

GRATON COMMUNITY SERVICES DISTRICT: AT A CROSSROADS IN GRATON...WILL THE BOARD MAKE A POSITIVE CHANGE?

SUMMARY

The town of Graton in Sonoma County's West County receives wastewater treatment services from the Graton Community Services District (GCS D), an independent district created by Graton voters in December 2003. The GCS D is overseen by a five-member Board of Directors (Board). The Grand Jury received a complaint from a number of Graton ratepayers expressing several concerns regarding the operations of the GCS D. In investigating the complaint, the Grand Jury discovered multiple deficiencies in Board operations, including problems with Board governance, communication between the Board and ratepayers, and Board financial and management controls.

As volunteers serving four-year terms, Board members believe they are generously giving their time to a vital, complex civic responsibility and that their efforts are underappreciated by the ratepayers. The Grand Jury found that Board members, while hard working and well intentioned, are not well trained in what their specific responsibilities are and how to fulfill them. No formal governance or leadership training is required of Board members, and they do not operate according to responsibilities and procedures as set forth in the GCS D Policy Handbook (Handbook). Standing committees mandated by the Handbook were not in place at the time of our investigation. The Board does not have a succession plan for itself or for the GCS D General Manager. The Grand Jury also found that the Board has done an inadequate job of communicating with ratepayers regarding the ongoing operations of the GCS D.

The Board does not have a functioning finance committee and has chosen to receive only summary financial information. Annual charges to the ratepayers have climbed from \$825 to \$1574, over 90%, since formation of the GCS D in 2003, making GCS D fees some of the highest in the County. Without regularly reviewing detailed financial information, the Board cannot investigate the possibility that these rate increases may be due, at least in part, to significant billings from outside contractors. A more detailed financial analysis is needed for the Board to fully evaluate decisions such as the cost savings that might be achieved by sharing resources with other West County systems.

The Board has the ultimate responsibility for the management of the GCS D but is failing in several respects to carry out that responsibility. For example, it allows the GCS D General Manager to operate outside the limits of his prescribed responsibilities as set forth in the Handbook. The Board does not conduct performance evaluations of the General Manager, of outside contractors, or of itself. The Board is ultimately responsible for compliance with wastewater quality regulations but has not elected to receive copies of communications from the regulatory agency to the General Manager. Despite a history of enforcement actions against the GCS D, the Board is not actively monitoring compliance.

There are many areas where Board governance and management have broken down. Clear accountability, effective communication, and transparent financial and management controls are imperative. Ratepayers can play a part in the solution by seeking election to the Board and by volunteering to work on specific Board projects. However, the Board is ultimately responsible to take action for the benefit of the GCS D and its ratepayers.

BACKGROUND

The Grand Jury received a complaint from a number of concerned Graton ratepayers requesting the Grand Jury revisit some issues investigated by a prior Grand Jury and address several new concerns regarding the GCSD. After many interviews and extensive research, we decided to focus our report on three main areas: GCSD Board governance, communication between the Board and ratepayers, and Board financial and management controls.

APPROACH

The Grand Jury interviewed all complainants, all GCSD Board members and a staff member, and representatives from Sonoma County Local Agency Formation Commission (LAFCO), Sonoma County Water Agency (SCWA), and North Coast Regional Water Quality Control Board (RWQCB). We attended GCSD Board meetings and reviewed meeting agendas and minutes, as well as correspondence between the Board and ratepayers. We also researched pertinent websites and reviewed documents and information provided by interviewees.

DISCUSSION

Board Governance

The Board's responsibilities and procedures are defined in the GCSD Handbook. However, Board members expressed a lack of clarity concerning their duties and most indicated they had not even read the Handbook. Consequently, certain Board members are voluntarily taking on too many duties, some of which may be the responsibility of other Board officers.

Current Board practices often conflict with the Handbook. For example, the Handbook mandates that certain standing or ad hoc committees be formed to help the Board conduct its work. There were no committees in place at the time of this investigation. Board members appear to work on most issues together as generalist. Few Board members specialize in or monitor areas vital to the success of the GCSD.

Board members stated that they have received infrequent or no training for their positions on the Board. Some have been briefed on subjects such as board ethics and the Brown Act, or have read materials or taken a class on the subject of wastewater treatment. However, there is no formal governance or leadership training required of all Board members.

The Board does not have a succession plan for itself or for the GCSD General Manager. A succession plan is essential to the long-term health of any public district, but particularly for a small district where the loss of a key Board member or the General Manager will have a significant impact on the continuity of current projects and operations.

All Board members have been appointed and the process by which they were selected has not been made clear to the ratepayers. None of the appointees has run for office in a contested election. It is important, therefore, that the Board have a program, as part of its succession plan, to educate its ratepayers about the roles, duties, and importance of Board membership and strongly encourage ratepayers to run for future elected Board positions.

