

**Stanislaus County Board of Supervisors
Stanislaus County Management Practices
Grand Jury Case No. 05-39
2004-2005**

SUMMARY

The Grand Jury in its capacity as the public's "watchdog" under Penal Code sections 919, 925, et seq., initiated an investigation of the management practices of the Stanislaus County Board of Supervisors (known as BOS) and the impact of the BOS management practice on special service district's performance.¹ The fact that the BOS had to act when an independent local special service district failed was brought to the grand jury's attention by a citizen's written complaint.

The Grand Jury used the experience of a failed special service district to understand county–special district functional relationships. The Grand Jury found that county policy-makers and staff, with few notable exceptions, limited their involvement with special service districts. The BOS approves the boundaries for new districts, makes political appointments to the districts' boards, and acts as a banker for the districts in the dispersal of tax revenues. The BOS reacts with "after the fact" investigations when a district is already in management meltdown and financial failure.

There is much that the county policy makers and staff can do to assist and eliminate a special district's problems. They need to understand how to support the district, have the proper governmental oversight structure in place, and act in a decisive manner.

Several witnesses testified that a number of county special service districts are failing with potential losses of vital services in the millions of dollars. Special districts with similar functions need to be consolidated with county support for effective administration. As an example, in many jurisdictions police and fire come under a single legal entity called Public Safety with its financial and labor efficiencies. The county administration has been bound by management practice shortcomings associated with its rural past. The Grand Jury concluded that Stanislaus County contributes to the special districts' problems by not acting on a countywide basis.

¹ See Penal Code Section 933.5. Outlines Grand Jury's primary authority to investigate and report on the activities of special districts.

INTRODUCTION

The county's historical lack of centralized action and professional cooperation stems from the county's rural history of "everyone does their own thing".² Over the years more than sixty (60) special districts of all types (fire, water, and sewer) were created as each separate body of taxpayers within a particular locale required a specific service.

The parallel establishment of nine autonomous cities making their own plans, providing their own services, and dealing with their own developers with little regard for countywide interests was often blamed by the witnesses for the problems the county faces in getting anything done. The witnesses' testimony rarely placed any blame on the county organization itself, its policies, actions or inactions.

The county policy makers dedicated most of their time trying to catch up to day-to-day changes in control growth, development dynamics, concerns with financial and management shortfalls and dealing with the results of poor decision-making by their staff and board appointees.³ The Grand Jury heard from witnesses that this prevailing attitude was often based on a local notion of what constitutes "good sense" without regard to managerial, structural, or operational expertise. It was as if they were driving a car while not taking their eyes off of the rear view mirror.⁴ They are bound to crash on a regular basis.

The areas of most interest to the Grand Jury for which answers were sought included:

- Defining "management practice" to understand what has to minimally happen for a special district to function successfully.
- Determine how much the policy makers of the county understood about government management practice.
- Knowing how a district is affected by the witness's actions or inactions.

² See Public Policy Institute of California reports, "Urban Development Futures in the San Joaquin Valley", and "The Central Valley at a Cross Road: Migration and its Implications", 2005, as a result predictable changes are not being planned for with estimated dire consequences for the San Joaquin Valley.

³ A special fire district failure is dealt with in detail in Combined Cases #05-09 and #05-18 of the 2004-2005 Grand Jury. Its investigation found a personnel manual, fire regulations and little else.

⁴ "It's Reactive Management," Testimony of Professor, Department of Politics and Public Administration, California State University, Stanislaus.

METHOD OF INVESTIGATION

The Grand Jury used the following tools to understand current and past Stanislaus County management practice in its dealings with special districts.

1. Understanding “Management Practice”

“Management practice” to our expert witnesses means those current policies and procedures in force that direct the operations of a special district organization to meet its objectives successfully. They usually include:

- Job descriptions and manuals, both technical and operational to guide individuals in the performance of their duties
- Rules and regulations to guide the organization in fulfilling its “mission”
- Rules and regulations necessary to conduct audits, both operational and financial, develop budgets and multi-year plans.

