



Summary of legal findings of attorney David McMurchie regarding the nature of the legal relationship between Pliocene Ridge CSD and both public benefit non-profit corporations: Alleghany Volunteer Fire Dept. & Pike City Volunteer Fire Dept.

Mr. McMurchie provided a 5 page memo on July 27, 2020 which he recommended be kept confidential. He suggested that a summary of his findings be written for the non-profits.

The following names are used in this document for brevity:

Pliocene Ridge CSD (“PRCSD” or the “District”)

Non-profit corps: Alleghany Volunteer Fire Dept. (AVFD) & Pike City Volunteer Fire Dept. (PCVFD) or “non-profits” when referring to both.

In addition to various legal codes, Mr. McMurchie reviewed the following documents as part of his research: The District’s formation documents, the district’s insurance policy as it relates to the non-profits, the corporate documents of each non-profit, the resolutions of PRCSD accepting the Alleghany and Pike fire dept. assets shortly after the district was formed, various historical documents (agendas, minutes and reports) from previous district meetings.

Mr. McMurchie concluded that the district was legally formed under the authority of the Cortese Knox Hertzberg Local Government Reorganization Gov. Code Section 560000 et seq specifically for the purpose of Fire Suppression and Emergency Medical Services (the Streetlight and Parks & Recreation function were also included in the district’s scope at the time of formation but are not relevant to this legal consultation).

Conclusions:

- ❖ With the formation of the district in 2004, Sierra County voluntarily relinquished to the District the power to provide fire and emergency medical services within the new district boundaries. Previously the County had paid the non-profits out of CSA#2 to provide these services to Pike and Alleghany.
- ❖ The formation of the district and the subsequent transfer of the fire dept. assets from the non-profits and County to the district effectively terminated the authority of the non-profits to function as fire depts. under Health and Safety Code section 14825 et. seq.
- ❖ Health and Safety Code section 14865 expressly states the Legislature’s intent regarding provision of fire services by private companies or non-profit corporations stating “The Legislature finds and declares that firefighting and fire protection services are a municipal function and a public good to be provided by public agencies and their employees.”

- ❖ The district does not have authority over the non-profits other than the terms of the insurance coverage which is currently being provided to the non-profits by the District. Legally the district can only provide insurance to the non-profits if the non-profit's sole purpose is to support the district (fire depts). If the non-profits had any other purpose it would be an illegal gift of public funds for the district to provide insurance coverage to them because they are private entities.
- ❖ The non-profits should be aware that representing themselves to the public or funding sources as a fire department when they are aware that they have no firefighting or emergency medical authority is a misrepresentation. If it is done intentionally it meets the legal definition of fraud. (note: AVFD did send a letter to their membership explaining that they no longer have the authority to function as a fire dept. However, the continued use of a name that does not CLEARLY differentiate the organization from the fire dept. is still misleading).
- ❖ The district has no authority to make the non-profits change their names, but the point above should be taken seriously as it could create personal liability for the non-profit directors. If the word "auxiliary" is not desirable the attorney suggested putting "Friends of" at the beginning of the name. An amendment to the articles of incorporation is required to change the corporate names. (Other rules and conditions may apply; the attorney did not go into detail on this point.)
- ❖ Just as the district has no direct authority over the non-profits, the non-profits have no authority over the district. (This confirms the basic premise of the draft organizational chart presented at the November 16, 2018 PRCSD board meeting.)
- ❖ The district does not fall under Health and Safety Code section 14825-14860 which applies to the formation of private fire depts in unincorporated areas.
- ❖ It is legal for the District to form "zones" "battalions" "stations", "departments" or other types of divisions with names other than Pliocene Ridge CSD. This does not require additional tax ID's or the filing of fictitious business name statements.

Attorney's recommendation for moving forward:

Place an item on the PRCSD regular meeting agenda entitled: "Appointment of Ad Hoc Committee to Negotiate an MOU between the District and AVFD and PCVFD". As an ad hoc committee, it is advisory only and can have no more than two District Board members as committee members. Both non-profits should be invited to appoint a member from their boards to be on the committee as well.

A single MOU among all parties should set forth their respective obligations and activities in support of each other. He suggested that the provisions regarding insurance coverage should be included in this MOU as well as what names the various parties will be using in the future.

He also suggested that a Public Relations campaign be initiated to educate the public as to the role of each entity.