



Lathrop-Manteca Fire Protection District

19001 Somerston Parkway, Lathrop, CA 95330

• (209) 941-5100 • Fax (209) 941-5115 • www.lmfire.org •

September 15, 2022

Honorable Michael D. Coughlan, Presiding Judge
San Joaquin County Superior Court
180 E Weber Ave, Suite 1306J
Stockton, California 95202

Re: *2021-2022 San Joaquin Grand Jury Lathrop-Manteca Fire District: A Work in Progress: From Turmoil to Healing Case #0721*

Honorable Judge Coughlan:

This letter responds to the above-referenced Grand Jury Report in accordance with California Penal Code Sections 933 and 933.05. The Lathrop-Manteca Fire District Board of Directors has reviewed and thoughtfully considered the Grand Jury's report. The responses contained in this letter have been approved by the Board of Directors.

SECTION 1.1 FINANCIAL MATTERS

F1.1 Ordinance 1 and District rules and regulations enable the Fire Chief to control most financial operations of the District with limited or no Board oversight, thus providing an opportunity for financial malfeasance.

The District disagrees wholly with this finding. The District's Board adopts a budget each year in accordance with California law. The District's budget establishes expenditure limits for concerns identified in the budget. The District's Policy 0.35 further establishes purchasing procedures required for District procurements.

R1.1 By November 1, 2022, the Board of Directors replace Ordinance No. 1 in its entirety by developing, adopting and implementing policies and procedures that clearly define the authority, and limitations thereon, of the Fire Chief and provide greater Board oversight of the operations of the District.

This recommendation will not be implemented because Ordinance No. 1 includes additional provisions governing various aspects of the Fire District. Although Ordinance No. 1 was not "replaced in its entirety", revisions and amendments to the ordinance have been implemented to provide greater Board oversight of the operations of the District.

On June 16, 2022, the Lathrop-Manteca Board of Directors introduced the first reading of the amended *Ordinance No. 1 for the Organization and Rules for the Manteca-Lathrop Rural County Fire Protection District*. This amendment incorporated new language to ensure the Fire Chief is administering financial operations of the District in accordance with the adopted budget. Those changes include the following:

Section 1. Officers, Article 1 – “The Fire District shall consist of a Fire Chief and as many other personnel as may be necessary for the effective operation of the department as determined by the Fire Chief and authorized by the Fire Board as part of the District’s annual budgeting process.”

Section 2. Duties of the Chief, Article 2. “The Fire Chief shall be responsible for developing a comprehensive annual budget and provide said budget to the Board for review and adoption in compliance with local, State, and Federal Laws, as well as District policy.”

Section 3. Membership, Article 1 – “The Personnel of the District shall consist of such persons as may be identified and appointed by the Chief. Personnel shall be approved by the Directors based on adoption of the District’s annual budget and amendments in compliance with State and Local Laws.”

The amended Ordinance No. 1 was posted in the Manteca Bulletin on July 16, 2022, and the second reading was conducted at the Regular Meeting of the Fire Board on July 21, 2022. The Board of Directors passed and adopted the amended Ordinance No. 1 on July 21, 2022. The amended Ordinance No. 1 became effective 30-days later on August 20, 2022.

To provide additional Board oversight of District financial matters, at their February 17, 2022 regular meeting, the Board established a standing “Finance Committee” and appointed two Board members to work directly with the Fire Chief. This standing committee operates under established bylaws, and keeps agendas and minutes of meeting content/discussion.

F1.2 Ordinance 1 and current policies allow the Fire Chief, as Chief Executive Officer, to alter or disregard District policies without approval by the Board, causing confusion and discord within the District.

The District Board disagrees wholly with this finding. Ordinance 1 provides that the Chief shall be held accountable to the Directors only, and shall make written and verbal reports thereto as the Directors may require. The District maintains current District Board adopted policies to manage the affairs of the District, which the Fire Chief administers and enforces.

R1.2 By November 1, 2022, the Board of Directors develop, adopt and implement a policy to require Board approval for any alterations or deviations from established policies and procedures.

This recommendation was implemented through the approval of Policy 0.01 – Policy Manual at the regular meeting of the Board on February 17, 2022.

Section 0.01.7 Revisions to Policies states:

“Policy manual revisions. The Fire Chief shall have the authority to create, edit, or delete any policy regarding Emergency Operations, Training, Equipment and Technology, Fire Prevention, Safety, Personnel, Facilities, or other areas within the Scope of the Fire Chief’s purview. The Fire Board will be notified of any changes to policies at the next scheduled regular board meeting.”

