



from judge 31-11

May 9, 2012

CHAIR
CHARLEY WILSON
Director
Santa Margarita
Water District

The Honorable Thomas J. Borris, Presiding Judge
Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

VICE CHAIR
SUSAN WILSON
Representative of
General Public

Dear Judge Borris:

PAT BATES
Supervisor
5th District

Thank you for the opportunity to review and comment on the "Let There Be Light - Dragging Special Districts from the Shadows" report. The comments provided address the findings and recommendations requiring a response from Orange County LAFCO.

JOE CARCHIO
Councilmember
City of Huntington Beach

F.1: Most Orange County special districts, with or without the assistance of the Local Agency Formation Commission (LAFCO), have been incapable or unwilling to consolidate, absorb or eliminate those outmoded and/or redundant agencies. LAFCO typically addresses larger issues such as the merging of cities and elimination of islands within the county. The special districts themselves have not worked seriously toward their consolidation or demise. In this regard, the enterprise special districts and the non-enterprise special districts require independent evaluation and handling.

PETER HERZOG
Councilmember
City of Lake Forest

JOHN MOORLACH
Supervisor
2nd District

JOHN WITHERS
Director
Irvine Ranch Water District

Response: LAFCO disagrees. A review of our annual work programs and accomplishments for the past 20 years will show that there has been an extensive focus on Orange County special districts by LAFCO. In fact, some of our special districts have participated in multiple stakeholder processes and have questioned the perceived inequity of OC LAFCO's focus on special districts compared to cities. However, OC LAFCO has received statewide attention due to our proactive and collaborative approach with our special districts.

ALTERNATE
BILL CAMPBELL
Supervisor
3rd District

ALTERNATE
JAMES FISLER
Director
Mesa Consolidated
Water District

ALTERNATE
DEREK J. MCGREGOR
Representative of
General Public

The facts also show that since 1995, Orange County LAFCO has approved the following reorganizations of special districts (which have included consolidations, dissolutions and mergers):

ALTERNATE
BOB RING
Councilmember
City of Laguna Woods

JOYCE CROTHWAITE
Executive Officer

- (1) Dissolution of the Carpenter Irrigation District;
- (2) Dissolution of the Tri-Cities Municipal Water District;
- (3) Reorganization of four special districts (South Coast reorganization);
- (4) Los Alisos Water District and Irvine Ranch Water District Merger;

- (5) Silverado Water District merger with Irvine Ranch Water District;
- (6) Dissolution of the Laguna Niguel Community Service District;
- (7) Dissolution of County Service Area 25 (Aliso Viejo);
- (8) Acquisition of the Orange Park Acres Mutual Water Company by Irvine Ranch Water District and annexation of that territory; and
- (9) Santiago Water District merger with Irvine Ranch Water District.

In addition, since 2002, LAFCO, as an independent agency, has conducted municipal service reviews (MSRs) of all agencies, including special districts, under its purview. MSRs are required to address seven (7) specific determinations (Government Code § 56430) including growth and population projections, location and characteristics of any disadvantaged communities, present and planned capacity of facilities and services, financial ability of the agencies to provide services, accountability for community service needs including governmental structure and operational efficiencies, and any other matter related to effective or efficient service delivery.

LAFCO is required to conduct MSRs every five (5) years. We are finishing our third cycle of MSRs and have found no significant issues with special districts in Orange County. The MSR reports can be found on OC LAFCO's website at www.oclafco.org.

F.2: Special Districts have made very little progress in complying with the recommendations made by various governmental agencies. To ensure recommendations are followed, more coordination and cooperation is needed from the city and county agencies.

Response: LAFCO cannot comment to what extent or how special districts have responded to recommendations that have come from other governmental organizations over the years. OC LAFCO's MSR process has included, and will continue to include, extensive stakeholder processes that have improved coordination and cooperation, led to voluntary action by special districts and have been well received by those agencies. However, LAFCO concurs that more coordination and cooperation is still needed among all public agencies in Orange County.

F.3 Most non-enterprise special districts in Orange County have outlived their purpose and usefulness. Services that they once (sic) only available through the special district are now being provided by the surrounding cities and the expanding county.

Response: LAFCO disagrees with the generalized conclusion that most non-enterprise special districts in Orange County have outlived their purpose and usefulness. It is unclear what criteria were used to reach this conclusion. The governmental structure of Orange County should reflect its diversity as well as the needs and desires of its residents. LAFCO believes that each special district should be

evaluated on its own with clearly defined and mutually agreed upon criteria to evaluate its efficiency and effectiveness. One size does not always fit all.

