

# Calaveras County Civil Grand Jury

## Ebbetts Pass Veterans Memorial District

### The Value of Transparency

June 30, 2024



*Photo courtesy of Victoria Plaughter*

## **SUMMARY**

The Calaveras County Civil Grand Jury’s decision to investigate the Ebbetts Pass Veteran’s Memorial District was prompted by two citizen complaints.

Additionally, in early 2023, a Calaveras Enterprise article was published under the headline: “Tensions Rise over Plans for the Old Murphys Schoolhouse”. At the Ebbetts Pass Veterans Memorial District meeting referenced in the article, changes to the deed and the restoration of the Old Murphys Schoolhouse were brought up.

Finding these issues to be of public interest, further investigation was deemed warranted.

## **GLOSSARY**

ADA – Americans with Disabilities Act

CCCGJ – Calaveras County Civil Grand Jury

EPVMD – Ebbetts Pass Veterans Memorial District

LAFCO – Local Agency Formation Commission

The Enterprise – Calaveras Enterprise

VUSD – Vallecito Union School District

## **METHODOLOGY**

To better understand the issues identified in the citizen complaints and the February 16, 2023, Calaveras Enterprise (the Enterprise) article, Calaveras County Civil Grand Jury (CCCGJ) conducted numerous interviews, reviewed information from various websites, and studied a variety of historical and financial documents.

## **BACKGROUND**

Ebbetts Pass Veterans Memorial District (EPVMD) was established in 1958 under the California Military and Veterans Code, Division 6 – Veterans Buildings, Memorials, and Cemeteries.

The EPVMD board consists of five members elected for two-year terms, in alternate years. Because some members left the board mid-term and were replaced by temporary candidates, all five positions will be up for election in November 2024.

Major funding for EPVMD comes from a .3 (3/10) cent tax on assessed value of all taxable property in the district. Funds have also been raised for specific projects through dedicated campaigns; for instance, the sale of engraved bricks for the Veterans Memorial wall, and “The Bell Will Ring Again” campaign to restore the Old Murphys Schoolhouse.

In 1973, the Old Murphys Schoolhouse, owned by Vallecito Union School District (VUSD), was added to the National Register of Historic Places.

In 1974, VUSD transferred the Old Murphys Schoolhouse property to EPVMD with the following conditions:

1. The financial consideration shall be \$1.00.
2. All costs for the transfer of property shall be borne by the buyer.
3. A condition shall specify that the property cannot be sold and that the building is to be maintained as a historic monument.
4. Should the buildings and grounds not be maintained in a manner to reflect the historical significance of the Vallecito Union School District (sic) reserve the right to restore the ownership of the property to the Vallecito Union School District.
5. The Superintendent be authorized to execute the documents relating to said transfer.

The Old Murphys Schoolhouse was used by EPVMD as a meeting room and event space, and by a daycare provider, until the building was shuttered in April 2023 by the EPVMD board, due to safety concerns.

The tennis courts were installed by EPVMD approximately 30 years ago. The Murphys Tennis Club currently maintains them, although EPVMD recently donated \$3,000 to help the tennis club resurface the courts.

The Veterans Memorial Hall (also known as the Lions Club building and scout hut) was built by EPVMD in the 1990s. It is currently leased by the Lions Club for \$1.00 a year, with a lease period of ten years. The current lease is paid in full and expires in 2027. The Lions Club maintains the building, as well as covers the yearly solid waste fee.

An additional asset of EPVMD was a community pool. In October 2014, EPVMD sold the pool and the property it sat on to a private party. The pool was in poor condition and under-utilized, so EPVMD decided it would be best to sell it to a private party that could restore the pool and facilities. The proceeds from the sale were \$485,503.08 and the EPVMD board, at the time, designated the proceeds to go toward restoration work on the Old Murphys Schoolhouse. This designation is confirmed on the current EPVMD website.

Around the time of the sale of the pool property, the Old Murphys Schoolhouse roof was replaced, and the steeple was repaired. In 2017, EPVMD added a commercial quality kitchen and an Americans with Disabilities Act (ADA)-accessible entrance and restroom to the back of the Old Murphys Schoolhouse.

Over the years, ongoing maintenance and repair work have been done on the Old Murphys Schoolhouse. This included roof and steeple repairs after a storm blew a tree onto the structure in the winter of 2021.

