



DEL NORTE COUNTY GRAND JURY

Response to Grand Jury Report Format


Report Title: _Del Norte County Grand Jury Report 2012-13 Klamath Fire Protection District_____

Report Date: __22 June 2013_____

Response By: ELOISA GARDINI / LONNIE KELL Title: KFPD-PRESIDENT / FIRE CHIEF

Findings

- Recommendations numbered 1 have been implemented.
(Attach a summary describing the implemented actions)
- Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
- Recommendations numbered _____ require further analysis.
(Attach an explanation as to each recommendation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.)
- Recommendations numbered 5 will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation as to each recommendation that will not be implemented.)

Date : SEPT 16, 2013 Signed: 

Number of pages attached 8



DEL NORTE COUNTY GRAND JURY

14 June 2013

Ms. Eloisa Gamboni, President , Klamath Fire Protection District

Re: 2012-2013 Del Norte County Grand Jury Report

Dear Ms. Gamboni,

Enclosed please find a copy of the above report by the Del Norte County Grand Jury.

Please note that penal Code Section 933.05(f) specifically prohibits any disclosure of the contents of this report by a public agency or its officers or governing body prior to its release to the public, which will occur on June 22, 2013..

The Grand Jury requests that you respond in writing to the Findings and Recommendations contained in the report pursuant to Penal Code Section 933.05. Penal Code Sections 933.05(a) and 933.05(b) are specific as to the format of responses. The Response to the Grand Jury Report Form is attached. The Penal Code is also specific about the deadline for responses. You are required to submit your response to the presiding Judge within 90 days as follows:

Hard copy to: Presiding Judge, Del Norte County Grand Jury, Del Norte County Superior Court, 450 H Street, Crescent City, California 95531

Also send the following:

Hard copy to: Foreperson, Del Norte County Grand Jury, 450 H Street, Crescent City, California 95531

Responses are public record. The Clerk of the public agency affected must maintain a copy of your response. Should you have any questions, please contact me at the above address.

Sincerely,

Sandy Blakely

Foreperson

2012-2013 Del Norte County Grand Jury

To: Honorable William H. Follett
Judge of the Superior Court of Del Norte County

Date: 09/16/2013

From: Eloisa Gaboni, President, Klamath Fire Protection District
Lonnie Levi, Fire Chief, Klamath Fire

GRAND JURY RESPONSE

2012-2013

In regards to the Del Norte County Grand Jury Final Report for the year, 2012-2013, we would like to respond to the inquiries and recommendations from the Grand Jury.

The Grand Jury states in the summary that the Board is comprised of five members, one position currently unfilled. In actuality there were two positions unfilled due to a board member resigning at the January 09, 2013 meeting because this individual was moving out of the district and would be ineligible for being on the Board. The second vacancy is due to an individual Board member not attending meetings since the annual meeting on December 17, 2012 and according to the Klamath By-laws, the Board can vote to remove a member with or without cause with a 2/3 majority vote. This position became vacant as of April 17, 2013. The appropriate measures to fill these vacancies have been met and one position is currently vacant, and if there are no qualified applicants then the next step is to approach the Board of Supervisors to have these vacancies filled.

The Grand Jury received a complaint from a citizen and the Grand Jury opened up an investigation. However, the Grand Jury did not realize that the Board has new members and that the complaint dealt with issues dealing with the previous Board.

The complaint cites that it is difficult for the citizens to contact Klamath Fire in an emergency except to call individual members at home. The Klamath Fire Protection District uses the same phone number that is connected to the Command center. The number is 707-482-3311 and there is an answering machine that is checked every two to three days. The phone number is located in both the Frontier and Wild Rivers Coast phone books. This number along with all of the current board members contact numbers is also located in the Del Norte County Clerk-Recorder's office in the Klamath Fire District file folder. We do not give out the fire Chief or the firefighters' personal home or cell numbers because if there is an emergency, a citizen would need to call 911 so that proper procedures are implemented.

The next issue cited was multiple Brown Act violations by the Fire Board (i.e., holding secret meetings, not posting advance notices of public meetings, not posting advance agendas of upcoming meetings, not providing for public input or comment at meetings, and secret meetings. The Grand Jury in their summary did not answer the allegation of secret meetings. In order for there to be secret meeting there would need to be substantial proof that there were secret meetings held, and this would be a violation of the Brown Act. In the findings section of the Grand Jury report there was no information stating that there was proof of secret meetings being held.