F.4 The eleven non-enterprise districts of Orange County founded before 1965 have not reflected the growth of the cities and the county. The services that were unavailable from cities or the county have long since been made available as both the cities and the county grew. Some of these special districts could be removed from the county tax rolls and their services funded and absorbed by the county, surrounding cities or homeowners associations wherein they abide.

Response: LAFCO disagrees that the non-enterprise special districts have not reflected the growth of the cities and the County. In most of the cases, the special districts have provided services to a growing population. However, it is unclear how the cities, in the current economy, would fund the services currently provided by the non-enterprise special districts without transferring adequate funding.

In addition, the County has publicly stated that it wants to stop providing municipal level services and focus on a leadership role in regional services. Finally, transferring of public services to homeowners associations may increase legal complexity and costs for residents as these private entities are asked to take on previously provided public services.

F.5 The sixteen enterprise districts typically started as local agricultural irrigation providers and sanitation providers for local communities. These special districts have transitioned into providers of potable water and sewage disposal for the cities that blossomed around them after 1950. These districts grew until their boundaries met a neighboring special district that was also growing. Some of these local small providers have already been absorbed by the larger districts under one management.

Response: LAFCO concurs.

F.6 The sixteen enterprise districts of Orange County founded between 1919 and 1964 have grown with the urbanization of the county. Thirteen of these special districts rely upon taxes collected by the county while three rely on fees and other sources for their revenue. This suggests that all of these enterprise special districts could wean themselves from tax subsidies and rely on fees for their revenue. Severance from the tax subsidies would enable financial transparency and let the customers see the true cost of the services provided.

Response: LAFCO generally concurs that customers would see the true cost of providing services if taxes received by special districts were eliminated. However, customers would also incur significant increases in the cost of those services. In some areas served by multiple special districts, customers could see substantial increases for

more than one service. It is unclear if the property taxes taken from special districts could be committed for the use of the residents to offset the cost increases.

F. 11 The Buena Park Library and the Placentia Library (the oldest special districts in Orange County) have long outlived their original intent of providing reading materials for their original isolated communities with an electorate of about 100 people. They could readily be absorbed into the County Library System or the cities.

Response: The Buena Park Library District generally serves the City of Buena Park with a population of approximately 80,000. The Placentia Library District generally serves the City of Placentia with a population of approximately 50,000. The facilities of both Districts are also used by residents of other cities.

Dissolution of either District involves a complex process established by the government code. LAFCO staff is required to conduct detailed studies on the reorganization of any agency to address impacts on the service levels and finances of the agencies being reorganized as well as the successor agencies. The studies must go through a public hearing and review process by both the Commission and by the public. Residents also have an opportunity to formally protest LAFCO decisions, and some residents have strong enough emotional ties with their service providers to protest and end any attempts at reorganization. Finally, neither cities nor the County library system currently have the financial resources to "absorb" ongoing library operations. In fact, the County library system has been cutting back, rather than expanding, library services.

F.12 The community services that the original non-enterprise special districts provided can be provided by the surrounding city and the county that have engulfed these districts. Continuing to collect taxes for these special duplicative services is a disservice to both the community they serve and the surrounding communities that provide the same or similar service.

Response: Government Code § 56001 states that "...priorities are required to be established regarding the type and levels of services the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that those community service priorities are required to reflect local circumstances, conditions and limited financial resources."

LAFCO is required to conduct detailed studies on the reorganization of any agency to address impacts on the service levels and finances of the agencies being reorganized as well as the successor agencies. The studies must go through a public hearing and review process by the Commission. The government code sections regarding the dissolution of public agencies under LAFCO's purview also require protest periods to

allow residents to voice their opinions. OC LAFCO believes that the desires of the residents should be weighed when making changes in local governmental entities.

Our staff has conducted stakeholder working groups and will help any Orange County agency to clarify and establish community service priorities. Additionally, LAFCO prepares MSRs for each Orange County city and special district every five years to identify service inefficiencies and government structure alternatives. LAFCO also works with any agency that requests assistance within the scope of LAFCO's authority.

F.13 The Surfside Colony Storm Water Protection District was formed in 1941 to protect the community from ocean swells during storms and high tides. Since then the community has changed and the local governments have grown to where these services can be performed by other county or city services, resources and equipment.

Response: The Surfside Colony Storm Water Protection District is located within the City of Seal Beach. As stated in previous responses, dissolution of either District involves a complex process established by the government code and requires detailed studies to address impacts on the service levels and finances of the agencies being reorganized as well as the successor agencies. The studies must go through a public hearing and review process by both the Commission and by the public. Residents also have an opportunity to protest the actions, and some residents have strong community ties to their local service providers.