2. The Witnesses

The Grand Jury questioning was directed to the three relevant groups having impacts on special district experiences.

- County Policy Makers – Two members and one member-elect of the Stanislaus County Board of Supervisors and one sitting member of a fire district board of directors.
- Staff to the County Policy Makers – directors of the Planning Commission, Auditor’s Office, and LAFCO.
- Experts – the County Fire Warden, the investigated Fire Chief, Department Head of Public Policy and Administration of a major California State University.

Outgoing office holders were not interviewed. The investigation was aimed at solutions and implementers. All the witnesses expressed concern with the state of the viability of the special districts today.

3. The Questionnaire

The Grand Jury used a questionnaire⁵ to guide each interview. Each interview was designed to obtain information on the witnesses’ knowledge and experience in the following three areas:

- General government knowledge
- Knowledge of interagency responsibilities
- Awareness of a recent problem district’s past history

⁵ See Appendix

The Grand Jury was interested in what impact the witnesses had on the special district's formation and operations:

- Structural Items
 - Formation of a special district
 - Board of Directors selection process
 - Responsibility

- Operational Issues
 - Planning
 - Budgeting
 - Accounting
 - Auditing

FINDINGS

1. Formation of a special district

- County places blame elsewhere for special district failures.

The Grand Jury witnesses testified that if there was a problem with a special district it had to be a “LAFCO problem” or a “local problem” or concern solely of that district's taxpayers and board members.

The Local Agency Formation Committee (LAFCO) is an agency established by state law under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 as California Government Code §56000 (2005). The county taxpayers pay for its operations. Its board of directors are approved by the BOS.

LAFCO has exclusive authority to respond to and approve of citizens' petitions to establish, annex, consolidate or disestablish the boundaries of a special district including fire, water, police, sewer, and so on. It also sets boundaries for city jurisdictions with future expansion boundaries know as “spheres of influence” for future growth as delineated by a twenty-year projection of need. LAFCO does not have the expertise, resources or authority to provide any special district with the means to manage itself.

In one special district case, there was a LAFCO-sponsored consolidation of several special fire districts, including the assets, liabilities and personnel overhead. Personnel overhead included retirement benefits, workmen's compensation and medical expenses. That district failed both financially and operationally.

No testimony was given that the county administration ever attempted to create a governmental entity for providing support services to the special districts in their formation or operation phases, as is commonly found in other California counties.

These services could include:

- management training
- auditing
- administrative services (purchasing and payroll)

2. Board of Director Selection Process

- The County BOS is involved in all special district board appointments.

Many, but not all, special districts require a Board of Directors. Depending upon the special district, individual city governments may recommend a member and taxpayers may have an “at large” member. There is no official written standard or area expertise required of the candidates for these offices other than residence in Stanislaus County and the special service district. The Grand Jury was told that throwing a fund-raiser barbecue for a Board of Supervisor candidate was probably enough to be seriously considered by the Board of Supervisors.

The taxpayers and County Board of Supervisors expect direction for the special district management to come from the special district board of directors. The establishment of management practice is left up to the districts' incoming board and senior manager. Management policies and procedures are generated internally to the special district. This provides the spectacle of a new special district not having a complete written job description to hire a competent manager. A competent manager is necessary to create relevant policies and procedures with his appropriate accounting skills and audit knowledge.

A major issue mentioned by the one board member questioned during the depositions was the issue of board member liability and the lack of an insurance policy to cover the members. There is none.

3. Responsibility

- The BOS takes no responsibility for special district's failures.

A widespread policy of neglect and a lack of personal responsibility by county policy-makers and board appointees were uncovered by the Grand Jury during its investigation.

The county's use of short-term loans based on future tax assessments to bail out financially distressed special districts makes that district a county responsibility.

