



## **EL DORADO COUNTY GRAND JURY 2009-2010**

### **GARDEN VALLEY FIRE PROTECTION DISTRICT**

Case No. GJ 09-015

#### **REASON FOR REPORT**

Legal fees for the Garden Valley Fire Protection District (GVFPD) have increased dramatically from fiscal year 2006 to fiscal year 2009. The increase in legal fees was a result of administrative actions taken within the District. The GVFPD is primarily funded by District taxpayers, and had been supplemented with El Dorado County "Aid to Fire" funding. This funding was eliminated by the Board of Supervisors in fiscal year 2009-2010.

The Grand Jury was alerted to a potential high-risk activity conducted by the District. The District participates with the United States Forest Service by including personnel who reside outside of the District to staff All Risk Teams (ART) currently known as the Incident Command Management Team (ICMT).

The Grand Jury decided to review the administrative operation of the GVFPD to determine if the expenditure of taxpayer funds has been appropriate, and to assess the short and long term financial viability of the District.

#### **BACKGROUND**

The Garden Valley Fire Protection District is a community service district located near the Georgetown Divide in northern El Dorado County. The GVFPD serves a population of approximately 7,500 in an unincorporated area of approximately 60 square miles. It is staffed by a combination of paid and volunteer personnel. The District is governed by a five-member board of directors. The District is overseen operationally and administratively by a Fire Chief also known as the Chief Administrator. The Chief Administrator reports to the GVFPD Board of Directors.

*It should be noted that the 2009-2010 El Dorado County Grand Jury was not investigating any pending personnel issues or litigation with the GVFPD, but was reviewing the administrative process by which the District operates. The Grand Jury has not and will not take a position on the merits of pending or past disciplinary cases at the GVFPD.*

## **METHODOLOGY**

The Grand Jury collected information from a variety of sources and conducted multiple interviews with those involved in the governance and administration of the GVFPD.

### Garden Valley Fire Protection District Interviews:

- Board of Directors
- Fire Chief
- Assistant Fire Chief and Division Chiefs
- District Accountant
- Privately contracted auditor (Certified Public Accountant)
- Privately contracted consultant
- Privately contracted insurance representatives

### Outside Agency Interviews:

- El Dorado County Auditor/Controller
- Diamond Springs Fire Chief
- El Dorado County Fire Chief
- El Dorado Hills Fire Chief

### Garden Valley Fire Protection District Documents Reviewed:

- Accountant's Audit Report dated January 17, 2010 covering the Fiscal Year End (FYE) June 30, 2008 Special Districts Financial Transactions Report to the California State Controller
- Annual Operating Plan for Cooperative Fire Protection 2009
- ART revenues July 2006 - October 2009
- Bank Statements, January - May 2008
- Board Minutes, October 2006 - March 2007
- Compensation paid to ART July 2007 - October 2009
- Copies of correspondence, including emails, between District personnel and its contracted consultant and the El Dorado County Auditor/Controller
- El Dorado County Agreement for Supplemental Funding of Fire Districts, August 2001

- Financial Documents, 2007 - 2009 (selected periods)
- Fire Chief Employment Contract
- General Ledger Trial Balance as of December 31, 2009
- General Operating Guidelines
- Incident Management Support Division (IMSD) 2009 Memorandum of Understanding
- Payroll Taxes and Workers Compensation paid for ART July 2007 - October 2009
- Personnel Policy Manual
- Quick Books Register
- Reimbursements paid to ART July 2007 - October 2009
- Report of the Office of Administrative Hearings Judge dated January 25, 2010 (OAR Number 2009040771)
- Special Districts Financial Transactions Reports to the California State Controller for FYE June 30, 2008 and FYE June 30, 2009
- Total hours for ART assignments 2006 - 2007
- Unqualified Opinion Audit Report for FYE June 30, 2008, issued by the District's privately contracted Certified Public Accountant

## **FINDINGS**

The 2009-2010 Grand Jury began reviewing the GVFPD administrative operation when it became known that there had been a dramatic increase in legal fees from July 1, 2006 to August 20, 2009. The District's legal fees increased from \$644 to \$196,028 during this period. The legal fees were a result of personnel and disciplinary actions by the GVFPD. These administrative actions were initiated by the Board of Directors and the current Fire Chief.

It was learned the GVFPD was operating a special fire response team known as the All Risk Team (ART). Concern was expressed by government and fire agency officials that ART activities could result in increased financial liability to the District, due to the potentially hazardous nature of the operation. As of this writing, the All Risk Team has been renamed the Incident Command Management Team (ICMT).

The Grand Jury was also informed of possible payroll discrepancies and bookkeeping errors. These errors caused a \$10,000 out-of-balance condition within the District's financial records.

Due to the above areas of concern, the Grand Jury conducted a review of the Garden Valley Fire Protection District's administrative, personnel, and ICMT policies and procedures.

In accordance with the California Penal Code §933 and §933.05, each numbered finding and recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court.

The 2009-2010 Grand Jury made the following findings:

1. The current Fire Chief initiated many changes:
  - Redirecting operating funds to have a fully staffed fire engine available to Garden Valley residents 24/7. This enhanced the District's emergency response from Basic Life Support to Advanced Life Support. This should improve the District's emergency response in the future;
  - The District's finances were returned to the El Dorado County Auditor/ Controller's Office for processing and oversight;
  - Longstanding personnel issues were addressed;
  - Residency requirements for ICMT members were changed. All members are required to live within 100 miles of the District.
  
2. The Board of Directors and Fire Chief have demonstrated a lack of practical knowledge with respect to human resource matters. It is unclear what background check process the District conducts prior to hiring new employees. There is no standard policy for screening employee candidates.
  
