

Groveland Community Services District

2017/2018 Tuolumne County Civil Grand Jury Report



Photo credit Christian deRyss

Summary

The 2017-2018 Tuolumne County Grand Jury received several letters and emails from members of the Groveland, Big Oak Flat, and Pine Mountain Lake communities requesting investigation into the Board of Directors, Management, and Operations of the Groveland Community Services District (GCSD). These concerned citizens expressed a lack of transparency by the Board and management that had contributed to a lack of public trust.

The Grand Jury began an investigation of GCSD in October 2017. At that time, the Board of Directors consisted of three of the requisite five members. In September 2017 two board members resigned due to concerns that aspects of the decision making process were not in the best interest of the community. Their primary reasons for departing

are “ a deep split in how the district’s business should be run,...unprofessional dealings over a non-fruitful \$25,000 recruitment process for a new district general manager...a specific but unnamed director for [out of control] bad behavior and temper tantrums at public and staff meetings that they say continue to disable due order and decorum.” Union Democrat 2/27/2017

The General Manager (GM) in place when the Grand Jury began the investigation retired December 31, 2017. An acting GM was selected until an interim GM was announced February 2018. The interim GM has since been contracted as the permanent, part-time GM.

In January 2018, another Board member resigned, citing, “*accusations from members of the public...causing undue scrutiny on his family*” as reported in the Union Democrat, January, 9, 2018. As of March, 2018, three new Board Members were added to fill vacant seats.

Through our investigation, we were able to substantiate concerns regarding violations of GCSD policies and lack of transparency while the District was under the previous leadership. This has contributed to the loss of public trust. The GCSD Employee Handbook, revised October 19, 2016, Business Ethics and Conduct, states, “*The continued success of GCSD is dependent upon customers’ trust and we are dedicated to preserving that trust. Employees owe a duty to GCSD and its customers to act in a way that will merit the continued trust and confidence of the public.*”

At the close of our investigation, the Grand Jury has witnessed a more positive and transparent environment at Board meetings with the three new Directors and the new GM in place. Under the current management, the District is making great strides in regaining the peoples trust. Members of the public reported these changes are hopeful signs for improvement at the District.

The District’s new management has eliminated subcommittees (with the exception of the Park subcommittee) to ensure all Board members are fully informed. They are also in the process of developing norms of conduct for Board Members and a written protocol for Board meetings.

Glossary

Board	GCSD Board of Directors
Brown Act	California State law which guarantees the public’s right to attend and participate in meetings of local legislative bodies.
Certification	Proof through State regulated testing, and sometimes including proven work experience, that an individual has achieved a certain level of knowledge related to water treatment, water distribution and wastewater treatment.
Director	A member of the Board of Directors.
Fiscal Year	The fiscal accounting and budget year for GCSD (July 1 – June 30).
GCSD	Groveland Community Services District
GM	General Manager Acting GM: An individual appointed by the board to temporarily assume the duties of the General Manager while a replacement is found. Interim GM: A General Manager who fills the role for an intervening time.
Hazmat	An abbreviation for “hazardous materials”—substances in quantities or forms that may pose a reasonable risk to health, property, or the environment.

Background

The Groveland Community Services District (GCSD) is a Special District created and funded by Big Oak Flat, Groveland, and Pine Mountain Lake residents.

“Special districts are local government agencies that provide public infrastructure and essential services...and they are governed by board members elected from their local communities or appointed by other voter-approved local bodies. They have corporate powers, so they can hire employees, enter into contracts, and acquire property. Within constitutional limits, they can also issue bonds, impose special taxes, levy benefit assessments, and charge service fees. As public agencies, special districts are held accountable to their local voters. They must file independent audits with the county auditor and annual financial transaction and compensation reports with the State Controller’s Office. Like cities and counties, every special district board must comply with Fair Political Practices Commission (FPPC) regulations, the Public Records Act, and all open meeting requirements in the Brown Act.” - California Special District Association – Special District Formation Guide.

GCSD is subject to regulation by the State of California Department of Water Resources and is subject to financial oversight by the State Controller.

The GCSD Water System distributes treated water to approximately 3,500 customers in the Big Oak Flat, Groveland, and Pine Mountain Lake areas. The System includes three water treatment plants, five storage reservoirs, and approximately 70 miles of distribution piping. The District also owns and operates the regional wastewater collection, treatment, and regional recycled water system, which provides sewer service to approximately 1,500 customers within the District's service area.

