

GOVERNMENT & ADMINISTRATION COMMITTEE

Fallen Leaf Lake Community Services District

Citizen Complaint #C36-02/03

Reason for the Report

The complaint alleges that the Fallen Leaf Lake Community Services District (FLLCSD) awarded a marina/store contract in an unethical and unprofessional manner.

Scope of the Investigation

The Grand Jury interviewed the following:

- Five current residents of Fallen Leaf Lake;
- Chief Assistant District Attorney of El Dorado County;
- Representative of Local Agency Formation Commission (LAFCO) from El Dorado County;
- A Board Member of Fallen Leaf Lake Community Services District (FLLCSD);
- County Counsel of El Dorado County.

The Grand Jury also reviewed the following items:

- By-laws of FLLCSD;
- FLLCSD Charter;
- *A Local Official's Guide to Ethics Laws*, Spring 2002, Institute for Local Self Government;
- Minutes of meetings of the Board of Directors, FLLCSD;
- Inventory of Local Agencies, LAFCO, El Dorado County;
- Numerous e-mail messages among residents regarding Board meetings, Marina/Store Request for Proposal (RFP), and awarding of contract;
- Five RFP for the Fallen Leaf Lake Store and Marina;
- Past Grand Jury complaint & investigation filed on 1992/93 regarding concession policies and practices of the Board of Directors, FLLCSD;
- Marina/Store gross receipts from 1999-2002;
- Various letters from Fallen Leaf Lake community residents.

Background

The Fallen Leaf Lake Community Services District (FLLCSD) meeting of February 17, 2003 was to review responses from applications for a bid to operate the Fallen Leaf Lake concessions (marina, store, and related functions). This meeting was to be an open forum to review the recommendations from a committee of two Board members, which was a short list of three applications. The presentation was to be made to the full Board for action and to allow the public to participate in an open discussion. The complaint alleges that two of the three applicants were not given a full and fair hearing. It also alleges that the meeting was not conducted in a business-like and ethical manner.

The current marina/store operator refused to supply profit and loss data. Therefore, the profit and loss data was not included in the RFP application packet, which might well account for the lack of public response to the RFP.

It should be noted that only four of the five applicants supplied the financial data with their RFPs. The current operator of the marina/store refused to supply this information when he submitted his RFP.

The vote for the RFP was tied two to two and the tie was broken by the Board member whose close relative received the contract. The participation of a Board member, who is related to the successful bidder, while possibly legal, leaves the question regarding ethical standards expected of a public official. In reviewing the minutes, and other testimony offered, the question arises whether or not the bidding process was fair.

It was noted that the FLLCSD Charter does not include the position of a general manager. With the presence of a general manager some of these issues may have been avoided and the continuity of communication and focus of business matters would be enhanced. In addition, the Charter does not contain a Code of Ethics.

This Grand Jury's investigation revealed other issues of concern to community residents. Among those issues were a past action where Fire Department monies were "loaned" for use of parks and recreation development. This occurred approximately ten years ago. To this date these monies have not been completely repaid.

Findings

No Board of Supervisors response required.

- F1. A Request For Proposal (RFP) was mailed to 50 applicants. Five responded. Three were interviewed.
- F2. Profit and loss statements of the marina/store from previous years were not made available to FLLCSD Board members or potential contract bidders.

- F3. A Board member, whose relative was one of the parties that submitted an RFP, cast the deciding vote breaking a 2 to 2 tie awarding the contract to a family member.
- F4. The FLLCSD Charter does not have a Code of Ethics.
- F5. Ten years ago, Fallen Leaf Lake Community Services District (FLLCSD) money was “loaned” from the Fire District to park and recreation functions and has still not been repaid.

Recommendations

No Board of Supervisors response required.

- R1. The procedures under which the Fallen Leaf Lake Community Services District (FLLCSD) adopted the current contract should be reviewed by the Board.
- R2. The current FLLCSD By-laws and Charter should be reviewed and revised as needed.
- R3. A Code of Ethics for elected officers should be written and adhered to.
- R4. The FLLCSD should obtain the assistance of the Institute for Local Self-Government on Community Service Districts to complete the two prior recommendations.
- R5. FLLCSD should hire a General Manager.
- R6. The elected officers should avoid any appearance of impropriety.
- R7. Newly elected FLLCSD Directors should participate in orientation and training sessions provided by the Association of Community Services District.
- R8. Money “loaned” from the Fire Department to parks and recreation should be repaid in a timely manner.

Commendations

The Grand Jury wishes to commend the homeowners in Fallen Leaf Lake for their concern, at this time, to resolve a community issue that has caused unnecessary divisiveness.

