

**EXECUTIVE OFFICER'S AGENDA REPORT  
JUNE 27, 2018**

TO: LAFCO Commissioners

FROM: Sara Lytle-Pinhey, Executive Officer <sup>SLP</sup>

**SUBJECT: RESPONSE TO THE 2017-2018 CIVIL GRAND JURY REPORTS RELATED TO  
FIRE DISTRICTS**

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**RECOMMENDATION**

Staff recommends that the Commission authorize the Chairperson to sign and submit a letter in response to the 2017-2018 Civil Grand Jury Reports related to fire districts.

**DISCUSSION**

The Stanislaus County Civil Grand Jury recently released two reports of interest to the Commission. They are attached for the Commission's review. Stanislaus LAFCO was listed as an invited responder on each report. The first report focuses on the Burbank-Paradise Fire Protection District's Board of Directors. The second report reviewed accountability and transparency of all the fire districts. While the focus of the report is on fire districts, the recommendations included in the report are beneficial to all special districts.

With regard to the Burbank-Paradise Fire Protection District (BPFDP), the Civil Grand Jury identified multiple governance and Brown Act issues and made associated recommendations to remedy these issues. The report also included the following recommendations referencing LAFCO:

- R1. LAFCO should consider dissolving BPFDP or consolidating it with another district by June 30, 2019.*
- R14. Ensure LAFCO website shows the correct monthly board meeting time and location and update when necessary by September 1, 2018.*

The report reviewing all the fire districts also included the following recommendation:

- R4. Fire districts are to ensure that meeting times and locations are posted consistently and accurately on district websites and with LAFCO.*

Staff has prepared a draft response to the Civil Grand Jury (attached to the end of this packet) that includes the following information pertaining to the above recommendations.

**Dissolution or Consolidation**

Dissolutions or consolidations can be initiated in three ways: by petition of property owners and/or voters, by the resolution from the district itself or another affected city or district, or by LAFCO when certain criteria are met. Many factors need to be considered by LAFCO prior to approval of a dissolution or consolidation of a district. These include, but are not limited to, determining how future services will be maintained and financed. Ultimately, the registered voters in the area would have the final determination whether or not to support the change.

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LAFCO-initiated consolidations and dissolutions are rare and must be initiated as the result of a reorganization study. This type of study would review governance options, financial options, and service needs. Studies of this type are typically performed by a consultant and can range in cost from \$50,000-100,000, depending on the number of agencies involved and whether the study is Countywide. Stanislaus LAFCO is currently funded by the cities and County and does not budget for additional special district studies.

A recent report by the Little Hoover Commission recognized the issue of limited funding for these types of studies and recommended the Legislature create a one-time grant funding opportunity for LAFCOs. Assembly Bill 2258 is currently making its way through the Legislature and would provide an opportunity to fund LAFCO activities that may have no other source of funding. One of the potential uses would be to fund reorganization studies (including those for dissolutions and consolidations). Stanislaus LAFCO recently provided a letter of support for the bill. It is unknown at this time whether Stanislaus LAFCO would be successful in obtaining grant funding. The process would be competitive amongst the LAFCOs throughout the State. In addition, the Commission would need to approve a proposed use of the grant funds, which could include studies for any of the various special districts in our County.

Dissolution or consolidation is typically the last resort for a special district when there is no other feasible option for the district to function efficiently on its own. When districts are identified as having managerial issues, Brown Act violations, or ethics violations, the first priority is to correct these issues rather than eliminate the district. The Civil Grand Jury's report for the Burbank-Paradise Fire Protection District contains numerous recommendations for the District that are reasonable and achievable.

District Meeting Times/Locations

Reports adopted by LAFCO, including Municipal Service Reviews, are often a "snapshot in time" with information being current as of the date of the report's adoption. Profiles of all the fire districts were included in the Commission's Municipal Service Reviews adopted in 2007 and 2016. (Both of these documents are available on the LAFCO website.) LAFCO Staff has added a disclaimer to the profile pages in those documents advising readers to verify individual meeting times/locations with the district. A link is now provided that directs readers to the most current reported contact information and listing of board members located on the County Clerk of the Board's website. Any updated information provided by the districts to LAFCO will also be shared with the Clerk of the Board to maintain consistency.

**CONCLUSION**

While the Commission is not required to respond to the reports, Staff recommends providing the aforementioned discussion as LAFCO's response to the Civil Grand Jury.

*Attachments:*

- Draft Response Letter from Stanislaus LAFCO
- 2017-2018 Stanislaus County Civil Grand Jury Reports
  - Burbank Paradise Fire District Board of Directors: Dynasty or Democracy (Case #18-06C)
  - Independent Special Fire Districts: Relics of the Past or Resources of the Future (Case #18-15GJ)

June 27, 2018

The Honorable Ricardo Cordova, Presiding Judge  
Stanislaus County Superior Court  
PO Box 3488  
Modesto, CA 95353

**SUBJECT: Stanislaus LAFCO's Invited Response to 2017-2018 Stanislaus County Civil Grand Jury Reports**

Dear Judge Cordova:

The Stanislaus Local Agency Formation Commission (LAFCO) is in receipt of the 2017-2018 Civil Grand Jury reports related to the Burbank-Paradise Fire Protection District and all the fire districts (Case #s 18-06C and 18-15GJ). On behalf of Stanislaus LAFCO, this letter provides an invited response to the reports.