The service area covers approximately 15 square miles in southern Tuolumne County. It is bounded on the north by the Tuolumne River, on the south by Mariposa County, on the east by the Stanislaus National Forest, and on the west by Moccasin. GCSD is the owner and operator of the Groveland Water System, which receives water from the City and County of San Francisco's Hetch Hetchy water system.

GCSD manages public park facilities on its properties, including a skateboard park, a youth center, and Mary Laveroni Park. It also has a cooperative agreement with the California Department of Forestry and Fire Protection (CALFIRE) to provide fire protection services for the community.

Oversight of GCSD is provided by five Board members. The General Manager (GM) reports to the Board. This role is supported by Administration, Operations, and Maintenance staff. GCSD employs about sixteen full time employees plus a few independent contractors. Employees and contractors hold a variety of state regulated certifications necessary for the operation of GCSD.

The Groveland Community Services District has been the subject of Grand Jury investigation twice in the last fifteen years.

- The 2011-2012 Civil Grand Jury investigated GCSD and found that, “both the General Manager/District Engineer and the Administrative Finance Manager are compensated in excess of what other Community Services Districts and Tuolumne County pays for similar positions and/or other highly responsible positions”. GCSD challenged the findings, claiming compensation comparables were insufficiently thorough, and declined to implement the recommendations.
- The 2016/2017 Grand Jury investigated and found the Board violated the Brown Act during the exploration of privatization of the District’s water system. It recommended increased Brown and Raker Act training. The District agreed, though this Grand Jury notes some Board members did not attend this training.

There is a consensus among GCSD employees and ratepayers that the District struggles financially to maintain operational integrity and support its aging infrastructure. This is due to the low ratio of ratepayers to the size and complexity of the required treatment facility. Much of the water and sewer infrastructure is forty years old and portions of the system are in need of replacement or upgrade. In recent years, emphasis on operating cost reductions has necessitated

difficult management, personnel, and operating decisions. The District has aggressively cut employee headcount and other operating costs.

The District has been successful in obtaining California State Grant funding for planning and upgrades for a portion of the aging infrastructure. Grant funding for Big Oak Flat and Groveland alone covered 100% of the planning and implementing cost because they are considered “severely disadvantaged” economically by the State of CA. The District is in the process of obtaining additional Grant funding to make further upgrades to the system, including Pine Mountain Lake (PML). By including PML with Big Oak Flat and Groveland, the economic level elevated to “disadvantaged.” This Grant funding will cover less than 100% of the cost of these upgrades, necessitating the need to increase customer rates.

In late 2016, GCSD engaged industry consulting firm, Bartle Wells Associates, to assess and recommend various funding and ratepayer scenarios, to meet the need for upgrades to the district’s sewer infrastructure. This was cited as the primary driver for rate increases. The GCSD Board did not approve the final consultant report in 2017. The District is in the process of clarifying the scope of the sewer system improvement project to, “ensure that the study was comprehensive, accurate, and contained solid funding recommendations for necessary future improvements to the system.” The District is considering potential increased rates effective in September of 2018.

Methodology

The Grand Jury investigated public concerns related to:

- Transparency and management by the Board of Directors
- Employee management and hiring activities
- Management and operations practices

Interviews and Meetings

Twenty-four interviews were conducted with past and present GCSD employees, management, contractors, past and present Board members, and GCSD customers. This included current and former employees who were with the District as far back as 2014. Grand Jury members toured GCSD facilities and attended most of the public GCSD meetings held during the investigation.

Documents

During a wide-ranging investigation, the Grand Jury reviewed documentation provided by interviewees and GCSD, including:

- GCSD Policy Handbooks - 2013 and 2016
- GCSD Classification and Compensation Plans – 2011, 2015 and 2016
- GCSD Board Minutes and Recordings – All meetings January 9, 2017 through December 21, 2017
- Documentation of Bobcat Sale 2014
- Agenda Submittal April 9, 2018 – Surplus Equipment Sales Report – Asbestos Cement Pipe Handling and Disposal
- State of California Certification for all current employees
- GCSD Employment History 2015, 2016 and 2017 (Promotions/Retirements/ New Hires/District Terminations/Voluntary Terminations)
- GCSD Budget – Fiscal Years 2015/16, 2016/17, and 2017/18
- GCSD Organizational Chart 2017-18 (17 Authorized Positions)
- GCSD Operational Policies & Procedures Manual Adopted 10/11/2010

- Section 101 Board Policies and Procedures
- Section 506 Use of Equipment and Vehicles
- Draft Wastewater Rate Study, Bartle Wells Associates, 9/26/2017

Discussion

The discussion below provides an overview of investigation discoveries supported by multiple sources. Many current and former employees expressed concern about possible repercussions from speaking to management about their concerns. The Grand Jury heard from employees who felt threatened with job loss for revealing questionable operating decisions. Several former employees expressed a strong desire to remain anonymous.

