

SPECIAL DISTRICTS COMMITTEE

Golden West Community Services District

Citizen Complaints #01/02-C-020 and #01/02-C-024

Reason for the Report

Complaint #01/02-C-020 and Complaint #01/02-C-024 charge that the Golden West Community Services District (GWCS D) Board of Directors violated the Ralph M. Brown Act and other provisions of California law. There are also allegations that the GWCS D Board of Directors cannot reach agreement on action to repair roads within the district.

“The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

Quote from the Ralph M. Brown Act.

Scope of the Investigation

The following documents were reviewed:

- Complaints #01/02-C-020 and #01/02-C-024 to the El Dorado County Grand Jury;
- Ralph M. Brown Act, California Government Code §§54950-54962, as amended;
- California Government Code §6253 (Public Records Act);
- California Government Code §§61240, 61241, 61242, 61244 (Community Services District Law);
- Inventory of Local Agencies, prepared by Local Agency Formation Commission (LAFCO), May 2001;
- Board of Supervisors Resolution No. 324-83;
- LAFCO Resolution No. L-83-43;
- Chapter 1: Rules and Procedures of the Board of Directors of the Golden West Community Services District (two different copies - no dates of adoption given);
- Ordinance No.1, Chapter 1, GWCS D Road Encroachment Ordinance, revised and adopted February 11, 1999;
- GWCS D Road Policy;
- Agenda and minutes of meetings of the GWCS D Board of Directors; and
- Documents from the California Special Districts Association’s website. (www.csda.net)

The following persons were interviewed:

- Members of the present GWCSO Board of Directors;
- Members of the past GWCSO Board of Directors; and
- Residents of the GWCSO.

Findings

F1: The GWCSO was established November 3, 1983 for the following purpose:

“Opening, widening, extending, straightening, and surfacing, in whole or part, of any street in such district as authorized in subdivision (j) of section 61600 of Government Code and the construction and improvement of bridges, culverts, curbs, gutters, drains and works incidental to the purposes set forth in subdivision (j) as authorized in subdivision (k) of 61600 of the Government Code.”

F2: According to LAFCO records, GWCSO bylaws were adopted in 1992. The GWCSO Board President was unable to locate or produce a copy of any bylaws for a long time.

F3: Finally, the President of GWCSO supplied two different versions of “Rules and Procedures” with three different times and locations of regular designated meetings. Both of those documents were not consistent with a verbally noticed time and location announced at a January 12, 2002 general community meeting.

F4: Neither version of the “Rules and Procedures” shows an adoption date and have no distinction of which has precedence.

F5: A five-member Board of Directors elected by the residents of the District for four-year periods govern the GWCSO. The terms of office are staggered every two years to provide continuity of the Board. The last contested District election with names on the ballot was held November 1993.

F6: When District positions are scheduled for election, the Elections Department sends a notice to the District, at its current address, and to the local newspaper for publication of the positions which are scheduled for election. It is the District’s responsibility to post notice of the positions to be filled in a public, regularly known, location within the District.

F7: In the November 2001 election, the two members who remained on the board prior to the District’s loss of a quorum ran for four-year terms. The other members, who had been most recently appointed, ran for two-year terms. Because no sixth person ran, no names were listed on the ballot.

- F8: Annual District assessments are \$120.00 per developed or undeveloped parcel. This amount has not been increased since the District was formed.
- F9: The District is under-funded. This lack of funds results in an inability to maintain the roads. That inability creates dissension among Board members and District residents.
- F10: For the last two or three years, GWCSO Board members apparently did not have or reference copies of the Brown Act. They demonstrated little apparent knowledge of its scope, content or application.
- F11: The California Special Districts Associations, a statewide organization, offers continuing education to all members of special districts boards.
- F12: In May 2001, three members of the GWCSO Board resigned, leaving the Board without a quorum. A majority of the authorized number of directors is required for a quorum. The Board must have a quorum to conduct the business of the District.
- F13: At an informational community-wide meeting on June 9, 2001, the President of the Board of Directors (the only Board member present) announced the existence of a Road Advisory Committee consisting of four members. At least two of those members were not told of, and were unaware of, their membership on this Committee.
- F14: By July 26, 2001, composition of the GWCSO Board of Directors was returned to five members. To provide a quorum, one member was appointed by the Board of Supervisors. Subsequently, the GWCSO Board of Directors appointed two additional members.
- F15: On September 14, 2001, a District resident submitted a letter to the Board, pursuant to California Government Code §54960.1(b), demanding that the Board cure or correct various actions which the Board had committed in violation of the Brown Act.
- F16: Pursuant to California Government Code §54960.1(c)(2), the letter also demanded (i) that the cure or correction be accomplished within 30 days, (ii) that the Board inform the demanding party in writing of its corrective action or of its decision not to cure or correct the challenged actions, and (iii) to be informed as to what actions would be taken by the Board to assure that it would comply with the Brown Act in the future. The Board did not respond to the demanding party.
- F17: On December 5, 2001, the same District resident made a second letter of demand requesting certain GWCSO documents. A number of requested documents were never received by the demanding party. This constituted a violation of the California Public Records Act.