Dissolution or Consolidation

Dissolutions or consolidations can be initiated in three ways: by petition of property owners and/or voters, by the resolution from the district itself or another affected city or district, or by LAFCO when certain criteria are met. Many factors need to be considered by LAFCO prior to approval of a dissolution or consolidation of a district. These include, but are not limited to, determining how future services will be maintained and financed. Ultimately, the registered voters in the area would have the final determination whether or not to support the change.

LAFCO-initiated consolidations and dissolutions are rare and must be initiated as the result of a reorganization study. This type of study would review governance options, financial options, and service needs. Studies of this type are typically performed by a consultant and can range in cost from \$50,000-100,000, depending on the number of agencies involved and whether the study is Countywide. Stanislaus LAFCO is currently funded by the cities and County and does not budget for additional special district studies.

A recent report by the Little Hoover Commission recognized the issue of limited funding for these types of studies and recommended the Legislature create a one-time grant funding opportunity for LAFCOs. Assembly Bill 2258 is currently making its way through the Legislature and would provide an opportunity to fund LAFCO activities that may have no other source of funding. One of the potential uses would be to fund reorganization studies (including those for dissolutions and consolidations). Stanislaus LAFCO recently provided a letter of support for the bill. It is unknown at this time whether Stanislaus LAFCO would be successful in obtaining grant funding. The process would be competitive amongst the LAFCOs throughout the State. In addition, the Commission would need to approve a proposed use of the grant funds, which could include studies for any of the various special districts in our County.

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these issues rather than eliminate the district. The Civil Grand Jury's report for the Burbank-Paradise Fire Protection District contains numerous recommendations for the District that are reasonable and achievable.

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Reports adopted by LAFCO, including Municipal Service Reviews, are often a "snapshot in time" with information being current as of the date of the report's adoption. Profiles of all the fire districts were included in the Commission's Municipal Service Reviews adopted in 2007 and 2016. (Both of these documents are available on the LAFCO website.) LAFCO Staff has added a disclaimer to the profile pages in those documents advising readers to verify individual meeting times/locations with the district. A link is now provided that directs readers to the most current reported contact information and listing of board members located on the County Clerk of the Board's website. Any updated information provided by the districts to LAFCO will also be shared with the Clerk of the Board to maintain consistency.

Stanislaus LAFCO appreciates the Civil Grand Jury's invitation to respond to the reports. We are hopeful that the districts involved in these reviews will benefit from the opportunity to improve their governance and transparency as recommended.

Should you or the Civil Grand Jury have any questions, please contact our office at (209) 525-7660.

Sincerely,

Terrance P. Withrow, Chairperson  
Stanislaus Local Agency Formation Commission

**2017-2018 Stanislaus County Civil Grand Jury  
Burbank-Paradise Fire District Board of Directors  
Dynasty or Democracy?  
Case #18-06C**

**SUMMARY**

The Stanislaus County Civil Grand Jury (SCCGJ) initiated an investigation in response to a complaint of alleged mismanagement by the board of directors of the Burbank-Paradise Fire District (BPFDD). The allegations included violations of the Brown Act and poor financial decisions. The investigation was expanded to determine compliance with selected articles of state law and generally accepted governance practices.

The investigation disclosed a board of directors and an organization marked by careless review, monitoring, and supervision practices. The Burbank-Paradise Fire District Board of Directors (BPFDD-BOD) was unable to provide any policies or procedures to deal with potential conflict of interest. Based on the testimony of witnesses and SCCGJ observations of open public meetings, the BPFDD-BOD appears to make decisions that affect BPFDD board members' personal financial, family, or other individual interests. Typically, government agencies develop and implement policies and procedures to deal with potential conflict of interest in areas such as family relationships (nepotism), business relationships, gifts, and honoraria.

Board members lacked knowledge of parliamentary procedures and failed to produce evidence of required ethics training and financial disclosure forms. At the time of this investigation, information vital to board meeting agendas, public meeting minutes, and financial information was not on the BPFDD website. In addition, this required information was not addressed or available to citizens who physically attended a board meeting and/or requested it. The board meeting notices were difficult to find. The signage and direction to the BPFDD meeting room is poorly marked and the meeting times, dates, and location were not scheduled with regularity.

The BPFDD-BOD failed to provide many documents requested by the SCCGJ to complete its investigation. Refer to Methodology and Findings sections of this report for more detail.

**GLOSSARY**

BPFDD	Burbank-Paradise Fire District
BPFDD-BOD	Burbank-Paradise Fire District Board of Directors
LAFCO	Local Agency Formation Commission
SCCGJ	Stanislaus County Civil Grand Jury
SCSD	Stanislaus County Sheriff's Department

## **BACKGROUND**

On July 13, 2017 the Modesto Bee reported that the chief of BPFDD was dismissed following a vote by the BPFDD-BOD with one recusal from the vote. The SCCGJ received a complaint on September 20, 2017 alleging Brown Act and financial violations by the BPFDD-BOD.

BPFDD, established in 1942, serves over 8,300 residents in a 2.6 square mile area and has an annual budget of \$320,000. The district has one fire station that was recently remodeled. The majority of its calls are for emergency medical services. BPFDD is served by twenty-six volunteer firefighters, two paid firefighters, and one part-time employee.

At the time of this investigation, BPFDD was served by five elected board members. Some board members have served as long as twenty years. A change in fire management took place in July 2017.

BPFDD-BOD is a political subdivision of the State of California; neither the County of Stanislaus nor the State of California has authority over special districts once they are formed. This independent district's voters elect a board of directors to conduct the people's business. The BPFDD-BOD is responsible for ensuring compliance with state laws and accepted governance practices.