Most of the following account took place before the new GM and Directors were in place. Under each item where we have seen a change under the new leadership, we have provided that information in **bold type**.

Board Behavior and Oversight

- A) Members of the public described Board outbursts of shouting, disrespectful, and aggressive behavior during public board meetings that left them feeling intimidated and, in one case, unsafe under the previous organization.

Under current management, the Board is developing norms of conduct for Board Members and a written protocol for Board meetings. The Grand Jury has attended most Board meetings since the investigation began and has observed acceptable behavior since the addition of the new Directors.

- B) The Board hired a consulting firm in 2017 to gather and evaluate a list of qualified candidates for the GM position. This task was completed, and the top four candidates were interviewed. The Board selected one candidate with a 3 to 2 vote. Ultimately, this candidate was not hired because the board pulled back their offer.

The public was angered that the \$23,000 consultant effort did not result in a permanent hire. Two Directors resigned in frustration because of a counterproductive hiring process.

- C) The acting General Manager presented a contract to bring back the retired GM as a consultant to: a) help with grants and the rate study and b) function as a wastewater plant operator. During the January 8, 2018 Board meeting this prompted one board member to state;

“This smacks of conflict of interest; are you sure you aren’t being manipulated? We let ourselves fall into a bad situation. When you have an officer leave and come right back as a contractor, it smells like conflict of interest. I am concerned of the appearance to the ratepayers. The person that used to work for...[him/her]... signs a contract to bring...[him/her]... right back?”

- D) District equipment was determined to be surplus by the equipment committee consisting of 2 Board members. The Board put the equipment up for sale, even though the employees made several appeals to retain the equipment.

Under current management, the Board has agreed to disband the Equipment Committee and let the employees determine which equipment is no longer needed.

- E) Union pay negotiations between management and union workers were conducted by relatives, creating the appearance of a conflict of interest.
- F) The Board reviewed a 2017 employee survey expressing employee dissatisfaction with management and practices. The Directors dismissed the results as; “There are always disgruntled employees.” In one case an employee appealed to the Board for assistance with unfair management practices and no action was taken by the Board. These employees had no life-line; resignation was their only choice.
- G) GCSD management have used their attorneys, through intimidating letters and phone calls, in an effort to quell the public

and Grand Jury. A community member and the Grand Jury received letters from an Attorney representing GCSD. Both letters included over-exaggeration or complete untruths as to the receiving party's conduct. The attorney threatened the community member by stating, "the District and/or its employees are prepared to petition the Superior Court to seek any orders necessary to protect employees from your constant and unreasonable harassment." This community member felt threatened and feared attending GCSD public meetings.

It is GCSD policy that only 2 Directors be informed of correspondence from their legal representative, resulting in a Board that is not fully informed.

Employee Management

- A) Retention of well-trained and certified employees has been a concern for GCSD. Management and Board members have cited pay as the major obstacle to retention. Our investigation revealed that an inequitable and unprofessional work environment, under previous management, was the leading contributor to retaining highly qualified and skilled workers.

Experienced employees have left and were replaced with less qualified people who were favored by senior management. Select employees enjoyed privileges others did not. Employees with greater seniority had been passed over for others with lesser skills or experience.

When employees expressed their concerns, management, Human Resources and the Board were unresponsive. We learned that employees quit because they felt they fell "out-of-favor" with management. In some cases, these out-of-favor employees were required to communicate with management via email or through someone else. Some employees felt the need to leave a job they cared about. Employees stated dissatisfaction with management as the primary reason for leaving.

Many times employees are required to successfully acquire higher level certifications within set timeframes. We learned of inconsistency with policy. Some employees were told they would be held to the timeframe to keep their job. Others were allowed additional time to complete the requirement, leading to inequity.

- B) Managers informed us that they prefer to hire from within. Our investigation found, in two cases, long-standing job descriptions were rewritten to reduce the requirements to favor internal candidates who did not have adequate certification or experience. Hiring people without certifications required to operate at state mandated levels has left the District with only one person who meets the requirements to oversee wastewater plant operations. As stated by previous management at a Board meeting in 2017, “we have a full crew, but it is a green crew.”

