

Higgins Area Fire Protection District

Summary

The Higgins Area Fire Protection District (Higgins District) is an independent special district which provides fire protection and emergency service response to an estimated 12,000 permanent residents in a 90 square mile area in southern Nevada County. The Higgins District is governed by a five-member Board of Directors.

The Nevada County Grand Jury (Jury) was concerned about the three failed tax measures proposed by the Higgins District over the past five years and the budget difficulties that have had a negative impact on the citizens within Higgins District. Budget shortfalls have resulted in firefighter layoffs, increased response times for fire and medical services, and a station closure.

It appears that Higgins District staff was forced to make recommendations to address the budget shortfalls that were approved by the Higgins District Board of Directors (Board). With the help of a California Department of Forestry and Fire Protection (Cal Fire) Amador Contract, a Federal Emergency Management Agency Staffing for Adequate Fire and Emergency Response Grant (SAFER Grant), and employee layoffs, the Higgins District had been able to continue to address the fire fighting and medical service needs of the area although with a reduction in overall services. However, the recent loss of the SAFER Grant, increasing costs and slow increase in tax revenues have stretched Higgins District resources. Budget shortfalls and employee layoffs necessitated the closing of one of three stations resulting in slower response times to emergency calls.

Problems were noted with the 2016 Board. One was the lack of civility and unprofessional behavior of some of the Board members. Another was disrespect for Higgins District staff and Cal Fire staff. The Board had not taken action to develop a strategy or a long-term plan to overcome the ongoing financial issues of the district. Board members lacked an understanding of the Higgins District financial situation.

Effective January 2017 two new members joined the Board. The new Board will need to focus on its responsibilities as a Board that oversees public funds, and the needs of the district community. It should also provide the Higgins District with direction and the tools necessary to effectively carry out its mission.

Glossary

Ad valorem Board	Nevada County 1% Secured Property Tax allocation Board of Directors, Higgins Area Fire Protection District
Brown Act	Ralph M. Brown Act Government Code sections 54950-54963
Cal Fire	California Department of Forestry and Fire Protection
Combie	Main Station 21
Dog Bar	Station 22
Higgins District	Higgins Area Fire Protection District
Jury	Nevada County Grand Jury
Local 3800	Nevada County Fire Fighters Union Local 3800
McCourtney	Station 23
Measure B	Higgins Special Fire Protection Parcel Tax 2012
Measure O	Higgins Special Fire Protection Parcel Tax 2013
Measure V	Higgins Special Fire Protection Parcel Tax 2015
SAFER Grant	Staffing for Adequate Fire and Emergency Response Grant from the Federal Emergency Management Agency
SRA	California Fire Prevention, State Responsibility Area

Reason for Investigation

The Jury has the responsibility to investigate the functions of special districts within the County pursuant to California Penal Code Section 925 which provides, in part: “The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other districts in the county ...” As a result, the Jury chose to investigate the three failed tax measures requested by the Higgins District over the past five years and the budget difficulties that have had a negative impact on the citizens within Higgins District.

Background

Special districts are forms 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.

The Higgins District is an independent special district supported by public funds and governed by a five-member Board elected by Higgins District voters. It was established as a special district on November 8, 1977 staffed by Cal Fire staff and 15 volunteers. The first full time employee, a fire apparatus engineer, was hired in 1986.

The mission of the Higgins District is to provide fire protection and emergency medical service response to an estimated 12,000 residents in southern Nevada County. The Higgins District's 90 square mile area is primarily rural zoning, including Lake of the Pines, a gated community, and was served by three fire stations located geographically at six-mile intervals. Currently Station 21 (Combie) and Station 23 (McCourtney) are open. Station 22 (Dog Bar) closed at the end of June 2016 due to budget constraints.

The Higgins District staff is comprised of a Battalion Chief, a Business Manager, and, as of January 2017, six full time firefighters, paid call firefighters, and volunteers. Additionally the Cal Fire Ranger Unit Chief is appointed to the position of Higgins District Fire Chief.

The Board is responsible for the overall management and direction of the district for policy, finance, and planning. The directors serve a four-year term and are elected by the voters of the Higgins District unless there is only one candidate for each vacant board position, whereupon the Nevada County Board of Supervisors appoints the candidate to the vacant position.