3. The Grand Jury could not clearly determine when the District's Personnel Policy Manual was last updated. There are critical discrepancies between the Board of Directors written policies and the provisions of the Fire Chiefs contract. The Grand Jury found that the Fire Chief exceeds the authority granted in his contract which is in conflict with the District's written policy.
  
4. It was determined that the District's Board of Directors, Fire Chief and senior management lack the knowledge of current progressive discipline standards and the provisions of the recently enacted Firefighters Procedural Bill of Rights (California Government Code §§3250-3262).
  
5. Previous Boards of Directors and Fire Chiefs did not effectively address inappropriate personnel conduct. Presently, there are no clear guidelines for senior management to follow when confronting an employee discipline issue.

6. The personnel disciplinary process at the District, at times, lacks an appropriate check and balance system. Generally, the Fire Chief investigates, recommends discipline, and initiates the disciplinary process up to and including termination. The Personnel Policy Manual states "The District (Board of Directors) reserves the right to hire, transfer, promote, reprimand, suspend, terminate, and maintain the discipline and efficiency of its employees." Currently this authority rests with the Board of Directors and has not been delegated to the Fire Chief.
7. The Garden Valley Fire Protection District operates a special response team initially designated the All Risk Team, which has recently been renamed the Incident Command Management Team (ICMT). Personnel comprising the ICMT are mostly retired U.S. Forest Service firefighters. Upon request from a state or federal authority, the ICMT members respond to disasters or emergencies that are beyond the standard mutual aid agreements. They generally respond to forest fires and serve in an administrative capacity.
8. The Grand Jury found the Fire Chief and an Assistant Fire Chief have been assigned to ICMT emergencies outside of the District at the same time. Their decision to participate in an ICMT response is discretionary. The Fire Chief and Assistant Chief participate in ICMT out of the District without the written approval of the Board of Directors. This causes a conflict of interest and creates an unnecessary risk to the residents of the District.
9. The ICMT members are paid after the District receives reimbursement from the requesting agency. The District receives an administrative fee in addition to the total reimbursement for deploying ICMT personnel. In addition to providing a public safety service, the ICMT generated income is a revenue enhancer for the GVFPD. With the cancellation of El Dorado County's "Aid to Fire" budget augmentation, the ICMT administrative fee revenue has been critical to maintaining the level of emergency services in the District.
10. District compensation discrepancies existed during the period March - November 2007 and July - August 2008 with the salary payments of two command officers. After extensive review by the District's Accountant in the fall of 2009, these discrepancies were resolved. These problems occurred due to ineffective communication between the El Dorado County's Auditor/Controller's Office and the District.

11. The El Dorado County Auditor/Controller advised the Grand Jury of a \$10,000 difference in GVFPD's Special Districts Financial Transactions Report to the California State Controller for FYE June 30, 2008.

- Information was presented, including copies of bank statements, which showed this \$10,000 should not have been recorded as cash on deposit;
- The District's Accountant submitted the State Report for FYE June 30, 2009 showing a \$9,999 Prior Period Adjustment;
- The District's contracted auditor who issued an Unqualified Opinion Audit Report, for the period July 1, 2007 through June 30, 2008, did not disclose this \$10,000 difference in his report. He did not require the District to place corrective adjustments to its accounting records even though he had custody of the Report to the State Controller for the FYE June 30, 2008;
- The District's contracted auditor, who is a California Licensed Certified Public Accountant, failed to fully cooperate with the Grand Jury;
- The District's Accountant completed a detailed audit of the District's accounting records for the FY July 1, 2007 through June 30, 2008, and disclosed several errors and made corrective entries to the District's books to resolve this difference.

12. It was determined that an employee was allowed to reside for years on GVFPD property at no cost and without a written agreement containing health, safety, tax and other appropriate provisions. This presents a potential liability to the District and its taxpayers.

## **RECOMMENDATIONS**

1. The Board of Directors, Fire Chief, and senior management need to focus on updating the District's written policies and procedures. All personnel should become educated on the provisions of the Firefighters Procedural Bill of Rights. The District's practices must be consistent with written policies and procedures.
2. The authority of the Board of Directors and the Fire Chief needs to be clear. The current written authority to hire, fire, suspend, and discipline currently rests with the Board of Directors. The Board may delegate some of these authorities and duties to the Fire Chief.
3. The District should immediately initiate training sessions in Human Resource Management and employee relations for the Board of Directors, Fire Chief, and senior management.

4. Hiring practices need to be consistent and legal to ensure that all employee candidates are properly screened and interviewed prior to an offer of employment.
5. The District's Fire Chief and Assistant Chief should obtain the written approval of the Board of Directors before deploying on an Incident Command Management Team.
6. District employees should not be permitted to reside on District property. This excludes staffing or other fire related duties.
7. The ICMT generated revenue should not be considered a permanent funding source for future budgets.
8. District personnel and the El Dorado County Auditor/Controller's Office should improve their communication on financial issues.

## **RESPONSES**

Response(s) to Findings and Recommendations in this report are required in accordance with California Penal Code §933.05. Address response(s) to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Boulevard, South Lake Tahoe, CA 96150.

## **CLOSING REMARKS**

In recent years, the Garden Valley Fire Protection District has undergone intensive public and legal scrutiny. The Board of Directors cannot publicly comment on ongoing personnel investigations and litigation, so they are an easy target for criticism. The majority of the criticism rests with actions and inactions that had occurred prior to the current Board of Directors and Fire Chief.

The Grand Jury found the Board of Directors, Fire Chief, and senior management to be extremely cooperative with all our requests for documentary evidence and interviews. The current administration has actively dealt with employee issues. They have improved the emergency response for the District from Basic Life Support to Advanced Life Support. The Board of Directors, Fire Chief, and senior management appear to be taking the District in the right direction, but need to keep their momentum moving forward.