The inability of county policy makers to see their part in the district's problem produced a mode of inaction on their part (some would call it a reaction). This lack of county involvement has help sustain an expensive burden on county taxpayers. There are sixty redundant special district administrations, many boards of directors, and professional sources of expertise and investments stretched far too thin to be effective. The county does not see the need to change, or even to seek change, despite being made officially aware two years ago that many special districts are in financial trouble.

The actions of past special district board of directors members walking away from a district when it is in trouble shows a lack of responsibility to the welfare of that district's taxpayers.

4. Planning

- The current planning process is deficient. The following areas were identified:
 - County General Plan updating process is faulty
 - Collected demographic data is inaccurate
 - The use of collected data is considered optional by both providers and users
 - There is no universal sharing of planning data
 - There is no county plan to efficiently manage and distribute the data.

The County General Plan covers the subjects of land use, recreation, circulation or transportation, conservation, safety, housing, and agricultural use.⁶ The Grand Jury heard testimony that there are serious shortcomings in the County General Plan updating process. The county policy has allowed multi-year planning, along with all General Plans updating, lapse. One aspect of the County General Plan has not been updated since 1983 although major evaluations and rewrites have to occur at least every five to ten years according to the State code.⁷ The last evaluation and rewrite under the California Code was in 1998 with a “rubber-stamping” of the Board of Supervisor's policies from those of five to ten years before.

The Director of Planning and Community Development for Stanislaus County also doubles as the Executive Director of the Stanislaus Redevelopment Agency. Correct demographic data is vital to the credibility of his agency's efforts. He stated to the Grand Jury that his agency drew its demographic and other vital statistical data inputs to do general planning from the “various county agencies including the cities, special districts, municipal advisory councils in unincorporated areas, residents of the county, the County Board of Supervisors, and even the Association of Bay Area Governments or ABAG.” He identified his primary source as being the Stanislaus County Council of Governments (StanCOG), whose board is made up of members of the Board of

⁶ See Section 65300 of the California Government Code, which regulates and mandates Stanislaus County general planning efforts.

⁷ Ibid.

Supervisors, three or four members of the City of Modesto, and then one member each from the rest of the remaining cities.

The demographic information from housing starts drawn from the cities and the county is passed to StanCOG. StanCOG consolidates the demographic information and passes it onto the State of California, Department of Finance, for their online statewide reporting.⁸

The Grand Jury heard testimony that the current State of California, Department of Finance, demographic information relating to Stanislaus County, cities and counties, drawn from StanCOG, demographic input is “misleading”. Not all demographic counts have been collected or verified for accuracy.

The Grand Jury checked a sample population count for one city within Stanislaus County to test this idea. The Grand Jury compared the city’s latest demographic count as reported to StanCOG and the State of California, Department of Finance. There were significant discrepancies between the two.

According to witnesses StanCOG is in a state of “disarray”, and there is a new StanCOG manager “taking charge.”

External to the question on whether the available information is accurate or not, its required use is often considered “optional” by the providers and users. As one county staff member told the Grand Jury when asked what he did with the demographics he collected from the county, “If they want it, they can ask for it.” When asked whether a certain special district ever used his data, a second provider answered, “Once, a year or two ago.”

The bigger problem is that Stanislaus County’s accelerated growth process has been underway for ten years. No new process of mandatory data integration has been put in place to deal with it. This is a policy shortcoming of the highest order. None of the witnesses including the responsible parties could tell the Grand Jury how or when this would be solved.

5. Budgeting

- The budgeting processes in Stanislaus County are inadequate.

The BOS dropped their process of “three-year budgeting.” The current practice is to have all budgeting restricted to one-year or current year “fill-in” basis. The BOS policy has an adverse effect on special districts, which tend to follow the county’s lead by also working with a year-to-year budget. This ignores budgeting for expensive capital assets that require multi-year payments and return analysis.

⁸ See www.dof.ca.gov

The Grand Jury concluded that most taxpayers in Stanislaus County would not believe their tax dollars are being spent wisely or for correctly identifiable needs without comprehensive budgeting plans.