It came to the attention of the Jury that the Higgins District had not succeeded in getting multiple special tax increases passed. Accordingly, the Jury decided to look into the viability of the Higgins District. As the Jury began its investigation of these special tax measures, the Jury became aware of contentious issues involving the Board.

Approach

The Jury interviewed:

- members of the Higgins District staff,
- members of the Board,
- Cal Fire staff,
- staff from the Nevada County Elections Office, and
- union representatives from Nevada County Firefighters Local 3800 (Local 3800).

The Jury also attended several Higgins District Board meetings.

The Jury also reviewed documents including:

- board meeting agendas and minutes;
- content and material from the Higgins District website;
- Higgins District By-laws dated 04/21/1993;
- Higgins District Policies and Standard Operating Guidelines;
- Higgins District financial information including Final Budget for 2016-2017;
- Higgins Area Fire Protection District audited financial statements, fiscal years 2012-2013, 2013-2014, and 2014-2015;
- Higgins District Special Election Measures B, O and V;
- Cal Fire Amador Contract;

- California Fire Prevention State Responsibility Area (SRA) fee requirements;
- Nevada County election procedures for special district boards;
- Resolution No. 12-083 of the Board of Supervisors County of Nevada;
- Resolution No. 13-075 of the Board of Supervisors County of Nevada;
- Resolution No. 15-232 of the Board of Supervisors County of Nevada;
- California Elections Code Section 1051(a);
- California Government Code Section 1 780;
- Nevada County Board of Supervisors Resolutions in Lieu of Elections for several election cycles beginning with 2006 thru 2016; and
- background information, public information, and public announcements regarding the three failed tax measures.

Discussion

The Higgins District is governed by a five-member Board and consists of a Chair, Vice-Chair, Treasurer, and two additional members. Individual Board members serve a four-year term based on a calendar year. The Higgins District Business Manager is responsible for distribution of the agendas and taking the minutes. The board meets in regular session at 7:00 pm on the third Wednesday of each month, except for December.

The Board members are elected by district voters. There has not been a general election of the Board members since 2006. For the past ten years, the Nevada County Board of Supervisors has appointed members to all vacant Board positions because there was only one qualified candidate for each vacancy. In 2016 there were only two candidates for the two vacating positions so there was no requirement for an election.

The Higgins District is a combination department consisting of career staff and paid call firefighters. Additionally, the Higgins District contracts with Cal Fire to provide 24-hour engine staffing during non-fire season. Cal Fire response is not, however, limited to the contract period as the two agencies are co-located at Combie. The District also maintains mutual and automatic aid agreements with surrounding fire districts and other fire agencies in Nevada and Placer Counties.

Cal Fire has a special relationship with the Higgins District through an Amador Contract, a state contract designed to help rural fire districts with an existing Cal Fire station in their territory. The contract provides fire protection and medical services at Combie. The employees are paid by Cal Fire and the state does not charge base salaries to the district. Cal Fire leases the facilities during the fire season for \$5,500 per month. Cal Fire also provides a majority of training for the Higgins District.

Through the Amador Contract and by Board resolution, the Cal Fire Ranger Unit Chief is appointed to the position of Higgins District Fire Chief. The Fire Chief is the Chief Executive Officer, responsible for the functions of the Higgins District.

The Higgins District Battalion Chief has been delegated the responsibility to oversee the operations and day-to-day management of administration, operations, and all Higgins District staff. The Battalion Chief also prepares all budgets, financial reports, and oversees all purchasing. The reports are submitted to the Board at the monthly Board meetings, along with monthly payment requests for approval.

Under the Amador Contract Cal Fire provides major resources for the Higgins District worth approximately \$650,000 a year. There are very few Amador Contracts in California. If the Board chose not to sign a new contract, it could not be reinstated. Currently Cal Fire and Higgins District firefighters staff Combie. Only Higgins District firefighters staff McCourtney. The dispersion of responsibilities and segregation of staffing creates opportunities for dissention between Cal Fire and Higgins District personnel.

The Higgins District receives funding from several sources. Its funding comes from:

- its portion of the Nevada County 1% ad valorem property tax,
- approximately 10% from a special tax of \$25 per residential parcel, and
- mitigation fees plus income received from special firefighting services.