## **METHODOLOGY**

The SCCGJ interviewed the complainant regarding a potential violation of the Brown Act by the BPFDD-BOD.

Ten other interviews were conducted.

Several board meetings were attended.

Documentation was requested as follows:

- Budgets for the past five fiscal years.
- Annual internal and audited financial statements for the past five years.
- Credit card authority and policy for use.
- Check signing authority and policy.
- Board meeting agendas for the past three years.
- Board meeting minutes for the past three years.
- Original district bylaws governing operations since inception.

- Form 700 Statement of Economic Interests.
- Proof of Ethics Training.
- Financial documents for the past three fiscal years including:
  - Vendor invoices and all documents supporting payments made.
  - Attorney invoices.
  - Bank statements.
  - Correspondence.
- Recent construction documents:
  - Plans and specifications and contract with architect.
  - Documents requesting bids.
  - Responses to requests for bids.
  - Construction contract.
  - Building permit showing final approval by government authority.
- Documentation requested by certified mail.
- Phone calls, visits to BPFDD to obtain documents.
- BPFDD-BOD digital voice recording of meetings reviewed.
- Reviewed Stanislaus County Sheriff's Department (SCSD) police reports.

## **DISCUSSION**

### **Board Meeting Code of Conduct**

A meeting code of conduct does not exist in BPFDD-BOD. Typically government agencies prescribe and enforce rules for their own governance. These rules must be consistent with state laws and regulations. A meeting code of conduct reduces the likelihood of conflict of interest situations where a BPFDD-BOD member or one of his family members has a personal or financial interest that could compromise his independent judgment or responsibilities. BPFDD-BOD is required to eliminate conflicts of interest, disclose ethical, legal, financial, and other conflicts. They must remove themselves from decision-making processes if they would otherwise be called on to act on a conflict involving themselves, their family members, or entities with which they or their family members are closely associated. A governing board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313.

In July 2017, the BPF-D-BOD voted to terminate the existing fire chief. This action resulted in feelings of acrimony and bitterness between the terminated chief and some board members. Anticipating legal action, the BPF-D-BOD consequently hired an attorney. During the SCCGJ observation of BPF-D board meetings, the attorney's role expanded to providing instructions on how to conduct a meeting.

The BPF-D-BOD meetings attended by the SCCGJ were loud and argumentative. BPF-D-BOD interrupted each other and held frequent side conversations. In a closed session the SCCGJ members standing outside of the building could hear word-for-word yelling between board members.

Based on a review of Stanislaus County Sheriff's Department (SCSD) police reports of June 23, 2017 and September 8, 2017 and the testimony of witnesses, the SCSD was called to settle arguments between board members.

### **Conflict of Interest**

A history of conflicts of interest appear to be a factor in the BPF-D-BOD's decision making processes. The SCCGJ investigation revealed that two board members are married to each other. A sitting board member, who was the spouse of the former chief, defended her husband's actions when another board member complained that the chief performed his duties poorly. On July 12, 2017, the BPF-D-BOD voted to terminate the existing chief. Since the existing chief was married to a board member at the time of his termination, this resulted in an atmosphere of acrimony and discord between board members. Witnesses testimonies revealed the existing chief's spouse, a member of the board on July 12, did not recuse herself from the closed session discussion regarding termination.

Another board member's significant other was on the board at an earlier time. A paid part-time clerk was married to a person who had been on the board at the time of the clerk's hiring.

### **Financial**

Monthly financial reports were kept in an unlocked filing cabinet along with other audit reports. Receipts for supplies and equipment repairs were kept in the accounts payable folder in the same unlocked filing cabinet, leaving this information available to anyone. Credit cards were kept in an unlocked desk making them available for anyone to use.

Credit cards were also used by the strike team while they were outside of the district and assigned to fight wildfires. A strike team is a crew of highly trained firefighters fully equipped and trained to respond to wildfires anywhere in the state. Under mutual aid agreements with Cal Fire, BPF-D provides strike teams as needed and is then reimbursed for the team's costs by the California Office of Emergency Services. As a practice, some of the CalOES reimbursement for the strike team has been taken by the chief for administrative duties, even though the chief did not accompany the strike team on its firefighting mission.

The district spent \$600,000 remodeling the fire station. BPF-D negotiated a loan to pay for the remodeling. BPF-D received only one bid for this project. The following is a quote from

California Fire and Rescue Training Authority policy handbook section 3080.5 Informal Bidding Procedures:

“Whenever this policy requires use of informal bidding procedures, the Manager shall obtain, if available, a minimum of three written or verbal quotations or proposals relative to the personal property or services to be acquired for the construction project. The Manager shall award the contract to the vendor or contractor whose quotation or proposal, in the Manager’s discretion, most adequately meets the needs of the Authority at the lowest price.”

Changes to the proposed work were approved by one or two individuals without board approval or without proper documentation. The loan required an audit of BPFD on an annual basis. An audit was not completed on the loan by the bank due to lack of available documentation.

A surplus fire truck was sold for \$1,900 with no documentation indicating its valuation or appraisal prior to its sale. According to witnesses, the fire truck was delivered to the purchaser, and payment was made in cash. The cash was placed in an envelope and put in the chief’s desk. No record is available authorizing the sale or verifying the disposition of the funds received.

### **Minutes**

Because the minutes were not available, many comments and allegations were unsubstantiated by documentation. This created a “he said, she said” environment where voices were raised, and confrontations were common. Acrimony was exacerbated when one board member threatened legal action against the board regarding termination of the previous chief.