Two of the five Board positions will become open for election this year. To create positive change within the GCSD, ratepayers should not only volunteer for ad hoc committees when announced by the Board but also seek election to the Board this fall.

Communication

There have been many complaints from ratepayers regarding poor communication by the Board. Board members have expressed concern that certain ratepayers attend meetings to voice complaints that have been previously addressed, but do not volunteer their efforts to help solve problems. The Board feels repeated complaints serve no purpose other than to increase tension between the Board and the ratepayers and impede progress on GCSD priorities for the community.

During the public comment portion of monthly Board meetings, ratepayers regularly challenge the competency of the Board in communicating the status and the costs of current capital projects and in providing clear and timely responses to questions. Tensions between some ratepayers and the Board reached an extreme level at a public meeting in August 2012 when ratepayers in attendance asked the entire Board to step down. They refused.

The Handbook requires that the Board President establish a public relations committee. The focus of this committee would be to ensure information regarding the affairs of the GCSD is adequately and appropriately communicated to the ratepayers and the public. At the time of this investigation, that committee had not been formed. An active public relations committee could enhance interaction and communication between the Board and ratepayers.

The GCSD has a shared website at Graton.org. The website contains Board meeting agendas but no agenda-related information packets or meeting minutes. Board members agree that agenda packets and meeting minutes should be included on the website, and some incorrectly believe they are posted. It may be beneficial to post frequently asked questions and answers to reduce time spent on these issues at Board meetings. The GCSD prepares a newsletter in English and Spanish to be published quarterly, mailed to each ratepayer, and posted on the website. The newsletter is published on an irregular basis.

Financial and Management Controls

The GCSD is funded for ongoing operations through parcel tax assessments. The GCSD is constructing a new treatment plant, a capital improvement funded primarily by loans and forgivable grants from the Federal and State governments. Funds for ongoing operations and capital improvements are accounted for separately. The GCSD receives detailed financial reports from all funding agencies at least monthly. However, the Board, at its request, only receives financial statements that are summarized without line item detail.

The costs of GCSD operations are paid by a small ratepayer base, making it difficult to operate an economically efficient wastewater treatment system. Tax assessments levied on the ratepayers since inception of the GCSD in 2003 have increased from \$825 to \$1574, over 90%, to date, making GCSD fees some of the highest in the County. The Board has represented to ratepayers that these rate increases are the result of rising costs of materials and operations. However, documents reviewed have raised questions concerning the significant billings received from various contractors. Ratepayers contend the Board has not sufficiently addressed their concerns over billings. This is an issue that could be addressed

and investigated by a Board finance committee. At the time of this investigation that committee had not been formed.

Prior to the formation of the GCSD, SCWA utilized one senior manager to oversee not only the Graton facility but several other West County systems. The new Graton facility, once operational, may not need a dedicated General Manager. Cost savings could be realized by sharing plant operators, management, and resources with other facilities.

The Board has the ultimate responsibility for the management and control of the GCSD. However, the Board is failing in several key areas of management oversight and control. The Board signed an ongoing professional services agreement with an independent consultant to serve as its General Manager. The current agreement, drafted by the General Manager, delegates almost total control of the GCSD to the General Manager with only general guidance from the Board. This may account for the Board's apparent lack of oversight. The agreement grants authority to the General Manager that, according to the Handbook, properly belongs to the Board. For example, the purchasing authority granted to the General Manager in the Handbook provides for a limit of \$2,000. However, the professional services agreement grants purchasing authority of \$25,000 to the General Manager.

The agreement further provides that the General Manager, as an independent contractor, retains the freedom to perform services for organizations other than the GCSD and may continue to use the GCSD facilities even after termination. The Board did not have the agreement reviewed by legal counsel prior to signing in March 2012, despite these unusual provisions. The delegation of almost total authority and control as well as granting the ability to utilize the facilities even after termination are unusual provisions and not advisable. As a point of control, the General Manager should work as an employee reporting directly to the Board rather than as an independent contractor.

Board members disclosed that they have not conducted periodic performance evaluations of the General Manager. The Board also has not taken steps to independently review and evaluate its own performance. Good governance practices call for periodic performance appraisals of the Board, all employees, and contractors. A personnel committee could be instrumental with these evaluations. A planning committee could establish GCSD goals, objectives, and staff performance goals on an annual basis. At the time of this investigation neither of these committees had been formed.