Management and Operations Practices

- A) The Grand Jury learned that previous management underreported the size of sewage spills, or failed to report spills, to avoid fines or avoid cost.

In a cost cutting effort, the staffing level was reduced from 24 in 2013 to 16 in 2017. This resulted in only 10 positions to manage and operate the water, wastewater, collections and distribution systems. Regular maintenance is difficult to accomplish with these minimal staffing levels. Without regular maintenance, the system has a higher probability for failure, resulting in sewer spills.

- B) It was reported to the Grand Jury that approximately 40 pieces of asbestos-reinforced cement pipe, (ACP), were disposed of. GCSD management failed to provide documentation of their disposal process. We were unable to obtain a policy from the District for the disposal of Hazmat.

Current management reported to the Grand Jury, “A written protocol did not previously exist, other than the standard practice and employee (in-field) training to return removed

sections of ACP to the Operations Center and to store this discarded material in a tarp covered pile. An ACP replacement program does not exist, so (stored) discarded quantities of pipe over the years have been relatively small. A formal written ACP handling and disposal procedure has been developed and is currently under internal review. We expect the protocol/procedure to be in place by the end of April 2018 and employees training and certification in May 2018.”

- C) The Grand Jury was informed that some GCSD employees have commonly used District equipment for their personal use. District equipment was used to do side jobs for personal financial gain.

It is District policy that equipment is not for personal use. Per California Government Code Section 8314, and/or Penal Code Section 424, public servants are prohibited from using public resources for personal purposes.

- D) GCSD purchased two vehicles in 2017 without following their procurement procedures. Management presented one bid, stating it was the lowest bid, when in fact at that time it was the only bid. Management misrepresented their bid process to their board and to the ratepayers.

Purchase orders provided to the Grand Jury were generated after the actual dates of order from the Dealership.

The public trust was violated when management misrepresented the truth about the purchase of a new vehicle. Community members suggested that the District look into purchasing a pre-owned vehicle to save money. Management stated that it could be discussed at the following board meeting, when in fact, the new car had already been ordered and the order could not be canceled. The new car was at the District before the next Board meeting. The promised discussion to consider a pre-owned car was not included in the agenda for the following board meeting. Instead, there was an agenda item to discuss the possibility of purchasing pre-owned vehicles in the future.

Findings

The Grand Jury recognizes the facts that have led to these findings are based on actions or inactions of past management. We are making recommendations based on these findings, in an effort to assist GCSD Board and Management to improve functionality and transparency.

- F1. Public confidence and trust has been eroded by disrespectful behavior of Directors at Board meetings and negligent management practices
- F2. Management practices created work conditions that resulted in the loss of highly qualified, experienced and certified employees.
- F3. Management has used District legal counsel communications to intimidate public individuals without full Board knowledge.
- F4. Inadequate staffing levels have increased environmental and safety risks for GCSD.
- F5. Employees have used District equipment for personal use in violation of policy.
- F6. Policy and procedures were not followed for purchasing vehicles in 2017.
- F7. Union pay negotiations between management and union workers were conducted by relatives.

Recommendations

- R1. Develop and enforce standards of orderly conduct by Board members during meetings. (F1)
- R2. Periodically train employees in the problem resolution process outlined under section 710 of the GCSD employee handbook. (F2)
- R3. Offer exit interviews with Board members to all departing employees. (F2)

- R4. Inform all Board members of legal communication before action is taken. (F3)
- R5. Delegate responsible staff for training and proper disposal of Hazmat according to the new Board policy currently in the process of development. (F4)
- R6. Create a “whistle blower” program that protects the confidentiality of employees and the public. (F4)
- R7. Adequately staff operations to meet the requirements for routine inspections and preventative maintenance. (F4)
- R8. Hold employees accountable for violating policies regarding unauthorized equipment use. (F5)
- R9. Hold managers and employees accountable for violations of District purchasing policies. (F6)
- R10. Train GCSD Board members on their conflict of interest policy documented in the Policy Manual of the Board of Directors. (F7)

Request For Responses

According to California Penal Code §933(c), no later than 90 days after the grand jury submits a final report on the operations of any public agency subject to the reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the finding and recommendations pertaining to matters under the control of the governing body and every elected county office of agency head for which the grand jury has jurisdiction pursuant to §914 shall comment within 60 days to the presiding judge of the superior court.

The GCSD Board of Directors are requested to respond to recommendations: R1, R2, R3, R4, R5, R6, R7, R8, R9, R10.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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