

Herald Fire Protection District Update

Summary

The 2016-2017 Sacramento County Grand Jury conducted a follow-up review of the Herald Fire Protection District to review its current operations and determine whether the district implemented the recommendations made three years ago by the 2013 - 2014 Grand Jury in its report, “The Firestorm Raging in Herald.”

The grand jury concludes that, in spite of numerous challenges in the past three years, the Herald Fire Protection District has made progress in implementing the recommendations made in the 2013 - 2014 report. The district appears to be in a better position now, both in terms of its financial stability and the safety of its volunteer firefighters. However, there still is work that needs to be done.

Background

In its report published in July 2014, the grand jury was quite critical of the Herald Fire Protection District and its lack of appropriate fiscal and administrative controls.

On Sept. 29, 2014, the district board of directors issued a detailed response to the grand jury’s recommendations indicating that immediate steps would be taken to address the issues identified.

The current grand jury thought it prudent to re-examine the district because of the severity of the items identified in the 2014 report and the potential risk to the public, not only financially, but more importantly, the potential for physical danger.

Methodology

The 2016 - 2017 grand jury reviewed all previous findings and interviewed the fire chief and board chairman, as well as other interested parties. We also read a “Public Agency Review” that the California Public Employee Retirement System (CalPERS) completed on the Herald Fire Protection District in 2010.

Discussion

As early as 2012, members of the Herald community began to express concerns about the management of the fire protection district. These concerns were initially investigated by local news media and, in 2014, they came to the attention of the grand jury.

Many of the issues identified by the grand jury stemmed from the constant turnover of key personnel. Factions and infighting within the board and in the community at large were the root causes of several of these issues. In the intervening years, there has continued to be turnover but,

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slowly, things have changed and the district seems to be on the right track. The current board of directors has done much to restore community confidence in the governance of the district.

One of the key decisions the board made was to bring on a new volunteer fire chief last year. The new chief has been an active member of the Herald community for many years. He has also held various positions within the district, including fire marshal, prior to his appointment as chief. The primary goal since the new chief has taken over is improving the safety of personnel. The district has made a commitment to improving training for volunteers and replacing outdated equipment.

Herald Fire Protection District is an all-volunteer agency. At one point, it was down to seven volunteer firefighters after a “no-confidence” vote in 2015, when many volunteers walked off the job. Volunteers did not feel safe and they did not feel valued. The current administration has purchased new radios, safety gear and other critical equipment; morale has improved and more people have volunteered. The district also made other changes, including weekly training drills, and made sure that all volunteers had current medical exams. The board authorized additional expenditures to purchase compatible equipment for mutual aid.

The following are the original 2014 grand jury recommendations and the current status of each.

Recommendation #1 - The district should establish adequate internal accounting controls, as identified in this report, to ensure verification of its finances against waste or misappropriation of district assets.

There were many problems with the district’s checking account which were fixed when the district eliminated the account. The district does not allow any cash payments and all bills are paid directly through the county accounting system. The new business manager has implemented redundant approval controls with a two- signature approval process prior to submission to the county.

These improvements notwithstanding, the district still has financial problems. It chose to opt out of the CalPERS retirement system when it transitioned to a largely all-volunteer force. The move will result in the district owing CalPERS a significant amount of money to pay its unfunded liability for pensions. While the district initially set aside some funds for the upcoming payment to CalPERS, some of that money has been tapped for other priorities. In addition, a portion of the funds has been used to either hire or contract with ex-employees to do work the volunteers seem capable of doing.

These hiring and contracting practices not only cost money, but may have been done contrary to CalPERS and Civil Service rules. These rules are designed to prevent the revolving-door hiring of ex-employees and the use of contracts to avoid hiring employees. This is still an issue. As recently as March 2017, the district considered contracting to pay a former fire chief a high hourly rate to perform work that the all-volunteer force appears capable of performing.

Recommendation #2 – The county auditor should conduct an immediate audit of the district’s financial statements and conduct all future annual audits of the district’s finances, as required by law.

The County of Sacramento declined to provide audit services for the district, so a private accounting firm was engaged to perform an independent audit and bring the district up to date with all years up to 2016. The firm had to go back to Fiscal Year 2009-2010 to begin reconstructing the books due to a lack of consistency and understanding of basic accounting principles. The first year, reconstruction was extremely complex but, with a solid foundation and base established, subsequent years should go more quickly with an estimated completion some time in 2018. As a result of this audit, it was discovered that many contractors and suppliers were not paid for services or expenses. The district is trying to pay these debts as they are discovered.