Responses Required for Findings

F1 through F5 Fallen Leaf Lake Community Services District
Board of Directors

Responses Required for Recommendations

R1 through R8 Fallen Leaf Lake Community Services District
Board of Directors

Note: In response to a widely disseminated e-mail critical of this Grand Jury from a FFL Board member to fellow Board members.

This Grand Jury has never publicly impugned the integrity of any witness in any case. We have done and will continue to do our very best in fact gathering from relevant sources from either side on a public issue presented to us. We are not a criminal Grand Jury. Our mission is to assist the public in improving the performance of the several levels of government. To those who feel otherwise, we can only pledge our consistent dedication to our mission.

fallen leaf lake community services district
po Box 9415, south lake tahoe, california 96150

10-02-03A11:07 RCVD

Hon. Jerald Lasarow
Supervising Grand Jury Judge
El Dorado County Superior Court
1354 Johnson Blvd, South Lake Tahoe, CA 96150

September 6, 2003

Dear Judge Lasarow:

The President of the Fallen Leaf Lake Community Services District (CSD) responds to the Final Report of the 2000-2001 El Dorado County Grand Jury as follows:

Fallen Leaf Lake Community Services District
Citizen Complaint #C36-02/03

Findings

#F1: A Request For Proposal was mailed to 50 applicants. Five responded. Three were interviewed.
Response: Respondent agrees with finding.

#F2: Profit and loss statements of the marina/store from previous years were not made available to FLLCSD Board members or potential contract bidders.
Response: Respondent agrees with finding to the extent of its knowledge. Current CSD Board members do not have complete information as to what occurred prior to their tenure on the Board.

#F3: A Board member, whose relative was one of the parties that submitted an RFP, cast the deciding vote breaking a 2 to 2 tie awarding the contract to a family member.
Response: Respondent agrees with finding.

#F4: The FLLCSD Charter does not have a Code of Ethics.
Response: Respondent agrees with finding.

#F5: Ten years ago, Fallen Leaf Lake Community Services District (FLLCSD) money was "loaned" from the Fire District to park and recreation functions and has still not been repaid.
Response: Respondent disagrees partially with finding. Many years ago, FLLCSD allocated tax funds among its accounts in good faith. When it was discovered that some funds were inappropriately allocated, money was budgeted for repayment to the Fire District. Eight thousand dollars has been repaid to date.

Recommendations

#R1: The procedures under which the Fallen Leaf Lake Community Services District (FLLCSD) adopted the current contract should be reviewed by the Board.

Response: This recommendation will not be implemented because it is not warranted. The procedure used by the FLLCSD was carefully considered and the Board believes it was fair and comprehensive. The Board does not believe further review would be productive.

#R2: The current FLLCSD Bylaws and Charter should be reviewed and revised as needed.

Response: The FLLCSD Bylaws and Charter will be reviewed within the next 12 months and will be revised as indicated by the results of review.

#R3: A Code of Ethics for elected officers should be written and adhered to.

Response: The FLLCSD will consider developing a Code of Ethics in 2003-2004.

#R4: The FLLCSD should obtain the assistance of the Institute for Local Self-Government on Community Services Districts to complete the two prior recommendations.

Response: The recommendation will be implemented when the reviews of Charter, Bylaws, and Code of Ethics are undertaken.

#R5: FLLCSD should hire a General Manager.

Response: This recommendation requires further study which will be completed by March 2004.

#R6: The elected Officers should avoid any appearance of impropriety.

Response: FLLCSD will endeavor to avoid the appearance of impropriety.

#R7: Newly elected FLLCSD Directors should participate in orientation and training sessions provided by the Association of Community Services District. [sic]

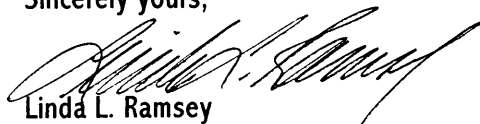
Response: FLLCSD Board members will participate in such sessions during the coming year as time and resources permit.

#R8: Money "loaned" from the Fire Department to parks and recreation should be repaid in a timely manner.

Response: Respondent believes the money was not "loaned" but allocated inappropriately due to a misunderstanding. This is being corrected as rapidly as resources permit, with a repayment of \$5,000 in 2002 and \$3,000 in 2003.

Please feel free to contact us should you wish additional information.

Sincerely yours,



Linda L. Ramsey
President, Fallen Leaf Lake Community Services District

cc: Members, FLLCSD
Dave Solaro, El Dorado Co. Board of Supervisors
Judy Brown, Mayor of South Lake Tahoe

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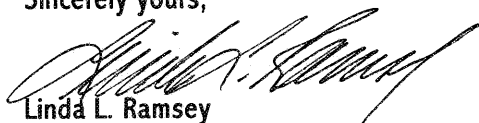
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