- F18: On December 10, 2001, another district resident made a demand, for the fourth time, for GWCSO documents that were not previously provided. This constituted a violation of the California Public Records Act.
- F19: Two Grand Jury members attended a GWCSO Board meeting on March 14, 2002. The meeting was generally conducted in accordance with the Brown Act. Agenda item 6C was presented by the Road Manager for general public discussion, but it was neither acted upon nor continued. Also, a motion to officially close the meeting was never made.
- F20: A second incident of resignation occurred in March 2002. Three members of the Board of Directors resigned, leaving the GWCSO Board bereft of a quorum for the second time within a year. As of the end of April 2002 there were still only two Board members. The remaining Board members were informed by the Department of Elections that any business conducted by the remaining Directors will be a violation of the Brown Act.
- F21: The GWCSO Board of Directors has had a Phase 1 road maintenance plan under consideration for over a year. Lack of understanding, poor communication and personal bad feelings have resulted in lack of action on a road bid package during the term of the current Board President.
- F22: Confusion and unrest regarding a schedule for road maintenance has existed within the GWCSO Board of Directors for two years. As a result, little roadwork has been done. This is attributed primarily to the unyielding and contentious attitude of the current Board President.
- F23: The current President of the GWCSO has violated many provisions of the Brown Act, subjecting the District to possible legal consequences.
- F24: Special GWCSO Board meetings have been held at various Board members' homes rather than in public places, with little prior notice and during normal business hours. This practice has made it difficult and uncomfortable for District residents to attend, and has effectively circumvented the intent of the Brown Act.
- F25: The GWCSO does not publish a directory for residents of the District.
- F26: The GWCSO does not publish a District newsletter of any kind.
- F27: In violation of California Government Code §61240, the GWCSO has neither a General Manager nor a Secretary who are not members of the Board.
- F28: Unless and until a quorum is established, any business conducted by the District would be in violation of the Brown Act. Notwithstanding that fact, however, the two remaining board members are continuing to do business and act upon road repair issues without a quorum.

Recommendations

Many of the Grand Jury's following suggestions and recommendations to the GWCSO Board should be implemented only after the District's residents have elected a new Board of Directors or a Board quorum has otherwise been established.

- R1: The GWCSO residents should file a request with the El Dorado County Elections Office for an election of a new Board of Directors.
- R2: In order to improve District relations and communications, the GWCSO Board of Directors should publish a newsletter on a regular schedule.
- R3: The GWCSO Board of Directors should provide an annual District directory to all GWCSO residents.
- R4: The GWCSO Board of Directors should become educated on all provisions of the Brown Act and should comply with them.
- R5: The GWCSO Board of Directors should take necessary steps to become more accomplished in the procedures for conducting meetings.
- R6: The GWCSO Board of Directors and residents should consider increasing District assessments to meet increasing costs.
- R7: The GWCSO Board of Directors and residents should contact the El Dorado County Elections Department to initiate a ballot by mail. The cost of this process is considerably less than a general ballot election.
- R8: The GWCSO Board of Directors should promptly respond to requests made by residents for information.
- R9: The GWCSO Board of Directors should adopt and/or revise a set of District bylaws and should make them available to residents of the District.
- R10: The GWCSO Board of Directors should conduct all meetings, properly noticed, at a public meeting place.
- R11: To comply with California Government Code §61240, the GWCSO Board of Directors should take action to incorporate the positions of General Manager and Secretary into their operating structure.
- R12: The GWCSO should join the California Special Districts Association and avail itself of the education provided by that organization about how to legally and effectively administer the business of the District. The cost of membership should be considered a necessary administrative expense. The web address is www.csga.net.

R13: In light of the continuing activities by the two remaining GWCSO Board of Directors, the Grand Jury strongly recommends that the El Dorado County District Attorney investigate and consider prosecution of violations of the law by the GWCSO Board of Directors.

Responses Required for Findings

F1 through F28

GWCSO Board of Directors

F13, F15 through F20, F23, F24, F27 and F28

El Dorado County District Attorney

Responses Required for Recommendations

R2 through R12

GWCSO Board of Directors

R13

El Dorado County District Attorney