Grant County Fire Protection District 3

POLICY AND PROCEDURE

1. NUMBER: 1.2.06

2. SUBJECT: ***Litigation Defense Policy &Procedure***

3. POLICY: RCW 4.96.041 authorizes local governmental entities to establish a policy and procedure to provide past and present officers, employees and volunteers who are named as defendants in an action or proceeding with a defense at the cost of the local governmental entity. It is the purpose of this policy and procedure to comply with the statutory requirements.

4. SCOPE: This Policy and Procedure is applicable to all personnel of Grant County Fire District #3.

5. RESPONSIBILITIES:

   A. It shall be the responsibility of the Board of Commissioners to enforce this policy and procedure.

6. PROCEDURE:

   A. Request: Any past or present District Commissioner, officer, employee or volunteer who is named as a defendant in an action or proceeding may file a written request with the Board of Commissioners to provide a defense to the action or proceeding at the expense of the District. A copy of the claim, complaint or other pleading initiating the action or proceeding must be attached to the request.

   B. Request for Injunctive Relief: Any Board member, officer, employee or volunteer who is required to seek injunctive relief to enable them to perform their duty to the District when faced with threats of harm to their personal or business interests directly resulting from their service to the District may request that the Board provide legal counsel as necessary to obtain and enforce the necessary injunctive relief.

   C. Investigation: Upon receipt of a request the Board of Commissioners shall refer the matter to the District's attorney or another investigator to conduct an investigation of the acts or omissions out of which the action or proceeding arose to determine the following:

      1. The nature of the acts or omissions that gave rise to the action or proceeding.
      2. Whether the acts or omissions of the individual were, or in good faith purported to be, within the scope of the individual's official duties with the District.
      3. Whether the District has insurance coverage which may cover the alleged acts or omissions of the individual.

C. Report to Board: The investigator shall file a written report of the investigation with the Board of Commissioners. The report shall be a confidential document until the action or proceeding is completed.

D. Board Action: If the investigation finds that the acts or omissions of the individual were, or in good faith purported to be, within the scope of the individual's official duties with the District and that the District's insurance policies provide possible coverage the Board shall tender defense of the action or proceeding to the District's insurance carrier. In the event insurance coverage is not available the Board shall authorize the individual's defense at the expense of the District. The Board shall select the attorney to defend the action or proceeding.

E Settlement: In the event the District agrees to provide the defense of the action or proceeding, the Board of Commissioners of the District shall have the discretion to determine whether the action or proceeding should be settled and the terms and conditions of the settlement.

F. Reservation of Rights: The Board of Commissioners of the District, in the event the District shall have assumed defense of the action or proceeding, may withdraw its defense if, in the conduct of the defense, it shall become aware of information showing that the acts or omissions of the individual were not, or in good faith did not purport to be, within the scope of the individual's official duties with the District.

G. Payment of Judgment: In the event a monetary judgment for non punitive damages is entered against the individual as a result of the action or proceeding, the Board of Commissioners may, in its discretion, appeal the judgment if an appeal procedure is available. When the monetary judgment for non punitive damages becomes final the Board shall satisfy the judgment at the expense of the District unless the damages are covered the District's insurance coverage.

H. Punitive Damages: In the event a judgment for punitive damages is entered against the individual, the Board of Commissioners may, in its discretion, appeal the judgment if an appeal procedure is available. When the monetary judgment for punitive damages becomes final the Board shall review the judgment with the District's attorney to determine if the judgment shall be satisfied at the expense of the District unless the damages are covered by the District's insurance coverage.

I. Insurance: As indicated above, the District's insurance carrier may satisfy the District's obligations under this policy in full since the officers, employees and volunteers are named insureds on the District's insurance policies. The provisions relating to assumption of defense coverage and payment of monetary judgments are intended to apply only in those instances where insurance coverage is not available.

See Appendix 01_02_06