Anticipating legal action, the board hired an attorney to help protect the district from a possible wrongful termination lawsuit. The attorney’s job expanded to give guidance on conducting BPFD-BOD meetings. The attorney fees were originally budgeted at \$16,000. This expense has grown to nearly twice the amount budgeted to over \$30,000.

Minutes were often handwritten notes by a board member on a copy of the meeting agenda. These documents were considered personal copies of the board member. Several board members claimed to have recorded the actual minutes and believed their record as personal and private information. For the last year, due to disputes between board members regarding the content of the minutes that exist, a digital voice recorder was used at board meetings. The clerk started transcribing the recordings verbatim. Some records of minutes were maintained on a home computer. Closed session minutes were sometimes combined with regular open meeting minutes. The district board’s meeting minutes failed to meet the minimum requirement for conducting public business.

## **Documentation**

On September 29, 2017, the SCCGJ requested documents by certified mail. With the exception of receiving an abusive telephone call from a BPF-D-BOD member to the SCCGJ, BPF-D-BOD did not respond to SCCGJ's initial request for information. A second SCCGJ request for information was sent by certified mail on October 19, 2017

BPF-D-BOD failed to provide the SCCGJ requested information in a timely fashion. Consequently, it became necessary for members of the SCCGJ to visit the fire station to collect the requested documents. During its search for the requested documents, SCCGJ found that incoming mail to the fire station was placed in an unsecured open box. The SCCGJ also learned that mail is sometimes delivered to board members at their home. Firefighters, who stay in a house next to the fire station, do not check the mail or distribute the mail daily. Apparently no individual has the responsibility to collect and distribute mail.

When the requested documents were obtained by the SCCGJ at the BPF-D office, certified mail sent to BPF-D from other businesses and organizations was found to be unopened and outdated.

The SCCGJ learned the BPF-D part-time paid clerk had no job description, specific hours, or workplace. The SCCGJ also discovered the chief has no job description, which should include a list of responsibilities and duties.

Witnesses stated that firefighters were concerned about their grievances of harassment by management that could result in retaliation or being blacklisted in their profession. The SCCGJ could not find any policies or procedures pertaining to harassment and how they could address their grievances.

## **FINDINGS**

- F1. The BPF-D-BOD is dysfunctional. Board members lack training, leadership skills, and the ability to communicate effectively.
- F2. The lack of written conflict of interest policies and procedures is a frequent issue.
- F3. Legal fees have depleted the funds available for the district's core mission.
- F4. No records exist accounting for the cash funds received from the sale of the BPF-D fire truck.
- F5. State funds reimbursing the district for administrative costs for strike teams were improperly paid to an employee.
- F6. Credit cards were left unsecured with no written policy for their use.
- F7. BPF-D-BOD failed to provide financial statements and audit reports.
- F8. BPF-D-BOD failed to provide Form 700 Statement of Economic Interests and evidence of ethics training as required by California law.
- F9. BPF-D-BOD failed to provide board agendas and minutes as required by the Brown Act.
- F10. Agendas for special meetings were not posted as required by the Brown Act.

- F11. BPFDD-BOD has no written policies, procedures, or bylaws.
- F12. Employees have no job descriptions and therefore have little understanding of what their job responsibilities truly are.
- F13. BPFDD has no grievance procedure for protection against any form of abuse.

## RECOMMENDATIONS

- R1. LAFDD should consider dissolving BPFDD or consolidating it with another district by June 30, 2019.
- R2. BPFDD-BOD must conduct public meetings in a professional manner led by the board chair in congruence with the district's adopted written policies, customary parliamentary procedures, and the Brown Act by August 1, 2018.
- R3. Develop procedures and rules for BPFDD-BOD on conducting public meetings by participating in state-approved courses on the Leadership of Special Districts Foundation in California by December 1, 2018.
- R.4 Develop and implement a conflict of interest policy and procedures to establish expectations of balancing the personal and business interests of BPFDD.
- R5. Retain Financial Disclosure Forms (Form 700) for a minimum of five years to be held at the BPFDD office and at the Stanislaus County Election Office by September 1, 2018.
- R6. Maintain Ethics training certificates for a minimum of three years to be held at BPFDD office by August 1, 2018.
- R7. Establish bylaws requiring new and returning BPFDD-BOD to complete biannual training in the Brown Act, Public Records Act (Government Code 1090-1098), and the Political Reform Act (Government Code 87100-87505) by December 1, 2018.
- R8. The BPFDD website should focus on governance information and financial transparency no later than August 1, 2018 by posting:
- Regular meeting agendas 72 hours prior to the meeting.
  - Special meeting agendas 24 hours prior to the meeting.
  - Emergency meeting agendas one hour prior to the meeting.
  - Board minutes.
  - Monthly budget reports.
  - Financial transaction reports.

- Annual audit information.
- R9. Use the BPFDF website to provide information about the district to encourage public attendance and participation by September 1, 2018.
- R10. Encourage public attendance and involvement by clearly posting BPFDF-BOD meeting dates, times, agendas, at locations visible to the public by August 1, 2018.
- R11. BPFDF-BOD needs to develop job descriptions and responsibilities for all employees and volunteers by December 1, 2018.
- R12. Develop a grievance procedure free from the fear of retaliation by January 1, 2019.
- R13. BPFDF-BOD is directed to support the current fire chief and assistant chief by encouraging them to connect with the Stanislaus County Fire Warden’s Office to assist this leadership staff with strategic planning, training, and other support services to effectively manage the district by August 1, 2018.
- R14. Ensure LAFDF website shows the correct monthly board meeting time and location and update when necessary by September 1, 2018.