Any policy or procedure affecting the Fire Board, organization of the District, Finances, Inter-Governmental relationships, or other areas within the scope of the Fire Board's purview shall be reviewed and adopted by the Fire Board at their discretion."

F1.3 *The Board of Directors failed to enforce the District's Credit Card Policy providing an opportunity for financial malfeasance.*

The District Board disagrees wholly with this finding. The District's Fire Chief enforces the District's Policies as part of the Fire Chief's duty to enforce the District's comprehensive set of rules and regulations concerning discipline, training, and operation of the Fire Department.

R1.3 *By November 1, 2022, The Board of Directors develop, adopt and implement a policy and procedure for financial oversight by the Board that includes a system of checks and balances.*

This recommendation has been implemented. The Board addressed this recommendation at their February 17, 2022 board meeting. To provide additional Board oversight of District financial matters, at their February 17, 2022 regular meeting, the Board established a standing "Finance Committee" and appointed two Board members to work directly with the Fire Chief. This standing committee operates under established bylaws, and keeps agendas and minutes of meeting content/discussion.

To further address financial oversight, at the regular board meeting held April 21, 2022, the Board adopted the following financial policies:

1. Policy 0.22 Finance Committee Bylaws
2. Policy 0.23 Financial Oversight and the Finance Committee
3. Policy 0.24 Preliminary Budget Approval Policy

F1.4 *Requiring non-exempt administrative employees to attend a retreat that created overtime hours without compensation was in violation of the current Memorandum of Understanding and the Fair Labor Standards Act, opening the District to potential liability.*

The District Board disagrees wholly with this finding. The District cannot agree with a legal conclusion based on the cursory information provided by the Grand Jury.

R1.4 *By November 1, 2022, the Board of Directors develop, adopt and implement updated travel and education policies compliant with the District Memorandum of Understanding for Executive Staff and Fair Labor Standards Act.*

This recommendation has not yet been implemented. A draft Travel Policy has been written and reviewed by the new Fire Chief. The policy is scheduled to be brought before the Board of Directors for approval at their regular meeting on October 21, 2022.

F1.5 *Funds generated for the use of the district through the Cal-JAC program were allocated to purchases, services and events, uses that were not in compliance with District's purchasing and credit card policies. These expenditures could be construed as a misuse of funds.*

The District Board disagrees partially with this finding. The funds generated for use of the District through the Cal-JAC program were applied toward certain allowable items and activities and not expressly prohibited according to Cal-JAC policy, however the use of District credit card(s) to purchase alcoholic beverages were in direct violation with the District's purchasing and credit card policies (Policy 0.15 District Credit Card Policy).

R1.5 By November 1, 2022, the Board of Directors develop, adopt and implement a policy with detailed procedures for the use of earned Cal-JAC program funds that is in accordance with the District's purchasing and credit card policies.

This recommendation has not yet been implemented. District staff has developed a draft Cal-JAC policy which is scheduled to be brought before the Board of Directors for approval at their regular meeting on October 21, 2022. Staff presented a draft of the policy to the Board in November of 2021. Additionally, staff has communicated with Cal-JAC personnel in development of the draft policy and is already operating under the intent of the draft policy.

R1.6 By November 1, 2022, the Board of Directors appoint a committee of no less than three to pre-approve Cal-JAC expenditures.

This recommendation has yet to be implemented. The draft Cal-JAC policy scheduled for approval by the Board at their regular meeting in October 2022, includes provisions for the District's Cal-JAC committee to approve of Cal-JAC expenditures. In advance of the pending approval of the policy, the committee is already operating comprised of 8 total members (4 members of the District's management team, and 4 members of the firefighter's labor organization).

F1.6 Beginning in 2019 the District's fireworks booth was operated by the 501(c) (3) nonprofit Behind the Fire LMFD, overseen by a member of the Chief's family. This occurred with no oversight by the Board, who held the license for the booth, a situation that could expose the District and its Board to allegations of misconduct and malfeasance.

The District Board partially disagrees with this finding. While it is true that the fireworks booth was operated by a 501(c)(3) nonprofit group, there is no information presented indicating misconduct or malfeasance. Therefore, the District cannot agree with the Grand Jury's finding regarding possible exposure to allegations of misconduct or malfeasance, as doing so would be pure speculation.

