA COUNTY GRAND JURY REPORT

July 24,2013

RESPONSES TO FINDINGS

F.1.1. The MMRCSD is subject to the brown act. Agree

F.1.2. The MMRCSD By-Laws are generic in nature and have not been amended to include specific reference to MMRCSD.

Agree

F.1.3. The By-Laws are incomplete.

Agree

F.1.4. The Board has lacked consistency and continuity due to the frequent turnover of its membership, lack of written policies and procedures, and absence of regularly scheduled meetings.

Agree

F.1.5. The Board members' lack of education and training in their roles has contributed to insufficient oversight and lack of control of the actions and activities of the MMRCSD.

Agree

F.1.6. The current annual property assessment is not adequate to upgrade or maintain roads within the MMRCSD to Nevada County Standards.

Partially Disagree: The MMRCSD consists of all private roads, and as such are not under County control/standards.

F.1.7. The MMRCSD is neither financially nor functionally viable as a special district

Partially Disagree: The MMRCSD is functioning better each year. The Board is working on improvement in all areas.

RESPONSE TO RECOMMENDATION

R.1. The MMRCSD should enter into discussions with the Nevada County LAFCo and the Nevada County Board of Supervisors regarding dissolution.

Wholly Disagree: The recommendation will not be implemented. The MMRCSD Board President has met with LAFCo and the fourth District supervisor of Nevada County (June 20,2013) Both agree that since there is no malfeasance, or ethical violations,The Board of the MMRCSD should not disband. Both agencies are aware of the short comings of our CSD. 1. Failure to insert a COLA into the road taxes.

2. The history of rancor and distrust due to past presidents confrontational egos, and the apathy concerning making decisions regarding financial, governing, easement law, and encroachment rules.

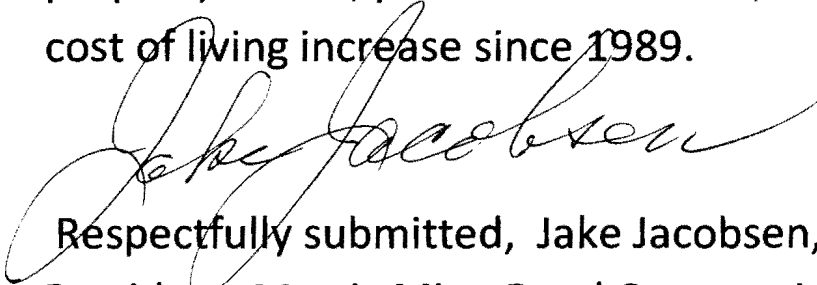
3. The Board of the MMRCSD feels it has a responsibility to the 97 parcel owners in this district. To disband would put to waste thousands of asphalt dollars over the past 30 years. What is now a very good road would dissolve back to dirt

because the district voters have already voted down a PRD proposal that would multiply eight fold their current road fee.

Since most of the property owners are retired fixed income people, any increases would create severe hardship.

In addition MMRCSD has already approved a plan to create a policy and procedure manual and to amend the by-laws for clarity and strength.

MMRCSD will also continue dealing with the challenges of raising the assessment taxes. Letters will be going to every property owner, present and absent, regarding the lack of a cost of living increase since 1989.

A handwritten signature in black ink, appearing to read "Jake Jacobsen". The signature is fluid and cursive, with a large initial "J".

Respectfully submitted, Jake Jacobsen,
President, Mystic Mine Road Community Service District.