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the Stanislaus County Civil Grand Jury requests responses as follows:

Burbank-Paradise Fire District Board of Directors – Recommendations R2-R13 within 90 days.

## **INVITED RESPONSES**

BPFDF Fire Chief

LAFDF

Stanislaus County Board of Supervisor

## **BIBLIOGRAPHY**

CALIFORNIA STATE LAW

GOVERNMENT CODE

Title 1. General [100-7914]

Division 1. Cost Records to be Kept [4000-4007]

Division 4. Public Officers and Employees [1000-3599]

Chapter 1. General [1000-1241]  
 Article 4. Prohibitions Applicable to Specified Officers [1090-1099]  
 Division 7. Miscellaneous [6000-7599.2]  
 Chapter 3.5 Inspection of Public Records [6250-6276.48]  
 Article 1. General Provision [6250-6270.5]  
 Title 3. Government of Counties [23000-33205]  
 Division 2. Officers [24000-28085]  
 Part 3. Other Officers [26500-27773]  
 Chapter 4. Auditor [26900-26914]  
 Article 1. Duties Generally [26900-26914]  
 Title 5. Local Agencies [50001-57550]  
 Article 2.4 Ethics Training [53234-53235.2]  
 Division 2. Cities, Counties and other Agencies [53000-55821]  
 Part 1. Power and Duties [53000-54999.7]  
 Chapter 9 Meetings Ralph M. Brown Act [54950-54963]  
 Title 9. Political Reform [81000-91014]  
 Chapter 7. Conflicts of Interest [87100-87505]  
 Article 2. Disclosure [87200-87210]

**HEALTH & SAFETY CODE**

Division 12. Fire and Fire Protection [13000-14960]  
 Part 2.7. Fire Protection District Law of 1987 [13800-13970]  
 Chapter 7. Finance [13890-13906]

**PUBLIC CONTRACT CODE**

Division 2. General Provisions [1100-22355]  
 Part 3. Contracting by Local Agencies [20100-20928]  
 Chapter 1. Local Agency Public Construction Act [20100-20929]  
 Article 53. Fire Protection Districts [20810-20813]

**APPENDIX**

**SPECIAL AND FIRE DISTRICT ASSOCIATIONS**

Institute for Local Government Good Governance Checklist	<a href="http://www.ca-ilg.org/">http://www.ca-ilg.org/</a>
California Special District Association	<a href="http://www.csda.net/special-districts/">http://www.csda.net/special-districts/</a>
Fire District Association of California	<a href="http://www.csda.net/special-districts/">http://www.csda.net/special-districts/</a>
Special District Leadership Foundation	<a href="https://www.sdlf.org/">https://www.sdlf.org/</a>

## **DISCLAIMER**

This report of case number 18-06C of the Burbank-Paradise Fire District is issued by the 2017-2018 Stanislaus County Civil Grand Jury with the following exception: one member of the grand jury volunteered to recuse himself due to a perceived conflict of interest. This grand juror was excluded from all phases of the investigation, including interviews, deliberations, voting, and in writing and approval of this report. None of the information included in this report was obtained from the excluded grand juror as a means of mitigating a potential bias to the integrity of this report.

**2017-2018 Stanislaus County Civil Grand Jury  
Independent Special Fire Districts  
Relics of the Past or Resources for the Future?  
Case #18-15GJ**

**SUMMARY**

Special districts are an important part of local government. Stanislaus County independent special fire districts administer \$26 million a year of tax payer money with little scrutiny from the citizens. Fire districts as a class have never been reviewed by the Stanislaus County Civil Grand Jury. This year all fourteen special fire districts were evaluated to assess the transparency and accountability of governance.

District accountability is confusing because the majority of boards are appointed by the Stanislaus County Board of Supervisors (SCBOS), not elected by the voters. Most boards do reasonably well in managing operations, but many board members are not adequately trained for effective governance. Few districts are in full compliance with state laws requiring transparency, accountability, and ethics training. Board meetings are often difficult to locate and are not welcoming to citizens. Websites lack required financial reports and contain inaccurate information. Public participation is absent at most meetings. Many board meetings lack the structure and formality expected when conducting the people's business.

**GLOSSARY**

LAFCO	Local Agency Formation Commission
SCBOS	Stanislaus County Board of Supervisors
SCCGJ	Stanislaus County Civil Grand Jury
SCFD	Stanislaus Consolidated Fire District

## BACKGROUND

California law established special districts as independent state agencies to provide infrastructure or services of importance to the voters within specific limited boundaries. The districts are governed by boards that are accountable to the voters within the district boundaries. Stanislaus County is home to forty-two independent special districts including fourteen fire districts. California has over 2000 special districts. Turlock Irrigation District was the first to be formed after passage of the Wright Act in 1887. Independent special districts are created by the legislature. The SCBOS appoints the majority of board members. However, other districts elect their board members.

The Little Hoover Commission was formed by the California State Legislature in 1962 “...to secure assistance for the Governor and itself in promoting economy, efficiency and improved service in the transaction of the public business in the various departments, agencies and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...”