The agenda requirement for the Brown Act states, "At least 72 hours prior to a regular meeting, the body must post an agenda containing a brief general description of each item to be discussed or transacted at the meeting, including items to be discussed in closed session. (§54954.2 (a).) The Act makes it clear that discussion items must be placed on the agenda, as well as items which may be the subject of action by the body.

In 78 Ops. Cal. Atty.Gen. 327, 331-332 (1995) this office concluded that the 72-hour notice requirement mandates local agencies to post their notices in locations which are accessible 24 hours a day for the 72 hours prior to the meeting. Accordingly, notices cannot be placed in buildings which are locked for some portion of the 72 hours immediately prior to the meeting. Copies of each agenda and meeting minutes are placed in the Agenda and Minutes book that is available for public review.

The Klamath Fire Protection Agency posts their agendas at the U.S Post office, the front window of the Command Center, and at times at Woodland Villa. The Grand Jury was advised of where these were posted and stated that posting it at the Post Office was sufficient.

Minutes and agendas of KFD Board meetings written by the Board Secretary changed outside the meeting without the knowledge of the Secretary. In reviewing the Agenda and Minutes of all of our meetings, it states in the minutes that the agendas and minutes were unanimously approved, or if there was a discrepancy then it was amended and then voted and approved. Upon further investigation, the Secretary was at the meetings and voted to approve minutes. If the Secretary felt there was an error then it was her responsibility to speak up so that the correct information was included or perhaps should have voted "no" to show on record that she disapproved of the minutes.

Klamath Fire Board not following their own by-laws. Since the fiscal year of 2011-2012 the by-laws were in the process of being amended. The final amended version was approved on 04/17/2013. The Grand Jury asked the President if there were by-laws in place and she affirmed this, however, she did not give them a copy of the by-laws so the copy of the by-laws that would

have been given to the Grand Jury would have been incomplete or incorrect due to the fact that they were being amended, and no current board member would have a complete copy.

Items discussed in private by three KFD board members are brought to the public KFD board meetings and pushed for approval with no discussion. The President does not recall being asked about this inquiry when interviewed. Clearly, this would be a severe violation of the Brown Act; however, the agenda and minutes show the items that would need to be voted on. Our minutes indicate who made the motion, who seconded the motion and the result of the vote. This is the appropriate steps to be taken and if there was a discussion needed then the member who had hesitations would have the opportunity to bring them up. When a vote is carried there needs to be a majority of two-thirds of the vote. So if a person has an issue with the end result of the vote this does not automatically mean there is a hidden agenda. The Grand Jury report does not address this complaint nor does it have proof of this allegation or any recommendations pertaining to this inquiry.

All Klamath fire files were removed from the command center and placed in KFD President's home. This inquiry is correct that the files were removed from the command center and were placed in the President's home which is located across the street from the command center because of the renovations that were being completed at the command Center. The Board was aware of where the files were located and if there was a need for the files to be reviewed there was adequate means to produce such files as needed. After the renovation was completed then the files were placed back into the command center.

The remodel of the command center was done without public input and only three of the five KFD board members were included in the design and money decisions. \$14,000 was expended and an accounting was requested by some members of the board and the public. The request was denied by the KFD President.

The Klamath Fire Protection district, firefighters, and public were unfortunately victims of fraud and misappropriated funds of the Klamath firefighter's personal account. The fraudulent activity did not affect the District's funds because they are overseen by the County's Auditor. Claims are submitted to the Auditor, and they disperse funds on behalf of the District. The Treasurer does not have the capacity to issue monies for the District. Due to this event, the end result was the previous President, Woodrow Mattingly, and the Fire Chief, Jeffrey Genzoli were no longer associated with the district or the department. Due to the dilapidation of the command center, the Board decided to renovate the building because this is one of the very few assets Klamath Fire is in possession of. There was a rodent issue including urination and feces, evidence of rat and mice infestations, mildew, and ADA issues that needed to be addressed so when a member of the public who needed assistance would be able to come to the command center and feel