Measuring and achieving established discharge standards is critical for small wastewater districts. The GCSD is subject to the regulations and orders of the RWQCB. Since 2004, several extensions have been granted to the GCSD to comply with the advanced wastewater treatment standards adopted by the State. The GCSD has yet to meet these standards. Additionally, the RWQCB has issued numerous enforcement actions against the GCSD including the submission of ten reports ranging from 46-677 days late and 33 violations that exposed the GCSD to significant monetary penalties. The Board and General Manager are accountable for compliance with the RWQCB directives. However, only the General Manager receives correspondence from the RWQCB. Board oversight of wastewater quality compliance could avoid or reduce future enforcement actions and save ratepayers considerable expense.

Accountability and transparency are the cornerstones of cost-effective local government services. LAFCO provides important oversight functions for cities and special districts that include the evaluation of delivery of services by performing a municipal service review (MSR). Although LAFCO is mandated to perform an MSR every five years, the most recent MSR of the West County was performed in 2004.

A current MSR would offer many benefits to the GCSD. It would provide an evaluation of governance options such as consolidation or reorganization of service providers. It would explore opportunities for shared facilities and analyze management efficiencies and infrastructure needs or deficiencies. It would provide local accountability and highlight cost avoidance opportunities.

With the implementation by the Board of the specific recommendations in this report and the election of two new Board members, the Grand Jury expects that the Board will better govern the GCSD and respond to the community it serves.

FINDINGS

- F1. Board members do not have a working knowledge of their roles and responsibilities or Board policies as stated in the GCSD Policy Handbook.
- F2. The absence of standing and ad hoc committees prevents the Board from exercising effective oversight of GCSD business.
- F3. Most Board members have not received sufficient training in subjects essential to successfully governing a wastewater district.
- F4. The Board does not have a clear succession plan for itself or the General Manager position.
- F5. A breakdown of communication between the Board and ratepayers is apparent and has created a hostile environment at public meetings.
- F6. The GCSD website is not being fully utilized as a means of communicating current information.
- F7. The Board's request for monthly financial reports that are summarized and contain no supporting line item detail has led to inadequate financial oversight.
- F8. Operational savings might be achieved by sharing staff and resources with other wastewater districts.
- F9. Legal counsel needs to review and evaluate all professional services agreements entered into by the Board.
- F10. Regular self-assessments of Board performance and formal performance evaluations of senior management need to be implemented.
- F11. The lack of oversight by the Board concerning RWQCB compliance requirements and deadlines needs to be addressed with a goal of eliminating the costs of enforcement actions.
- F12. The mandated MSR by LAFCO is overdue and should be performed for the West County Region as soon as possible.

RECOMMENDATIONS

The Grand Jury recommends that:

- R1. Board member roles and responsibilities be reviewed, clarified, and assigned with a goal of dividing work more equitably among members.
- R2. The Board President form the following standing committees as set forth in the GCSD Handbook: Planning, Ordinance, Personnel, Finance, and Public Relations.

- R3. The Board involve the community by developing and appointing ad hoc volunteer committees reporting to the Board that focus on short-duration projects vital to the governance of the GCSD.
- R4. The Board develop and implement a required Board training curriculum emphasizing effective Board governance and leadership.
- R5. The Board develop and implement a clear succession plan for the GCSD's senior management to include creating a general manager employee position reporting to the Board.
- R6. The Board contract for professional facilitation or mediation to alleviate tension and confrontation between Board members and ratepayers.
- R7. The Board establish an ad hoc committee, including ratepayers, to optimize the GCSD website as a communications center for GCSD information.
- R8. The Board require clear, detailed, and comprehensive monthly financial reports from the General Manager and, when appointed, the finance committee.
- R9. The Board direct its legal counsel to review the General Manager's professional services agreement and to address any unusual provisions.
- R10. The Board conduct an annual performance evaluation of itself and senior GCSD management using financial performance goals, ratepayer feedback, enforcement actions from RWQCB, and other relevant measures.
- R11. The Board request RWQCB to provide it with copies of all correspondence sent to the General Manager in order to monitor the status of compliance with the RWQCB directives to avoid penalties and fines.
- R12. LAFCO conduct an MSR for the West County Region as soon as possible.

REQUIRED RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requires responses as follows:

- R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11 - Graton Community Services District Board of Directors
- R12 - Sonoma County Local Agency Formation Commission

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

BIBLIOGRAPHY

- GCSD Policy Handbook
- GCSD Website - www.Graton.org
- Sonoma County Website - www.sonoma-county.org
- GCSD Board Asked to Step Down (August 22, 2012) - www.sonomawest.com
- LAFCO Water & Sewer District Providers MSR November 2004 - www.sonomalafco.org
- Enforcement Actions Taken by the RWQCB Since January 1, 2007 - www.waterboards.ca.gov
- RWQCB Order No. R1-2012-0016 - www.swrcb.ca.gov

- Assembly Bill 1234 - www.fppc.ca.gov
- Understanding Proposition 218 - www.lao.ca.gov
- Proposition 50 - www.grantsloans.water.ca.gov

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.