

San Joaquin County Civil Grand Jury



French Camp McKinley Fire District 2016-2017 Case No. 0716

Summary

The 2016-2017 San Joaquin County Civil Grand Jury (Grand Jury) investigated a citizen complaint alleging the French Camp McKinley Fire District Board of Directors was not following its policies and procedures. The investigation focused on the following allegations:

- Board members interfered with the day-to-day operations of the fire district.
- Board members violated the Ralph M. Brown Act.

The Grand Jury recommends the Board of Directors attend Brown Act training and provide documentation of completion.

Background

The Fire Protection District Law of 1987 states that local communities can provide fire protection, rescue, emergency medical and other services relating to the protection of lives and property by the creation of fire protection districts. Fire districts are usually independent of a city or county government and are funded by a portion of the property tax and special assessments on properties within its district.

The Fire Protection District Law of 1987 states that: 1) fire districts shall be governed by a board of directors, 2) the board shall meet at least once every three months and 3) meetings of the board are subject to the provisions of the Ralph M. Brown Act.

The French Camp McKinley Fire District was formed in 1946, and provides fire, technical rescue, and basic emergency medical services to a population of approximately 6,000 residents. The fire district has one station in French Camp and responds to over 900 calls per year in a service area covering 16 square miles in unincorporated San Joaquin County.

In September of 2015 French Camp McKinley Fire District established a cooperative partnership to provide services to the Mountain House Community. The Mountain House Fire Station services a population of 14,000 residents in a service area covering 3.2 square miles.

Within the boundaries of and serviced by the district are:

- San Joaquin County Jail
- San Joaquin County Juvenile Justice Center
- Honor Farm
- San Joaquin County Sheriff's Office
- San Joaquin County Hospital
- California Health Care Facility

The French Camp McKinley Fire District Board of Directors is composed of five elected members. Directors serve a four-year term and terms are staggered.

Reason for Investigation

The 2016-2017 Grand Jury investigated a citizen complaint against the French Camp McKinley Fire District Board of Directors. The complaint alleged that board members interfered with the day-to-day operations assigned to the fire chief.

Method of Investigation

Materials Reviewed

- French Camp McKinley Rural Fire Protection District Fire Policy Manual
- French Camp McKinley Rural Fire District Policy 1093 - Board of Director Guidance
- French Camp McKinley Fire District Board meeting minutes
- Fire Protection District Law of 1987
- The Ralph M. Brown Act

Interviews Conducted

- French Camp McKinley Fire District Board Directors
- French Camp McKinley administration and staff
- Complainant

Site Visited

- Attended French Camp McKinley Board of Directors meeting

Discussions, Findings and Recommendations

1.0 Board of Director Policy

The French Camp McKinley Fire District has an extensive 434 page Fire Policy Manual that details all aspects of administration, policies and personnel procedures.

Section 1093.3(c) lists the responsibilities of the Fire Chief. Item 5 states:

“Oversees staff including hiring, evaluation, promotion and discipline of all line and management staff.”

The day-to-day operations of the fire district are the responsibility of the Fire Chief, *not* the Board of Directors.

Policy 1093.3(b) details the responsibilities of the Board of Directors as a group and its members as individuals states:

“To refrain from involvement in the day-to-day operations of the District.”

Board members interfered in the day-to-day management of fire fighter personnel by repeatedly calling the fire chief with questions regarding the disciplinary actions already levied against a fire fighter. Personnel matters are only to be discussed in closed session of board meetings. One of the board members inquiring about the status of the fire fighter in question was related to the fire fighter.

This could be perceived as a conflict of interest and a violation of Government Code section 53234. Government Code section 53234 (d) in part states:

“Ethics laws include, but are not limited to the following:

(4) Laws relating to fair processes...disqualification from participating in decisions affecting family members.”

The French Camp Fire District Nepotism Policy 1090 states:

“The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this district.”

Findings

F1.1 Members of the French Camp McKinley Fire District Board violated Board Policy 1093 and overstepped their authority by interfering in the day-to-day management of fire fighter personnel.

F1.2 A board member violated the Ethics Code by inappropriately discussing confidential personnel matters.

Recommendations

R1.1 By September 30, 2017, members of the French Camp McKinley Fire District Board review and agree to follow District Policy 1093. Submit a signed letter of completion to their clerk of the board.

R1.2 By December 31, 2017 all board members complete ethics training as required in Government Code section 53235.

2.0 The Ralph M. Brown Act

The Ralph M. Brown Act (Brown Act) was passed in 1953 and is contained in California Government Code section 54950 *et seq.* The Brown Act applies to California cities and county government agencies, boards and councils.

The Brown Act's original purpose was to guarantee the public's right to attend and participate in open meetings of local legislative bodies. The Brown Act has been expanded over the years to address public concerns over informal, undisclosed meetings held by elected officials. The Brown Act contains specific exceptions from the open meeting requirements where a need for confidentiality has been demonstrated. Closed-session meetings primarily involve personnel issues, pending litigation, labor negotiations and property acquisitions.

The Brown Act section 54963(a) states:

"A person may not disclose confidential information that has been acquired by being present in a closed session unless authorized ...to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information."

At least one member of the board violated this section by discussing closed-session personnel information outside of closed-session. It was further violated by discussing confidential information with members of the public. Section 54954.2 (a)(1) states:

"At least 72 hours before a regular meeting the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session."

A brief general description of an item generally need not to exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one...."

French Camp McKinley Board of Director Policy 1093 contains two sections specifically addressing the Brown Act. Section 1093.1.1(k) states:

"The Board shall comply with all provisions of the Ralph M. Brown Act."

Section 1093.1.1(j) states:

At least seventy-two (72) hours prior to the time of all regular meetings, an agenda, which includes but is not limited to all matters on which there may be discussion and/or action by the Board, shall be posted conspicuously for public review within the fire district office/station, meeting location and on the fire district website."

The French Camp McKinley Fire District website's last posting of board meeting agendas was May 2016.

Findings

F2.1 French Camp McKinley Fire District violated the Brown Act by not posting board meeting agendas on their website from May 2016 to April 2017. This violation left the public uninformed, resulting in a lack of transparency.

F2.2 French Camp McKinley board members violated the Brown Act by discussing personnel matters outside of closed session, resulting in a violation of their own Board of Director Guidance Policy 1093.

Recommendations

R2.1 The French Camp McKinley Fire District post all agendas within the 72 hour time frame on their website as stipulated by the Brown Act.

R2.2 By December 31, 2017, the French Camp McKinley Fire District Board Chair require all board members to complete training on the Brown Act and provide documentation of completion to the clerk of their board.

Conclusion

French Camp McKinley Fire District is governed by a Board of Directors. Their Board of Directors has specific and detailed guidelines governing the administration of the fire district. This does not include involvement in the management of the day-to-day operations of the fire district. Board members are elected by the citizens they serve and must have the trust of the community to effectively manage the budgets and set the policies of the fire district. When board members are in violation of their own policies and state law, trust is broken. This results in a disservice to the public they serve.

Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. The Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code sections 924.2 and 929).

Response Requirements

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The Board of Directors of the French Camp McKinley Fire District shall respond to all findings and recommendations in this report.

Mail or hand deliver a hard copy of the response to:

Honorable José L. Alva, Presiding Judge
San Joaquin County Superior Court
180 West Weber Avenue, Suite 1306
Stockton, CA 95202

Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at grandjury@sjcourts.org