In 2000, The Little Hoover Commission did a study of special districts in California titled *Special Districts: Relics of the Past or Resources for the Future?* The commission found “an expansive government sector, largely invisible, serving constituents who know little about them or how the money they provide is used”. In 2017, the Commission revisited special districts and issued a report in August titled *Special Districts: Improving Oversight and Transparency*. While many special districts had developed websites in the interim, many of the websites were of poor quality. Otherwise, the same issues that plagued districts in 2000 remained in 2017. For our purposes, the two areas of concern were:

- Oversight of special districts, specifically, opportunities to bolster the effectiveness of Local Agency Formation Commissions (LAFCOs).
- The continued need for districts to improve transparency and public engagement.

In 1963, the state legislature created fifty-eight LAFCOs with the authority to oversee local boundary decisions and to initiate special district consolidations or dissolutions. In 2000, LAFCOs were given authority to conduct Municipal Service Reviews to guide districts in performance improvement. To date, thirty of California’s fifty-eight counties have special district representatives on their LAFCOs. Each LAFCO is funded through its member organizations which in Stanislaus County include representatives from city and county government. The county’s independent special districts do not have representation in LAFCO.

## **METHODOLOGY**

Board meetings were attended, and interviews conducted. The following documentation was requested from each fire district:

- Budgets for the past five fiscal years.
- Annual internal and audited financial statements for the past five years.
- Credit card authority and policy for use.
- Check signing authority and policy.
- Organizational chart.
- Name and responsibility of each board member.
- Board meeting agendas for the past three years.
- Board meeting minutes for the past three years.
- Original district bylaws governing operations since inception.
- Form 700 Statement of Economic Interests.
- Proof of Public Service Ethics Education.
- Policy on nepotism.

## **DISCUSSION**

### **Board Meetings**

All the districts posted the minimum required 72-hour notice for board meetings on letter-sized paper in front of the fire station. This inconspicuous notice doesn't effectively inform the voters or advertise the meeting. This may satisfy the minimum requirement of the open meeting laws but falls short of the spirit.

Some districts, such as Oakdale Rural, send agendas, board packets, and minutes by email to interested citizens. This takes little effort to set up and is a great way to reach the voters.

Some board meetings were conducted in facilities with multiple entrances. No signage directed attendees toward the meeting location. One meeting required following some strangers down a dark alley and through an unmarked door at the rear of the fire station. These are among the barriers to voter involvement.

Meeting information on some districts' websites was inconsistent with information available from LAFCO and the county. Meeting dates, times, and locations were often misleading. In one instance the meeting time was listed as 6:30 P.M. on LAFCO and county websites, 4:30 P.M. on the district website when the actual meeting time was 5:30 P.M.

Some meetings were conducted so informally that they were more like a group of friends meeting around the kitchen table than a board conducting the people's business. Citizen attendance at board meetings was rare. The SCCGJ was often the only "outsider" present at board meetings. Board members and staff were often anonymous as names were not displayed

and no roll call was taken. Discussions were often muted and difficult to hear. Acronyms known only to the board were used with no attempt to explain to the audience. These meetings were impressive in their attention to the districts operational and financial issues but lacked the structure and transparency expected of a governmental agency.

Of the meetings attended, Denair and Stanislaus Consolidated fire districts were an exception. The structure and formality of the meetings were excellent.

### **Selection and Accountability of Board Members**

Board selection follows two paths. One is voter election. If no citizens seek the post, then the SCBOS appoints an individual to the board. Conversely other boards are defined as “appointed boards” and consist solely of appointees. The majority of fire district boards are appointed by the SCBOS. A lack of citizen awareness and interest appears to be the underlying cause behind many of the elected board vacancies.

For example, the boards for Stanislaus Consolidated, Oakdale Rural, Turlock Rural, and the Industrial fire districts are appointed by the county and various cities. These boards, like all other independent special districts, are accountable to the voters in their district. Confusion and difficulty occur since board members are appointed rather than elected. However, voters cannot install or remove these board members without the involvement of the appointing entity.

On October 10, 2017 a fire district contacted a county supervisor expressing concern about the SCCGJ document request (see methodology section). The concern was sent to county counsel who forwarded it to the SCCGJ. This indicates the district mistakenly believed it reported to the SCBOS. As another example, on March 9, 2007 a notice on the county website stated, “Industrial Fire Protection District ... is no longer under County oversight”. Both instances reinforce the misconception that special districts are accountable to the county.

## Governance Documentation

The responses to the document request (see methodology) are shown in the graph below. Some of the districts created the documents after receiving the request. Others claimed they didn't need the requested policy or organizational structure.

Organization charts, board responsibilities, and policy manuals provide documents necessary for structure, ethics compliance, and continuity. Set policies on file allow for standardization. Controlling purchases and disbursements is the foundation of being a good steward of the people's money. Insuring a procedure for credit card use and check signing is basic. Nepotism can easily occur in a casual environment. These policies should be in place before they are needed.