6. Accounting

- County policy makers lack efficient accounting skills.

Special service districts receive tax dollars levied within their district from parcel taxes. They also receive government funds to help purchase and maintain equipment and facilities.⁹

The Stanislaus County Auditor acts in its capacity as banker to the special district in the collection and dispersal of district tax revenue dollars. It pays special attention to dollars allocated to capital funding versus monies for operational expenditures. There are significant differences in how they are to be treated under the tax laws. This process gives the county insight into the financial affairs of each district. The county reviews cash flow and balances between the district records and the county transaction records.

None of the policy-makers questioned were found to have formal hands-on education or practice in accounting or audit skills, whether financial or operational. One policy-maker was proud of that fact, “I make policy and leave the rest to the staff.” The Grand Jury asked him whether he was able to question his staff on a technical level to know if they were reporting correct information or not. His answer was “I have to believe them.”

7. Auditing

- Auditing resources are in short supply.

Specific audit and accounting experience is found at the county staff level and it is in short supply. Only one CPA is currently a full-time employee of the County Auditor’s office serving a county of five hundred thousand residents.

Special districts contract directly for independent certified public auditors. In the Grand Jury review of a failing special district, it was this annual audit that prompted the special district head to doubt the independent auditor’s results, and ask the County Auditor to review the audit. There was no accounting or auditing expertise employed by the district. So, while the district head had a “good audit” in his hands, even though it reflected the misuse of capital funds, he did not personally understand it nor did he have anyone on his staff that did.

The county conducts a thorough annual outside audit of county operations. There is no formal audit follow-up by any oversight agency for special districts that may have been in trouble in the past.

⁹ The Grand Jury was informed that tax revenues are levied on parcel identification but the county has not verified all parcels. The Grand Jury found this information, if true, to be unconscionable in an era where every dollars counts.

The policy-makers reported to the Grand Jury that they had to lay-off 256 county employees in 1998.¹⁰ Many of the discharged employees were from agencies having government oversight tasks such as Planning, Auditor, and LAFCO. This has had a direct impact on county accounting and audit resources. Policy-makers and staff blamed outside causes including the Proposition 13 in the late 1970s. Currently their complaint is that the state has appropriated too many county tax dollars from the county to allow the county to retain the necessary oversight personnel.¹¹

RECOMMENDATIONS

The Grand Jury recommends the following “points of interference or leverage” to the Stanislaus County Board of Supervisors.

1. The County Board of Supervisors shall immediately take the lead in publicly acknowledging the current shortcomings of the special district establishment and oversight processes. They shall establish permanently funded teams with “expert” participation (local citizens with relevant credentials, state university urban development and public policy participants, and area experts such as the County Fire Warden) to prepare and promulgate solutions to support special districts.

2. The County Board of Supervisors shall publicly advocate their role in the consolidation of special districts within ninety days. This can be done by:

- The full consolidation of like special districts.
- The consolidation of special districts' support services should include but not be limited to the following:
 - Management training
 - Auditing
 - Purchasing
 - Payroll

In many jurisdictions police and fire come under a single legal entity called Public Safety with its financial and labor efficiencies. Any consolidation plan should require that consolidated administrations have the necessary policies, procedures, and expert management necessary to successfully guide their efforts.

The Grand Jury sees at least three ways to establish consolidated special district administrations utilizing:

- The tax revenue distribution audit power of the Auditor's office

¹⁰ It was reported that the policy makers and senior administrative staff raised their own salaries by as much as fifty percent in the same time frame.

¹¹ Witness testimony: They admitted that they had not attempted to pursue any legal remedies in the last ten years to recover this money from the state government, which is their right. They did state that they were thinking about doing so now.

- The State of California fire vehicle maintenance dollars coming through the hands of the County Fire Warden
- The County's lending capability

3. Implement a better selection process for special district board membership to include:

- Proper job descriptions
- Minimum qualifications in accounting and budgeting processes
- Provision of liability insurance

Under the current process, board members are placeholders and not leaders. The appointer is responsible for the poor performance of their special district appointee.