In fiscal year 2007-2008 the Higgins District received \$2,016,104 from the ad valorem tax and the special tax to fund its operations. When the recession began in 2008 and the housing market began to drop, funding for Higgins District decreased to \$1,409,462 (a reduction of approximately 30%) in ad valorem tax and special tax revenue for fiscal year 2008-2009. This budget shortfall resulted in the reduction of Higgins District staff at Combie during the summer season, changes in staffing patterns for all stations, and 28% in staff negotiated pay cuts and benefits. Additionally, reserve funds were used to continue operations.

The Battalion Chief obtained a two-year SAFER Grant in the amount of \$966,000 in 2014 which helped maintain the staffing levels of the previous two years. The grant was to end in March 2016 and was subsequently extended to May of 2016 as the funds had not been fully expended. When the SAFER Grant expired, one of the three stations, Dog Bar, had to be closed, and six firefighters were laid off. These measures allowed the Higgins District to continue operations.

Higgins District received about \$1,170,000 in fiscal year 2015-2016 from the ad valorem tax. The 2016-2017 budget approved by the Board in November 2016 had projected revenues of \$1,634,000 to fund the General Operations Budget. Ad valorem tax revenues for the Higgins District have been slowly increasing over the past five years, and are projected to increase by 3-5% per year, dependent on economic growth. The \$25 special tax revenue remains relatively static at approximately \$140,000 per year.

To offset the budget deficit, the Higgins District attempted to pass new special tax measures in 2012, 2013, and 2015. The calculations for the tax measure amounts were based on the budget requirements for full staffing of one station.

Tax Measure B in 2012 required a two-thirds supermajority vote and was defeated. In 2013 Tax Measure O also required a two-thirds supermajority vote and was defeated by just 27 votes. In 2015, Higgins District tried a third time to pass Tax Measure V, a new special tax. They hired a professional consulting firm to oversee the ballot measure. Measure V did not receive the required two-thirds supermajority vote and it was also defeated.

There were several issues that affected the voting outcome in 2015. There was a strong local opposition group and the deadline to file a rebuttal was missed. There was confusion over the California Fire Prevention, State Responsibility Area fee (SRA) of \$117 per year for each assessor's parcel. The SRA fee became effective July 1, 2014 and provides funds for fire prevention services, not fire-fighting or medical services.

In response to the failed tax Measure V and the loss of the SAFER Grant, the Board made a public announcement in January 2016 of the proposed staffing plan to address the ongoing budgetary constraints which was documented in the Board minutes of January 20, 2016. Those minutes contained the following:

The Strategic Planning Committee endorsed and recommended Managements' (sic) Staffing Plan. The recommended plan is to Staff Station 21 year round. The staffing in the summer will be with two CalFire (sic) resources and in the winter (non-fire season) the staffing will be one engine with a CalFire (sic) Operator and a Higgins Fire Fighter as well as a Higgins engine staffed by a Higgins Operator and a Higgins Fire Fighter. Station 23 will be staffed by Higgins resources full time during the summer fire season only. During winter (non-fire season) Station 23 will only be staffed by volunteers or residents if available. Station 22 will no longer be staffed by permanent personnel and will rely on volunteers as well as residents if available. This staffing change will take place by June 30, 2016 but could begin transitioning as early as March 6th depending on staffing availability.

During the October 16, 2016 Board meeting, the minutes contained the following:

As an ongoing evaluation of the change in staffing since the loss of Measure V, Management has seen an increase in response time and an increase in insurance cost to the homeowners within the District. At this time Management is looking at possibly keeping Station 23 open during Amador in an attempt to mitigate this. There was opposition from board members who felt that the District should not change the original staffing plan to lessen the impact to the constituents as they are to (sic) ones who chose not to pass the ballot measure and this was their choice. Director (name deleted) also didn't believe that the increased insurance costs were really as bad as they were made out to be.

Problems were noted with the 2016 Board. One was the lack of civility and unprofessional behavior of some of the Board members. Another was disrespect for Higgins District staff and Cal Fire staff. Additionally Board members lacked an understanding of the Higgins District financial situation.

There is no current five-year plan, fiscal plan, or strategic plan. Updating the by-laws has been an ongoing project but has yet to be accomplished.

A Local 3800 representative sat on the Board's ad hoc Fiscal Committee and then participated in Local 3800 contract negotiations.

The Board failed to make an effective effort to engage the local community. This contributed to the failed tax measures, the lack of new Board candidates, and the lack of public attendance at Board meetings. Notification of Board meetings was marginal and the website was not current or maintained on a regular basis. It also lacked relevant information that citizens need, such as listing of agendas, public notices and meeting minutes. There have been recent improvements in the website.