### EFFECTIVE GOVERNANCE

	ORGANIZATION CHART	BOARD MEMBER LIST AND RESPONSIBILITY	CREDIT CARD USE POLICY	CHECK SIGNING POLICY	DISTRICT BYLAWS OR POLICIES	NEPOTISM POLICY
<b>FIRE DISTRICT</b>						
Burbank-Paradise	None	None	None	None	None	None
Ceres	On file	On file	On file	On file	On file	None
Denair	On file	On file	On file	On file	On file	None
Hughson	On file	On file	None	On file	None	None
Industrial	On file	On file	On file	On file	On file	On file
Keyes	On file	On file	On file	On file	On file	On file
Mountain View	On file	On file	None	None	On file	None
Oakdale Rural	None	On file	None	On file	On file	None
Salida	On file	On file	On file	On file	On file	On file
Stanislaus	On file	On file	On file	On file	On file	On file
Turlock Rural	On file	On file	On file	On file	On file	None
Westport	On file	On file	None	On file	On file	None
West Stanislaus	On file	On file	On file	On file	None	None
Woodland Ave	None	On file	None	None	On file	None

## Compliance with California Law

The SCCGJ initiated a request for common documents that should be readily available to evaluate compliance with the Public Records Act and the four California codes shown on the chart below. The documents were requested on October 2, 2017 with a due date of October 27, 2017. A fire district stated they could not comply by the due date because strike teams were fighting fires in Napa County causing a manpower shortage. The SCCGJ extended the due date one month. However, if documents were on file as required, staff or board members could have responded to the request because they were not on the strike team.

Denair Fire District responded first on October 30, 2017. Keyes responded last on January 18, 2018. The remaining districts responded within a few days of the extended due date.

The responses show that some districts are not complying with conflict of interest reporting required by the Political Reform Act or Ethics Training required by Title 5 of the California Government Code (see bibliography). Obeying these laws is a fundamental part of effective governance. The failure to follow them is unacceptable.

### COMPLIANCE WITH CALIFORNIA LAW

FIRE DISTRICT	CALIFORNIA GOVERNMENT CODE			HEALTH & SAFETY CODE
	BROWN ACT	POLITICAL REFORM ACT	ETHICS TRAINING	FINANCIAL REPORTING
Burbank-Paradise	None	None	None	None
Ceres	Provided	Provided	Provided	Provided
Denair	Provided	Provided	Incomplete	Provided
Hughson	Provided	Provided	None	Provided
Industrial	Provided	Provided	Incomplete	Provided
Keyes	Provided	Provided	Incomplete	Provided
Mountain View	Provided	None	None	Provided
Oakdale Rural	Provided	Provided	Provided	Provided
Salida	Provided	Provided	Provided	Provided
Stanislaus	Provided	Provided	Incomplete	Provided
Turlock Rural	Provided	Provided	Provided	Provided
Westport	Provided	Provided	Incomplete	Provided
West Stanislaus	Provided	Provided	Incomplete	Provided
Woodland Ave	Provided	Provided	None	Provided

## District Websites

District websites were reviewed at the beginning of the investigation to determine if required financial and governance information was posted. The following graph shows the results. Nine districts maintain websites. At the time of our review, none were current. Some content has been added since our initial review.

The website emphasis appears to be informing about the mission and community activities. They lack attention to financial and governance transparency. They are not used to encourage voter involvement or attendance at board meetings. Calendar modules are not updated. Board meeting locations and times are often inaccurate.

Current law mandates any special district with a website must post these requirements:

- Agendas must be posted 72 hours before a meeting occurs.
- Annual compensation reports, or a link to the State Controller’s website that contains the report, must be posted.
- Financial transaction reports, or a link to the State Controller’s website that contains the report, must be posted.

### DOCUMENTS AVAILABLE ON WEBSITES

FIRE DISTRICT		FINANCIAL			BOARD MEETINGS		
NAME	MAINTAINS A WEBSITE	AUDIT	REPORT	BUDGET	SCHEDE	AGENDA	MINUTES
Burbank-Paradise	Yes	No	No	No	No	8/22/17	No
Ceres	No website						
Denair	Yes	No	No	No	No	No	No
Hughson	Yes	No	No	No	No	8/9/17	No
Industrial	No website						
Keyes	Yes	No	No	No	No	No	No
Mountain View	Yes	No	No	No	Yes	No	No
Oakdale Rural	No website						
Salida	Yes	6/30/15	No	No	No	8/21/17	No
Stanislaus	Yes	6/30/15	No	2017	Yes	8/10/17	No
Turlock Rural	No website						
Westport	No website						
West Stanislaus	Yes	No	No	No	Yes	8/14/17	No
Woodland Ave	Yes	No	No	No	No	8/10/17	No

## **Citizen Involvement**

Citizen involvement was observed at two of the nine board meetings attended. The boards allowed time for public comment and were courteous and respectful of citizens. Board meetings with citizen involvement were conducted in an organized parliamentary manner.

The seven board meetings where no citizen involvement was observed were conducted in a casual and unstructured manner. This may discourage a citizen from attending a future meeting.

## **Board Member Training**

The investigation disclosed no organized governance training for board members. The Director's Policy Manual for SCFD mentioned "Board development and excellence of performance". However, no specific curriculum was mentioned.

To function effectively Stanislaus County needs hundreds of volunteers to provide governance over special districts. Interest in public service may be enhanced by a well-trained board conducting the people's business with professional structure and formality. Training would increase the effectiveness of appointed and elected boards as well as encourage involvement in the democratic process and in preparing future civic leaders.

The current environment requires each board to recognize the need for training and then to seek and undertake a self-directed training program. A list of training resources is available in the appendix.

## **FINDINGS**

- F1. Few districts are in full compliance with state laws in transparency, accountability, and governance.
- F2. Many board members are not adequately prepared to assume office. Stanislaus County lacks a standardized governance training program.
- F3. Most district board members are appointed by the SCBOS.
- F4. The SCCGJ observed that some fire districts perceive that they are accountable to the SCBOS. Conversely the SCBOS has no responsibility beyond appointment of board members.
- F5. Citizen participation is lacking at board meetings.
- F6. Most board meetings are not welcoming to citizens.
- F7. Many of the district websites lack required information about governance and finances.
- F8. No apparent effort exists to increase citizen participation and involvement.