comfortable as well as maneuver through the command center. The front door was the only door in the building that was ADA compliant. The Grand Jury requested from the President all agendas, minutes, and accounting claims from January 2012-January 2013. This information was part of the fiscal year of 2011-2012 and 2012-2013. The July 11, 2012 meeting discussed the command center where there was public comment on the monies used for the command center. The \$14,000 that the Grand Jury report discusses does not explain the fact that \$4500.00 of the monies used was allocated from the line item of the terminated Chief's stipend from the fiscal year of 2011-2012. The remaining \$9500.00 came from the next fiscal year 2012-2013 that the board approved unanimously during its budgetary talks. The Treasurer explained many times where the money was being allocated to and the reasoning behind it. The Board also has a claims book that shows all the claims that were issued (this book is available for review and also past fiscal years are located in the command center). In the District's meeting minutes, the treasurer's report was always unanimously accepted by vote from all board members. If there was any hesitation or disagreement then the members who were in disagreement should have made inquiries as well as voting a "no" to accept the treasurer's report and this would be evident in the minutes when the vote results were taken.

Furthermore, there was the issue of the roof being redone. Upon investigation by the President and the Treasurer, the previous board that was comprised of five different members received an insurance claim for the repair of the roof. The claim would have covered a brand new roof at that time. Instead, the past President hired someone to patch the roof and recoup the remaining monies as reserve for the KFD budget. The Treasurer explained to the President that this is a fraudulent activity and that the funds that were allocated for the roof needed to be used for the roof.

Members of the public who attend KFD Board meetings are routinely denied the ability to make comments, ask questions of the Board, or get on the agenda.

When guests attend the meetings there is a sign-in sheet where they are to print and sign their names. We ask in the beginning of the meeting if everyone has signed in. A majority of the meetings are usually attended by some of the members of the Klamath Fire auxiliary. If there are questions there is a public comment portion at the end of the meeting, however; sometimes overzealous individuals like to discuss things when the President has not given this individual the floor causing the meeting to become chaotic. When there is no respect on how a meeting is to be directed, then people have the assumptions that the Board does not want to hear them. This cannot be farther from the truth. The KFD has always encouraged the public to come to meetings, and be involved with the district and its functions. This can be noted in the Klamath Chamber newsletter where there were articles written about the fundraisers and the how the command center was going through renovations. If at any time a member of the public was

concerned with the handling of affairs they were always welcomed and we encouraged public comment. Most, if not all of the individuals who attended the meetings know how to contact the President either through a phone call or when she is at the command center doing the landscape. The President has always conveyed an open door policy to make sure that the public is engaged with the KFD. Since the unfortunate events that have taken place with the past fire chief, the KFD found it crucial to be transparent and have all affairs in order because the Grand Jury is correct in stating that the citizens of Klamath deserve nothing less, but not only do the citizens, but also the volunteer firefighters who have made the commitment to serve our community.

The KFD Board meetings are not held on a regular basis. The KFD by-laws state that the meetings are to be held every two weeks. Sometimes the frequency is months between meetings.

The by-laws state that our meetings are to be held the first and third Wednesday of the month. If there is no quorum then there cannot be a meeting. At times meetings were adjusted due to the fact that there would be no quorum. The Board would discuss the issue and all would agree to make-up the meeting or wait till the next meeting to discuss business. There were times when members were out of town on personal business, and in one instance a board member had spine surgery and recuperation made it difficult to attend meetings. The Grand Jury states there were months between meetings and looking at the agendas and minutes this does not appear to be correct. Since the amending of the by-laws that took place on 04/17/2013 the meetings will be held on the first and third Wednesday of the month.

Findings:

F1. The Grand Jury has serious Concerns about the ability of Klamath Fire Protection District to provide adequate protection from fire and reasonable response to medical emergencies.

The Klamath Fire Protection District actively recruits volunteers. It is difficult in a small rural community to find dedicated individuals willing to commit to the extensive training and time commitment required of them and their families to provide the professional level of service that is expected. This is not uncommon of other Departments all over the nation and is surely a problem with all Departments in the County. All of the negativity that this Department has been through in the recent past, including this report also adds to the problem of recruitment.

F2. The current Klamath fire Board operates in blatant violation of the Brown Act, this has resulted in a lack of accountability and transparency.

The Grand Jury states that the current Board is in violation of the Brown Act, yet does not supply what violations are being made. If there are no specific examples of the Brown Act being

violated then this statement is unsubstantiated. When the Grand Jury interviewed the President and asked about the agendas and then remarked that this was sufficient then by no means is this a violation of the Brown Act. Without having the exact violations then the Grand Jury cannot make the assumption that there is no accountability or transparency. All monies were accounted for and are available for public review.