R1.7 By January 1, 2023, the Board of Directors develop, adopt and implement a policy and procedure for the operation of the fireworks booth raffle and for the operation of District booth.

This recommendation will not be implemented because it is not warranted. The provisions regulating the sale of safe and sane fireworks are explicitly detailed in section 8.13.090 *Safe and sane fireworks – Prerequisite for issuance of permit* of the City of Lathrop Municipal Code.

The nonprofit "Behind the Fire LMFD" and the former Fire Chief in question are no longer associated directly with the Lathrop-Manteca Fire District. A review of the charity research tool on the State of California Department of Justice website shows the entity is "not registered" with a letter dated December 23, 2019 recommending the revocation of the organization's tax

exempt status. Further, a recent search of the California Secretary of State website lists the entity as "Suspended" (see below).

Entity Information	Initial Filing Date	Status	Entity Type	Formed In
BEHIND THE FIRE LMFD (4238502)	01/28/2019	Suspended - SOS	Nonprofit Corporation - CA - Public Benefit	CALIFORNIA

According to the City of Lathrop Municipal Code 8.13.090(b) both the City of Lathrop and the Lathrop-Manteca Fire District have the right to receive a permit annually to sell safe and sane fireworks. In 2022, the District allocated its permit to the non-profit lottery system in accordance with the provisions of the municipal code.

SECTION 1.2 BOARD TRAINING

F1.2.1 Board members' AB1234 Ethics Training Certificates posted are expired or missing, indicating that some Board members may not be in full compliance with AB1234 regulations.

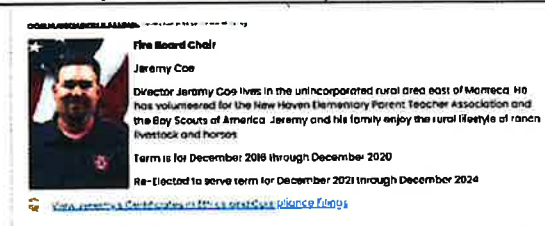
The District Board disagrees partially with this finding.

The Board agrees that at the time of review, there were Board members with expired or missing AB1234 Ethics Training Certificates posted on the District's website. Although the certificates posted on the website indicated they were expired and/or missing, the District had current records indicating that all Board Members were in full compliance with AB1234 regulations.

R1.2.1 By November 1, 2022, the Board of Directors complete required AB1234 training and make the Ethics Training Certificates available upon request per the California Public Records Act.

This recommendation has been implemented. All current Board Members have completed the required AB1234 Ethics Training. Not only has the District made the training certificates available upon a California Public Records Act request, but the certificates are posted prominently on the District's official website at the following link [Fire Board of Directors | Lathrop Manteca Fire District \(lmfire.org\)](#).

LMFD District Board Member	AB1234 Certificate of Completion Date
Board Chairperson Jeremey Coe	September 29, 2021
Vice Chairperson Charles Garcia	January 20, 2021
Director Mark Elliott	January 20, 2021
Director Tosh Ishihara	January 20, 2021
Director Gloryanna Rhodes	September 11, 2021



R1.2.2 *By January 1, 2023, the Board of Directors develop, adopt and implement a policy requiring all incoming elected, or appointed, Board members complete AB1234 training within 60 days of taking office.*

This recommendation will not be implemented because it is not warranted. The Board has been compliant and remains in compliance with the requirements of AB1234 Ethics Training. Newly elected or appointed Board members typically take the training within the first 30 days of taking office. Further, the Board adopted by-laws that include an identified Code of Ethics.

SECTION 2.0 HARRASSMENT AND INTIMIDATION: BOARD OVERSIGHT

F2.1 *The Board of Directors was not aware of issues that District employees had with the Chief. Ordinance 1 general conduct rule blocked employee accessibility to the Board. This situation contributed to a hostile work environment.*

The District Board disagrees partially with this finding. The Board acknowledges that it was not made aware of various concerns involving the former Fire Chief. The District's Rules and Regulations do in fact prohibit (provision has since been omitted) individual employees from contacting Board Members directly with two exceptions: 1) as an authorized representative of the employee group, or 2) as a resident of the Fire District.

The existing Memorandum of Understanding (MOU) between the District and the Lathrop-Manteca Firefighters Association, International Association of Fire Fighters, Local 4317, did include and presently includes a formalized grievance procedure which includes provisions for complaints, and subsequent disciplinary appeal or arbitration consistent with state labor laws. The MOU for the Members of the Executive Staff, do not currently include such provisions.