This ongoing maintenance and repair work has not addressed the structural issues of the building, which prompted the EPVMD board to deem the Old Murphys Schoolhouse unsafe to occupy. The combination rock, wood, and cinder block foundation is crumbling and settling at different rates, and the floor joists are deteriorating. This is causing the walls to balloon out. EPVMD had metal

cables installed in the old schoolhouse to stabilize the walls, but until the foundation and walls are restored, the Old Murphys Schoolhouse will remain closed.

EPVMD collected two bids in 2019-2020 for restoring the Old Murphys Schoolhouse. The bids ranged from \$900,000 to \$1,300,000. With the increase in the cost of construction materials since the pandemic, these bids would be considerably higher today.

EPVMD maintains a website (<http://www.ebbettspassvetsdistrict.com>) where it posts information about EPVMD, as well as board meeting agendas and approved meeting minutes. EPVMD has been working with a 3rd-party vendor since the fall of 2023 to create a new, ADA-compliant website, but, as of this writing, has not launched the new site due to technical difficulties. Approved board meeting minutes have not been posted to the current website since August 2023.

The current website states the EPVMD board has now moved to quarterly meetings, held on the first Tuesday of January, April, July, and October unless that Tuesday is a public holiday, in which case the meeting will be held on the next Tuesday. The meetings are held at 10:00 a.m. at the Arnold Fire Station's community room. The Board will hold other special meetings as necessary, at the call of the chair, subject to the Board's approval.

The current website states that at each open meeting of the Board, the public will be given an opportunity to comment on any item on the agenda or on any topic within the purview of the Board. The opportunity for public comment will be provided as close as practical to the beginning of the meeting. The Chair may allow the public to offer comment during the consideration of individual agenda items.

As a local governing body, EPVMD is subject to the Brown Act. The Brown Act was enacted in 1953 to guarantee the public's right to attend and participate in meetings of local governing bodies. The Brown Act has numerous requirements; too numerous to list here, but following are some examples the CCCGJ feels pertain to this investigation.

All meetings of local government bodies must be fully open and accessible to the public. Boards must discuss, deliberate, and act on the public's business openly. Exceptions to the rule of openness are few and narrowly construed.

Closed sessions are permissible for litigation matters, real estate negotiations, personnel discussions, labor negotiations, and specified other matters. Although the Brown Act doesn't specify that the results of a closed session need to be disclosed when no final action has been determined, transparency is achieved when meeting minutes include "no reportable action."

Serial meetings are frowned upon by the Brown Act. These are meetings held outside the public forum and may be conducted between board members, through direct communications, personal intermediaries, or technological devices. Board members may not use a serial meeting to develop a concurrence as to what action is to be taken on a particular agenda item.

Agendas must be posted at least 72 hours prior to a regular meeting, or 24 hours prior to a special meeting (salary/benefit discussions are not considered special). Agenda items (including closed sessions) need not exceed 20 words so that they make sense to the general public.

## **DISCUSSION**

### **Restoration of Old Murphys Schoolhouse**

When the Old Murphys Schoolhouse was deeded to EPVMD, a specific condition was that the building be maintained as a historic monument. There was no requirement to restore the property, and funds needed for restoration would limit funds available to provide services to veterans.

Another condition of the deed states that VUSD reserves the right to reclaim the property if the buildings and grounds are not maintained in a manner to reflect the historical significance. At this juncture, public records confirm that VUSD has no intention to reclaim the property.

This has created a dilemma in need of a solution. After extensive interviews with parties invested in the restoration of the Old Murphys Schoolhouse, CCCGJ learned that discussions are currently underway to identify pathways to accomplish said restoration.

Additionally, on February 13, 2024, the Calaveras County Board of Supervisors (BOS) approved an interim urgency ordinance to protect historical structures in the county from demolition without appropriate permits from the County. The Old Murphys Schoolhouse falls under this category. To clarify the dilemma, the Old Murphys Schoolhouse cannot be sold, there is no money to restore it, and as a historical monument it cannot be demolished without obtaining approval via the County permit process. Additionally, VUSD has expressed no interest in reestablishing ownership of the property. Active discussions are in progress with the EPVMD board to seek a resolution, and this issue does not fall within the purview of CCCGJ.