The Grand Jury states that these violations results in lack of accountability and transparency; however, the minutes and the claims that were submitted to the Auditor's office will show that all monies that were allocated were done correctly and to the satisfaction of the Auditor's office.

F3. Grand Jury members witnessed equipment in disrepair. No visible posted inventory of equipment and supplies available at each station. Overall lack of organization and signs of neglect and decay.

It has been an uphill financial battle to get existing equipment into a serviceable condition. There have been numerous pieces of equipment that had been disposed of in the previous few years. This equipment was actually acquired to replace some of the existing equipment. The one piece of equipment that was not road worthy, a water tender, was replaced and we had no plans of putting any more money into it. It is not a standard of practice to post inventory or supplies available at the Stations, in each Station, in this Department or any other that we know of. We are constantly inventorying equipment as required by accounting procedures and our insurance requirements. Most of the records for the previous 20 years have been disposed of by the previous management. All required management practices are in the process of being reestablished. The status of the buildings that the District owns is a constant concern. Efforts were put into the Command center to literally save the structure. It was to the point of condemnation. With the efforts put into it, the asset was saved and can be utilized for many years of service.

F4. A lack of ability on the part of the KFD Board to oversee operations of Klamath Fire. A lack of good judgment on the part of the KFD Board to make sound fiscal decisions, i.e. to expend \$14,000 on the remodel of the command center rather than spend funds to repair the only water tanker and put it back into operation.

The Grand Jury is making the assumption that the command Center was not in need of repair. The consensus of the community would have a different opinion. The building was becoming dilapidated and without the necessary repairs taken, this asset would be lost. Furthermore, without the ADA regulations in place for the building, those in need of assistance would be denied the ability to contribute and attend functions held at the command center.

The Grand Jury seems to be fixated at the fact that \$14,000 was allocated for the remodel, but does not take into consideration that the monies were allocated from two fiscal years and not one. Also, the Grand Jury did not state that the monies used for the remodel was for supplies only, and all labor was voluntary. When a Board is not aware of a water tanker in need of repair then these issues cannot be addressed. The past President and fire chief did not convey to the Board the needs of the district, and this resulted in an abundance of issues that needed attention once these two individuals were no longer participating in the District. The Board felt it necessary to protect one of the assets needed not only to hold meetings, but also is a place used as an incident command center, and a place for training for the firefighters. Another issue is the fact that if there are supplies especially medical supplies for the public there needs to be a clean, sanitary facility to house these life-saving materials, and if one is to house these in a unsanitary facility not only does this endanger lives, but it also reflects on the integrity of the District, the firefighters, and the community as a whole.

F5. No operational water tanker.

It is appreciated that this group recognizes that a portable water supply is required for the District. The tender that this group saw has been replaced. As per the recommendation of the Grand Jury, it is a priority of the District to budget for major equipment replacement and repair and always has been a priority of the District to maintain the District's assets.

F6. The relationship that exists between the Yurok Tribe, The Klamath Fire Auxiliary and the greater Klamath Community is strained and adversarial.

The current management if the District feels that there is not adversarial relationships with community or the Tribe. The District also feels that the strained relationship with the Auxiliary is personal in nature, on the part of the Auxiliary. The department works well with the Tribe, operationally, and always has. Though it is know that the community has had issues with the past management of the District, we are working to get back on track. The majority of the community is behind and supports the District and department personnel.

In closing there is other mention of the Klamath Citizens not being able to easily contact the Department. The Del Norte County Sheriff's Office dispatches all calls for aid for the District via the 911 system. The district is at a loss of how to improve this process. If there are any suggestions, we will take them under advisement.

Most of the problems associated with the District and Department revolve around money, or lack there of. There is only a small amount of tax money available and a benefit assessment in place. Limited funds are available for a yearly budget, so asset management is essential, the District realizes this fact. The District has been in contact with a professional planner to help develop

short and long term plans. We know that the planner is contracted to LAFCO and is looking at funding options to develop this plan. The District also realizes the fact that they need to implement addition benefit assessment to generate revenue. The Grand Jury recommendation and the general plan can assist us with that. The district also feels that the complaint that generated the query was personally motivated and probably was not a complete look at the entire operation of the District and Department. A lot of the problems were generated in the near past and the current management is in the process of getting the District and the Department back to where it was for decades, providing excellent service to the citizens of the District.

Sincerely,



Eloisa Gaboni
KFPD President



Lonnie Levi
Klamath Fire Chief