R2.1 *By December 1, 2022, the Board of Directors develop, adopt and implement a formal employee complaint policy with procedures for filing complaints, reporting back to complainants, filing appeals and providing accessibility to the Board while adhering to all laws, rules regarding confidentiality.*

This recommendation has not yet been implemented. More time is necessary to develop and implement a formal employee complaint policy. The Board will work with staff to develop a policy and will strive to present to the Board for approval in November 2022.

In an effort to increase communication between employees and the Board, the Board has established (2) two-person ad hoc committees (one committee each for the two employee groups) to maintain regular dialogue with employees. In the absence of the recommended complaint policy, the ability to use the grievance process for L4317 remains. Executive staff can bring complaints to the Board's ad hoc committee.

F2.2 *The District does not have a formal employee satisfaction survey or engagement process to allow employees to share work environment concerns with the Board and Management. The District is unable to implement warranted improvements for issues and concerns if they are not brought to light by employees.*

The District disagrees wholly with this finding.

***R2.2** By January 1, 2023, the Board of Directors develop, adopt and implement an annual employee satisfaction survey and employee engagement process to review survey results to ensure that new management and updated policies are providing a positive effect on the District's work environment.*

This recommendation has not yet been implemented. The Fire Chief, in cooperation with District staff, will discuss the feasibility and efficacy of implementing an annual survey with the Board. If it is determined a survey is value added, it will be implemented by January 1, 2023.

***F2.3** Requiring non-exempt administrative employees to attend a retreat that created overtime hours without compensation was in violation of the current Memorandum of Understanding and the Fair Labor Standards Act. This action could expose the District to potential liability including financial penalties.*

The District Board disagrees wholly with this finding. The District cannot agree with a legal conclusion based on the cursory information provided by the Grand Jury.

***R2.3** By November 1, 2022, the Board of Directors complete an investigation into the allegations that non-exempt employees did not receive mileage payments and were not paid for overtime hours while attending the Napa retreat and, if the allegations are found to be true, take corrective action to ensure payments are made to the affected employees within 30 days thereafter.*

This recommendation has not yet been implemented but will be implemented in the future within a reasonable timeframe.

***F2.4** Allegations were made that merit or step pay increases were withheld pending the signing of a non-disclosure agreement which violates the District's Memorandum of Understanding for Executive Staff. If proven to be true, and not corrected, the District could be subject to legal action brought by affected employees.*

The District Board wholly disagrees with this finding. The District cannot agree with a legal conclusion based on the cursory information provided by the Grand Jury.

***R2.4** By November 1, 2022, the Board of Directors complete an investigation into allegations that merit and/or step increase payment were withheld from employees pending the signing of a non-disclosure agreement and, if the allegations are found to be true, take corrective action to ensure payments, including applicable retroactive pay, are made within 30-days thereafter.*

This recommendation has not yet been implemented but will be implemented in the future within a reasonable timeframe.

***F2.5** Pending litigation filed against the Fire District by employees for harassment and intimidation could expose the District to expenses for financial settlements and legal fees.*

The District Board disagrees partially with this finding. The District cannot speculate as to exposure for financial settlements while litigation is pending.

F2.6 The District does not have a nepotism and cronyism policy that prohibits the direct supervision of family members and/or individuals with whom the supervising manager has a romantic or other close personal, financial, business or political relationship. Not having a clear policy for nepotism and cronyism has created discord within the District.

The District Board agrees with this finding.

R2.5 By December 1, 2022, the Board of Directors develop, adopt and implement an updated policy addressing nepotism and cronyism in the District.

This recommendation has not yet been implemented. The District has existing policy 1.05 *Personal Relationships in the Workplace* which does not explicitly prohibit direct supervision of family members and/or individuals with whom the supervisors have romantic, personal, financial, business or political relationship. In short, the existing policy only states that the District will monitor situations and take "prompt action" when problematic. This policy will be updated and presented to the Board for approval prior to December 1, 2022.

This concludes the Lathrop-Manteca Fire Protection District's responses to the Civil Grand Jury's report (Case #0721). The included responses were approved by the Board of Directors at their regularly scheduled meeting on September 15, 2022.

Sincerely,

A handwritten signature in blue ink, appearing to read "David A. Bramell".

David A. Bramell
Fire Chief
Lathrop-Manteca Fire Protection District