### **Adherence to the Brown Act and Transparency**

CCCGJ has determined that although existing EPVMD board members are striving to follow the requirements of the Brown Act, no current board members have received any formal Brown Act training.

Although governing boards are not required to disclose that no final action was agreed upon in a closed session, transparency is the guiding tenet of the Brown Act. Indicating in the meeting minutes that “no reportable action was taken” accomplishes the need for transparency.

### **EPVMD Website(s)**

As the new, ADA-accessible EPVMD website was not available at the time of this report, CCCGJ is unable to comment on its contents. CCCGJ, therefore, will use the existing EPVMD website (<http://www.ebbettspassvetsdistrict.com/>) as its template.

The current website contains conflicting information regarding meeting times, dates, and locations, which does not serve the public interest within the district.

On the website's homepage, it is stated that board meetings take place monthly, and that they are to meet in Murphy's. It then states elsewhere that meetings are quarterly.

The website provides the following contact information: either via mail to EPVMD, P.O. Box 175, Murphys, CA 95247 or via email to EPVMD95247@gmail.com. Other than the mention of contacting the District Secretary for ordering bricks, the website could be a vehicle for the public to request that an item be added to the next EPVMD board meeting agenda although this is not required by law.

### **Expenditures**

After review of EPVMD's financial records, CCCGJ was able to confirm that EPVMD has used funds from the pool sale to cover the costs of repair/maintenance work on the Old Murphys Schoolhouse, as intended.

## **FINDINGS, RECOMMENDATIONS, RESPONDENTS**

Pursuant to Penal Code §933 and §933.05, the Calaveras County Civil Grand Jury requires responses within 60 days from elected county official(s), and within 90 days from governing bodies. In order to be included and published in the next Grand Jury report, invited responses must be received within 90 days. After conducting interviews, and reviewing reference documents, the Grand Jury findings and recommendations are as follows:

**F1.** The Ebbetts Pass Veterans Memorial District Board of Directors has demonstrated a lack of adequate training in the Ralph M. Brown Act.

**R1a.** Calaveras County Civil Grand Jury recommends all current board members be trained regarding public meetings by taking Brown Act training by September 1, 2024.

### **Required Responses**

Ebbetts Pass Veterans Memorial District Board of Directors

### **Invited Responses**

None

**R1b.** Calaveras County Civil Grand Jury recommends any newly appointed or elected board member be trained regarding public meetings by taking Brown Act training within three (3) months of taking the oath of office.

### **Required Responses**

Ebbetts Pass Veterans Memorial District Board of Directors

### **Invited Responses**

None

**F2.** Because Ebbetts Pass Veterans Memorial District’s website has not been updated due to technical difficulties, important information, such as Board member contact information and reliable meeting date schedules and locations, is not being disseminated to the public.

**R2a.** Calaveras County Civil Grand Jury recommends Ebbetts Pass Veterans Memorial District have their new website deployed, with appropriate ADA compliance, no later than January 1, 2025.

### **Required Responses**

Ebbetts Pass Veterans Memorial District Board of Directors

### **Invited Responses**

None

**R2b.** Calaveras County Civil Grand Jury recommends Ebbetts Pass Veterans Memorial District create a standard means for the public to submit agenda items, in a clear and concise process, by January 1, 2025.

### **Required Responses**

Ebbetts Pass Veterans Memorial District Board of Directors

### **Invited Responses**

None

## **COMMENDATIONS**

**C1.** Calaveras County Civil Grand Jury commends the Calaveras County Board of Supervisors (BOS) for its approval on February 13, 2024, of the urgency ordinance to preserve and protect historical structures in the County.

## **DISCLAIMER**

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Civil 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.

## **REFERENCE SOURCES**

Brown Act

[https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?division=2.&chapter=9.&part=1.&lawCode=GOV&title=5](https://leginfo.ca.gov/faces/codes_displayText.xhtml?division=2.&chapter=9.&part=1.&lawCode=GOV&title=5),

<https://oag.ca.gov/system/files/media/the-brown-act.pdf>

<https://www.access-board.gov/news/2022/03/21/departments-of-justice-issues-web-accessibility-guidance-under-the-ada/>