Currently Higgins District has six firefighters. If Dog Bar and McCourtney closed and Cal Fire left, the entire district would be at risk. Optimum staffing without Cal Fire would take about 25 people, an increase of up to 19 firefighters.

The Board had three ad hoc committees: a Strategic Planning Committee, a Fiscal Committee, and a Policy Committee. A review of the 2016 monthly board minutes indicates the committees had not met on a regular basis and rarely had anything to report at board meetings. The committees had been in existence as ad hoc committees for many years, however there is no five-year strategic plan, long range financial plan, and the by-laws have not been updated in more than ten years. At a recent board meeting, one board member admitted they had been avoiding having a standing committee for Strategic Planning by periodically disbanding for 48 hours to meet the requirements as an ad hoc committee. Standing committees are subject to the notice and posting requirements of the Ralph M. Brown Act Government Code sections 54950-54963 (Brown Act) and must be open to the public.

During the January and February 2017 Board meetings attended by members of the Jury, it was observed that the meetings were well run. During those two meetings several positive actions were identified to take place, including the formation of a standing committee with representatives from the public to be invited to serve.

The Higgins District Facebook page included a notice posted on February 28, 2017 which cited the following:

*Higgins Fire District Announces Formation of a Strategic Planning Committee
LOP/South Nevada County Area –*

Are you concerned about the future of the Higgins Fire District? Would you like your voice heard? Then we are looking for YOU on our Strategic Planning Committee.

The Board of Directors voted to create a standing committee for strategic planning comprised of two board members, three members of the public, and various staff members. The goal is to solicit one person from each of our three zones; the Lake

of the Pines area, Dog Bar Road area and the McCourtney/Perimeter road areas. The commitment will be for one year.

If interested please email Business Manager, [name deleted].

Requirements: must be over the age of 18, show proof of residency, and attend monthly meetings to be held the 4th Thursday of every month at Higgins Fire Station 21 located at the intersection of Hwy 49 and Combie Road in the Lake of The Pines Area. The meetings will begin at 7:00 pm. The first meeting will be April 27. The deadline to apply will be April 18, and selection to be made at the regular scheduled Board of Directors meeting Wednesday April 19 at 7:00pm.

Thank you and we are looking forward to your participation and input.

During the period of this investigation the Jury has observed some recent improvements in the conduct and the procedures used by the Board.

Findings

- F1.** As a result of the 2008 recession the Higgins District suffered an approximate 30% loss of revenue which severely hampered operations of the Higgins District.
- F2.** The failure of the three tax measures, for a variety of reasons, resulted in reduction of staffing and services for the Higgins District. Contributing to those failures were the lack of sufficient information given to the public and the public's confusion as to the purpose of the SRA fee. Also contributing was the failure of the hired consultant to meet the deadline to file a rebuttal to a strong local opposition group that published misinformation about some of the facts of the tax measure.
- F3.** The Board demonstrated that they did not understand their fiscal responsibilities or fully understand Higgins District financial reports.
- F4.** The lack of strategic planning affected the Board's ability to meet its responsibilities.
- F5.** The Amador Contract is a vital element in the operations of the Higgins District.
- F6.** The Board's failure to create standing committees resulted in the formation of ad hoc committees not open to the public. Committee results were not documented.
- F7.** Ineffective communication to the community, including the outdated website and other community outreach, contributed to the failure of the tax measures and lack of candidates for the Board.

Recommendations

The Nevada County Grand Jury recommends the Higgins Area Fire Protection District Board of Directors implement the following:

- R1.** Educate the district as to the purpose of the Cal Fire SRA fee. (F2)
- R2.** Develop an understanding of all financial responsibilities including all reports and budgets. (F2 and F3)
- R3.** Revisit the need for an increase in the existing special tax. (F2)
- R4.** Develop long-range strategic plans to address budgeting and provision of adequate fire services to the district. (F4)
- R5.** Form standing committees to replace outdated ad hoc committees. (F6)
- R6.** Continue efforts to improve their community outreach, professionalism, and fiscal responsibility. (F7)

Request for Responses

Pursuant to Penal Code Section 933.05, the Nevada County Grand Jury requests responses to all findings and recommendations from the Higgins Area Fire Protection District Board of Directors by August 23, 2017.