4. Require all special districts to complete and publish an annual financial audit for the district's taxpayers. The independent auditors to the special districts should be treated as contractors in order to do business in Stanislaus County and should be certified by the Stanislaus County Auditor's office as to their professional credentials. This should put the county in a position to establish minimum standards of performance of the independent auditors when they do business with special districts.

5. Immediately direct the Planning Department to contract with a state-of-art data collection service bureau to provide data collection and distribution services for special district, county, and state reporting needs. This is one area where experts are necessary; volunteers and in-house data processing are things of the past. Modern organizations take advantage of expensing a service rather than investing in capital equipment and additional labor.

APPENDIX

1. Questionnaire

Date: xx/xx/xxxx

To: Chairperson, Finance & Audit Committee, Grand Jury

From: xxx xxxxxxxx

Re: Q&A Session concerning Grand Jury Case #05-39. Scheduled Deponent, Member of X Stanislaus County Agency.

Focus: Witnesses knowledge of County and Special District information development, accounting and audit integrity.

1. General Knowledge of government planning, forecasting, and structure including relevant rules, codes, and statutes applicable to Stanislaus County?
 - a. Please provide a synopsis on your governmental experience.
 - b. Has he/she ever participated in a multi-year planning and budgeting cycle (PPBS)?
 - c. Has he/she ever participated in government financial or management audits?
 - d. How necessary did he/she find having planning guides and report outputs outlines?
 - e. What is his/her awareness of SC information flow integrity and capabilities? What works? What doesn't?
 - f. Is he/she familiar with the county sources of basic demographics used for forecasting? (What informational services and reports does the county produce? Who receives the processed data? Under what circumstances – e.g. Have to use, optional, never distributed, etc.?)
 - g. What hard-copy rules does Stanislaus County follow enforce and guarantee timely and accurate budget and planning reports from its subordinate agencies and autonomous special districts?
 - h. Who audits and reviews the agencies and special district submissions to guarantee relevant and accurate sources for these governmental agencies?

2. Organizational Relationships between Stanislaus County Board of Supervisors (SCBOS) and county Special Districts.

- a. Discuss your knowledge in 30 words or less of source of authority, appointments, general plans, structure and responsibilities of:
 - i. BOS
 - ii. County Planning Commission (CPC)
 - iii. County Audit and Controller Department (CACD)
 - iv. County Counsel
 - v. Local Agency Formation Commission (LAFCO)
 - vi. Stanislaus Council of Governments (StanCOG)
 - vii. Special Districts – Board of Directors. How are they formed and populated – BOD membership, policies and procedures, boundaries, and arbitration capability.
 - b. Discuss your knowledge of the authority relationship between the BOS, LAFCO, and Special Districts Boards of Directors.
 - c. Discuss how the CPC, CACD, StanCOG, and County Counsel provide support or audit authority to a special district?
3. Awareness of Stanislaus County Consolidated Fire District Recent History.
- a. Discuss financial issues including prior problems, contracted and County Auditors, and continuing financial shortcomings.
 - b. Explain the SPECIAL DISTRICT/BOD/BOS/tax payer management structure?
 - c. Policies and Procedures – what documents do you use to guide BOD/SPECIAL DISTRICT efforts?
 - d. Explain your understanding of the California Health & Safety code as it applies to your fire district. Who is governed by its provisions? Who enforces its provisions? In what manner? (audit, fines, accreditation, etc.)
 - e. What are the sources of basic event and demographic information for capital requests, yearly and multi-year budgeting and planning? How do you verify they are timely and are correct?
 - f. Discuss county support and inputs for your planning and budgeting?
 - g. Have you used external experts or planning and financial consultants? Who?
 - h. How does your board process budget submissions? Planning submissions?
 - i. Are you aware of current liabilities for Board Membership? Are you insured?
4. Additional Grand Jury Questions.