F. 15 Only one of the special districts, the South Coast Water District, has had recent performance audits. The lack of performance audits for the remaining special districts leaves the potential for inefficiencies, poor practices, outmoded operations etc. hidden from the governing boards and the communities they serve. The lack of published performance audits has contributed to the public's ignorance of these districts.

Response: Since 2002, LAFCO, as an independent agency, has been required to conduct MSRs every five (5) years of all public agencies, including special districts, under its purview. LAFCO is finishing the third cycle of MSRs and have found no significant issues with special districts in Orange County. The MSR reports can be found on OC LAFCO's website at www.oclafco.org.

RECOMMENDATIONS

R.2 Community service districts should be absorbed either in the cities surrounding them or into the surrounding private homeowners associations. Each community service district should meet with LAFCO and with the appropriate city or homeowners association to develop plans and schedules for the future. This meeting should be (sic) take place before September 30, 2012.

Response: LAFCO meets regularly with the community service districts and will continue to do so. Additionally, LAFCO prepares MSRs every five years and will continue to do as required by the government code. LAFCO also responds to and works with any agency, city or special district, that requests assistance that we can provide within the scope of our authority and resources. Finally, as noted in previous responses, dissolution of any special district is a complex, lengthy and often expensive process comparing service levels and costs to residents and successor agencies.

R.3 Library districts should be absorbed into the County Library System. Both the Buena Park and the Placentia Libraries should meet with LAFCO and their cities or County Library System before September 30, 2012 to develop plans and schedules for consolidation and removal from the tax rolls.

Response: LAFCO meets regularly with the library districts and will continue to do so. Additionally, LAFCO prepares MSRs every five years and will continue to do as required by the government code. LAFCO also responds to and works with any agency, city or special district, that requests assistance that we can provide within the scope of our authority and resources. Finally, as noted in previous responses, dissolution of any special district is a complex, lengthy and often expensive process comparing service levels and costs to residents and successor agencies.

R.4 Water and sewer districts should be consolidated into no more than six regional districts. Consideration should be given to including the city water agencies in the consolidation. LAFCO should meet with the water and sewer districts before October 31, 2012 to develop plans and schedules for consolidation.

Response: It is unclear what criteria were used to recommend six regional water and sewer agencies and LAFCO has made no analysis, as required by the government code, of such a proposal. Therefore LAFCO does not agree with this conclusion.

LAFCO meets regularly with the water and sewer special districts and will continue to do so. Additionally LAFCO prepares MSRs every five years and will continue to do as required by the government code. LAFCO also responds to and works with any agency, city or special district, that requests assistance that we can provide within the scope of our authority and resources. Finally, as noted in previous responses, dissolution of any special district is a complex, lengthy and often expensive process comparing service levels and costs to residents and successor agencies.

R.5 Water and sewer districts should be removed from the tax rolls and operate solely on fees and other revenues for their services. Consideration should be given to forming non-profit agencies with ownership shared by the constituents. These districts should meet with county

officials before October 31, 2012 to prepare plans and schedules to remove themselves from the county tax rolls by October 31, 2012 to develop plans and schedules for consolidation.

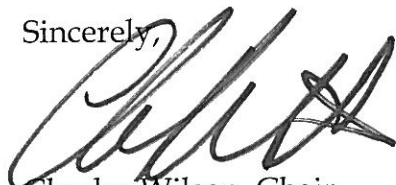
Response: LAFCO would have no role in this process. We believe LAFCO was erroneously listed as needing to respond to this recommendation.

R.9 Each special district should contribute 1% of its unrestricted reserve funds to LAFCO to help finance preparing and directing the consolidation, absorption or elimination and the setting of standards for reserves for special districts. These funds should be included in LAFCO's future programs and budgets until the consolidation, absorption or elimination of each special district is achieved. With these additional funds, LAFCO should begin meeting with each special district before the 2014 fiscal year is budgeted for consolidation, absorption and/or elimination of these districts.

Response: As required by law, LAFCO's budget is funded in equal parts by the special districts, by the cities and by the County. LAFCO does not have the authority to obtain an additional portion of the unrestricted revenues of the special districts. Therefore, we have not and cannot budget funds and the necessary resources to complete such an extensive work effort suggested by the Grand Jury.

In conclusion, LAFCO hopes that these comments allow for a better understanding of the LAFCO and LAFCO's role. We appreciate the opportunity to submit these comments.

Sincerely,



Charles Wilson, Chair
Orange County LAFCO