As previously stated, one of the most significant debts is back payment of employer and employee contributions due to CalPERS. The district initiated a contract with CalPERS in 1995 to provide retirement benefits for fire safety employees and later amended the contract to provide retirement benefits for miscellaneous employees starting in 2008. However, a 2009-2010 Public Agency Review conducted by the CalPERS Office of Audit Services discovered irregularities with regard to the enrollment of eligible employees, the timeliness of payments, and the accuracy of the data provided with regard to employee start dates, pay rates, base earnings and special compensation, such as the value of employer-provided uniforms.

While it is the district’s stated intention to fully fund the outstanding liability for the retirement benefits of its former employees who are CalPERS members, no one knows what the final cost will be, but it could be as much as \$500,000.

Recommendation #3 - The district should adopt policies and practices compliant with the Firefighters Procedural Bill of Rights Act and provide training to all staff regarding the act’s requirements.

This recommendation was implemented two years ago when the district revised its personnel policies. While the district currently has only volunteer firefighters, the volunteers have limited due process rights under the act related to disciplinary actions. The district is in the process of developing a new training program for its volunteers, but the training is not yet completed. The chief indicated that the training will include information about the due process provisions provided under the act.

Recommendation #4 - The district should comprehensively review and update as appropriate all district governance policies, including the district’s master plan.

The master plan has recently been updated. The district has also implemented many policies and best practices successfully used by other fire districts to improve overall safety, response time and employee recognition. However, part of the planning process needs to focus on strategies to complete all of the back audits as quickly as possible and retire any outstanding debt. This may

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require establishment of a specific debt repayment fund, not a general contingency fund, which will be dedicated to paying the monies owed to CalPERS and other creditors.

Recommendation #5 - The Sacramento Local Area Formation Commission (LAFCo) should conduct a Municipal Service Review (MSR) of the district and evaluate the viability of consolidating the district fire service with another fire agency.

It should be noted that this recommendation was directed to LAFCo, not the district, and that LAFCo responded to the grand jury in 2014 that an MSR would be completed. While the district has had ongoing contact with LAFCo in the past two years, the MSR has not been completed. Moreover, there has been no recent discussion of consolidation and the district's current board is not amenable to the idea.

The grand jury has already commented in this report on the lack of diligence shown by the Sacramento County LAFCo in completing municipal service reviews of special districts as required by law. LAFCo's failure to complete its review of the Herald Fire Protection District is indicative of its general lack of accountability to the taxpayers of the county. Further, LAFCo let the district down at a time when a thorough operational review could have been helpful in resolving many issues.

Findings

- F1. The district has made progress in implementing the recommendations contained in the 2013 - 2014 grand jury report especially in the area of improving the safety of its volunteers.
- F2. The annual financial audits have not been completed and there are still six years outstanding from FY 2010 - 2011 through FY 2015 - 2016.
- F3. Additional work needs to be done to address the district's financial vulnerabilities, especially in paying funds owed to CalPERS.
- F4. SAC LAFCo never completed the MSR of the Herald Fire Protection District that it agreed to conduct in response to the 2013 - 2014 grand jury report.

Recommendations

- R1. The Herald Fire Protection District should continue its efforts to maintain a safe working environment by updating its policies, procedures, equipment and training for its volunteer firefighters.
- R2. The district should take steps to ensure that audits of past years are expedited to be completed and to bring the financial records up to date as soon as possible.
- R3. The district should set aside a specific fund to pay any outstanding debts identified in the audits and the funds owed to CalPERS; this fund should not be tapped to pay other ongoing expenses.

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R4. Sac LAFCo should complete an MSR of the district not later than the end of Fiscal Year 2017-2018, either as a separate entity or as part of a general review of fire district services in the southern part of the county.

Request for Response

Penal Code Sections 933 and 933.05 require that the following officials submit specific responses to the findings and recommendations in this report to the Presiding Judge of the Sacramento Superior Court by September 30, 2017.

Herald Fire District

Finding 2 and Recommendations 2 and 3.

Sacramento LAFCo

Finding 4 and Recommendation 4.

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

Kevin R. Culhane, Presiding Judge
Sacramento County Superior Court
720 9th Street, Department 47
Sacramento, CA 95814

In addition, email the response to:

Becky Castaneda, Grand Jury Coordinator at castanb@saccourt.com