- F9. The fire districts spend \$26 million yearly with little public scrutiny.
- F10. While the SCCGJ focused its investigation on independent special fire districts, our findings and recommendations should be of interest to all special districts in Stanislaus County.

## **RECOMMENDATIONS**

- R1. All Stanislaus County fire districts boards should adhere to California law. All districts should have a written manual of generally accepted governance policies and procedures. The manual should include policies for nepotism, credit card control, and check signing. The manual should be completed by December 31, 2018 (see appendix).
- R2. All fire districts should establish a training requirement for board members in addition to that required by law. The curriculum is to be established no later than December 31, 2018 and shall include at least good governance, parliamentary procedure, Brown Act, nepotism, and conflict of interest (see appendix).
- R3. Certificates of ethics training and Financial Disclosure Form 700 must be on file in each fire district office for five years and at the Stanislaus County Elections Office.
- R4. Fire districts are to ensure that meeting times and locations are posted consistently and accurately on district websites and with LAFCO.
- R5. The fire districts and the community at large would benefit if the SCBOS would exert oversight of governance training.
- R6. The SCBOS should advise the forty-two special districts in Stanislaus County to obtain a copy of this report from the SCCGJ website for informational purposes.
- R7. All fire district boards must comply immediately with the requirements for meeting notices, posting of meeting agendas, publishing of minutes, and financial statements as required by California law.
- R8. Websites should be effectively maintained to abide by California law. The priority of websites should be to provide information and transparency about governance and finances. Current and prior agendas, minutes, financial statements, and audits should be posted (see appendix).
- R9. Board meeting locations and times should be boldly identified. Signage visible from the street should announce meeting dates and times. Signage should be in place to direct citizens to the meeting room. Meeting rooms should be well-lighted, provide adequate seating, and free of exhaust fumes.
- R10. Board meeting structure should routinely reflect the basic elements of accepted rules of order while conducting the people's business. They should start on time with a gavel or

announcement. Board members and officers should be identified by roll call. Names of board members should be visible. Topics and guest speakers should be clearly identified, and sidebars eliminated.

- R11. The districts should utilize local print media to seek candidates for the boards of directors. For example, the Modesto Bee's "Lend a Hand" section announces volunteer opportunities.

## **REQUEST FOR RESPONSES**

Burbank-Paradise Fire Protection District  
Ceres Fire Protection District  
Denair Fire Protection District  
Hughson Fire Protection District  
Industrial Fire Protection District  
Keyes Fire Protection District  
Mountain View Fire Protection District  
Oakdale Rural Fire Protection District  
Salida Fire Protection District  
Stanislaus Consolidated Fire Protection District  
Turlock Rural Fire Protection District  
Westport Fire Protection District  
West Stanislaus Fire Protection District  
Woodland Avenue Fire Protection District

## **INVITED RESPONSES**

Local Agency Formation Commission  
Stanislaus County Board of Supervisors

## **BIBLIOGRAPHY**

### **CALIFORNIA STATE LAW**

### **GOVERNMENT CODE**

Title 1. General  
    Division 4. Public Officers and Employees  
        Chapter 1. General  
            Article 4. Prohibitions Applicable to Specified Officers  
        Chapter 4. Vacancies  
    Division 5. Public Work and Public Purchases  
        Chapter 1. Cost Records to be Kept  
    Division 7. Miscellaneous  
        Chapter 3.5 Inspection of Public Records  
            Article 1. General Provision  
Title 3. Government of Counties

Division 2. Officers  
Part 3. Other Officers  
Chapter 4. Auditor  
Article 1. Duties Generally  
Title 5. Local Agencies  
Division 2. Cities, Counties and other Agencies  
Part 1. Power and Duties  
Chapter 2 Officers and Employees  
Article 2.4 Ethics Training  
Chapter 9 Meetings Ralph M. Brown Act  
Title 9. Political Reform  
Chapter 7. Conflicts of Interest  
Article 2. Disclosure

## HEALTH & SAFETY CODE

Division 12. Fire and Fire Protection  
Part 2.7. Fire Protection District Law of 1987  
Chapter 1. General Provisions  
Chapter 3. Selection of Initial Board of Directors  
Chapter 4. Existing Boards of Directors  
Chapter 7. Finance

## PUBLIC CONTRACT CODE

Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 1. Local Agency Public Construction Act  
Article 53. Fire Protection Districts

## APPENDIX

Institute for Local Government- Good Governance Checklist <http://www.ca-ilg.org/>  
California Special District Association <http://www.csda.net/special-districts/>  
Fire District Association of California <http://www.csda.net/special-districts/>  
Special District Leadership Foundation <https://www.sdlf.org/>

## FORM 700 STATEMENT OF ECONOMIC INTERESTS ONLINE

<http://www.fppc.ca.gov/Form700.html>

## ETHICS TRAINING ONLINE

<http://locaethics.fppc.ca.gov/options.aspx>

## DISCLAIMER

This report of case #18-15GJ regarding the Stanislaus County independent fire districts is issued by the 2017-2018 Stanislaus County Civil Grand Jury with the following exception: one grand juror recused voluntarily due to a perceived conflict of interest. This grand juror was excluded from all phases of the investigation, including interviews, deliberations, voting, and in writing and approval of this report. None of the information included in this report was obtained from the excluded grand juror as a means of mitigating a potential bias to the integrity of this report.