

**EL DORADO COUNTY GRAND JURY  
2008-2009**

**FINAL REPORT  
Part I**



**January 27, 2009**

**Grand Jury  
P.O. Box 472  
Placerville, CA 95667  
(530) 621-7477  
[www.co.el-dorado.ca.us/grandjury](http://www.co.el-dorado.ca.us/grandjury)**



## **EL DORADO COUNTY GRAND JURY 2008-2009**

### **Garden Valley Fire Protection District** Case No. GJ 008-003

#### **REASON FOR REPORT**

The 2007-2008 El Dorado County Grand Jury conducted an investigation into a number of irregularities involving the Garden Valley Fire Protection District (GVFPD). Due to the nature of that investigation, the current Grand Jury elected to again review operations in the GVFPD to assure that corrections were being undertaken that would result in a more appropriate level of service and use of funds on behalf of the taxpayers of the District and County.

#### **BACKGROUND**

The Garden Valley Fire Protection District is a special district located in the northern area of El Dorado County. A five-member board of directors, elected by District voters, oversees GVFPD operations. The board of directors is responsible for fire protection as well as the appropriate and prudent use of taxpayer money. In FY 2007 (ending June 30, 2008) GVFPD received \$205,285.00 in El Dorado County General Funds in addition to its other sources of income (primarily from property tax and benefit assessments).

In early 2008, the board consisted of Directors Frank Clark, Norma "Jo" Cleaver, Robert S "Bob" Rogers, Bonnie Manard, and Pete Robinson. On February 12, 2008 Director Robinson resigned. On March 11, 2008, Director Manard resigned. On March 24, 2008 Director Fred Kendall was seated and on April 8, 2008 Director Paula Page was seated. Directors are non-compensated positions.

#### **METHODOLOGY**

The Grand Jury gathered information regarding the District from many sources including GVFPD records, bank records, GVFPD Board Minutes and Agendas. The Grand Jury reviewed the report of the prior Grand Jury, Case Number GJ 007-020. The Grand Jury interviewed a number of persons with knowledge of GVFPD operations and finances. The Grand Jury visited the GVFPD offices in Garden Valley and attended some public board meetings.

## Documents Reviewed:

- GVFPD Board of Directors Minutes
- GVFPD Board of Directors Agendas
- Copies of cancelled checks
- Itemization of Time Spent from Director Robert Rogers.
- Itemization of Time Spent from Director Norma Cleaver
- Miscellaneous GVFPD Records
- Grand Jury Case Number GJ-007-020
- GVFPD Policy and Procedure Manual
- GVFPD Board of Directors Manual

## RESULTS OF INVESTIGATION

The investigation disclosed that in January 2008 Director Rogers and Cleaver undertook a variety of tasks involving the District's records.

On April 22, 2008 at a Board of Directors meeting invoices were submitted for Board approval. One was from Director Rogers in the amount of \$5,978.00 for 427 hours of work claimed to have been performed involving District records, and the other was from Director Cleaver in the amount of \$4,018.00 for 287 hours of work claimed to be performed involving District records. These invoices were for work performed between January 3, 2008 and April 9, 2008. The invoice from Cleaver was a detailed statement of work performed while Roger's invoice stated only dates and hours.

Testimony and documents demonstrated that Directors Cleaver and Rogers' compensation as outlined above was first sought from the Board **after** completion of the work. No Board action authorized the Directors to undertake work for pay before they began the project. At that Board Meeting Director Rogers voted in favor of Cleaver's compensation and Director Cleaver voted in favor of Roger's compensation. Neither voted for their own compensation.

The compensation of board members of a fire protection district is governed by California Health and Safety Code sections 13853 and 13857, and Government Code section 53232 et.seq. The payments made to Directors Cleaver and Rogers fail to qualify under these statutes.

The payments made to Directors Cleaver and Rogers violate Article 11, Section 10 (a) of the California Constitution which prohibits retroactive payment of compensation under the circumstances discussed above. This section of our Constitution provides that:

“A local government body may not grant extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or pay a claim under an agreement made without authority of law”  
California Constitution, article 11, section 10(a)

Because there is no enforceable obligation or legal right to payment under the circumstances described above, the payments violate California Constitution, article 16, section 6 which prohibit a gift of public funds.

## **FINDINGS**

1. The compensation identified above is outside the bounds of California Law. GVFPD Board authorization was neither sought nor given prior to commencement of the work by Rogers or Cleaver, and there was no pre-existing agreement to pay for that work.
2. The \$4,018.00 sum paid to former Director Norma Cleaver was an unlawful payment and is money due the District and/or El Dorado County.
3. The \$5,798.00 sum paid to former Director Robert Rogers was an unlawful payment, and is money due the District and/or El Dorado County.

## **RECOMMENDATIONS**

1. The Grand Jury recommends that Directors Rogers and Cleaver return to the District the money paid to them for their work on District files.
2. The Grand Jury recommends that the Garden Valley Fire Protection District take steps to recover the funds unlawfully paid to Directors Rogers and Cleaver.
3. CA Penal Code section 932 provides that a Grand Jury may order the District Attorney to institute suit to recover money that may be due to the County. Accordingly, The 2008/2009 Grand Jury has filed with the Court an ORDER directing Vern Pierson, District Attorney for the County of El Dorado to file an action to recover the \$5,798.00 improperly paid to Robert Rogers, former director Garden Valley Fire Protection District and to recover the \$4,018.00 improperly paid to Norma Cleaver, former director Garden Valley Fire Protection District.
4. Furthermore, any taxpayer in the District may file a lawsuit to recover the funds unlawfully paid by the District.

## **RESPONSES**

No responses are required to this report.

This is a true certified copy of the record if it bears the seal, imprinted in purple ink, the date of issuance and an original signature.

Dated: 1-27-09



Superior Court of California  
County of El Dorado

By Sally M. Wauer  
Deputy

EL DORADO CO. SUPERIOR CT.

FILED 1-27-09

BY Sally M. Wauer  
Deputy

SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

In Re the matter of:

The 2008/2009 El Dorado County  
Grand Jury

No.

ORDER OF THE 2008/2009 EL DORADO  
COUNTY GRAND JURY UNDER PENAL  
CODE SECTION 932

It is hereby ordered by the 2008/2009 El Dorado County Grand Jury under the authority conferred by Penal Code section 932 that the District Attorney of El Dorado County institute a suit to recover money that is due from former board members of the Garden Valley Fire Protection District Robert S. Rogers and Norma Cleaver as the result of payments to them which were made in violation of the Constitution and laws of the State of California, as set forth in the report of the 2008/2009 Grand Jury issued in regard to this topic.

Dated: JAN 27, 2009

Certified as an official Order of the  
2008/2009 El Dorado County Grand Jury

By [Signature]  
Charles MacLean, Foreperson  
2008/2009 El Dorado County  
Grand Jury