

# Surfside Colony Community Services District

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July 16, 2012

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

Dear Judge Boris,

We have recently received a copy of the 2012 Orange County Grand Jury Report titled "Let There Be Light-Dragging Special Districts from the Shadows", and we do appreciate the opportunity to respond to the findings.

Regarding the two districts that provide services to the residents of the Surfside Colony community: Surfside Colony Storm Water Protection Tax District and the Surfside Colony Community Services Tax District, it is our belief that there are some considerations that need to be understood and addressed in order to set the framework for our responses to the Grand Jury's Findings/Conclusions and its Recommendations regarding these districts.

It is not our intention to be condescending to the Jury. It is our judgment from reading the text of the findings that some things may be misunderstood. First, the district responded to what seemed to be a "one size fits all" questionnaire. It appears that all of the districts were thrown into a giant "fruit salad", made up of pieces of different sizes, shapes, colors and purposes. With only one or two exceptions, we are then asked to respond to perceptions and conclusions as they pertain to that group.

Second, after submitting our completed questionnaire, no one made even the simplest personal contact with us. There was no follow up, no phone call, no interview for understanding or review. We just received a finding along with everyone else and, when we did receive the findings, we were generally considered just part of the whole group. Perhaps, we were too small to be a bother. In any event, the view from the bottom of the "fruit salad" is rather unsettling.

Third, it is important to understand something of the history of Surfside Colony; a history that is not generally known. After its founding almost a century ago, the federal, state and county governments took actions that affected all of the beach communities beginning with Surfside and ending in Newport Beach. The most dramatic affect or impact was to Surfside beach. In a letter from Mr. Carl H. Schwartz, Jr., representing the U.S. Bureau of The Budget, dated September 27, 1962, to the Honorable Cyrus S. Vance, Secretary Of The Army, discussing a report from the U.S. Army Chief of Engineers, the seriousness of the beach situation was outlined. After a major study and evaluation had been performed, it was explained that the beaches, starting at Surfside Colony and ending at Newport Beach, had been irreparably affected and damaged by

three major government interventions which had occurred over the past century. In order to provide flood control for Orange County, that is to make the county livable, the three rivers that flow across or near its boundaries needed to be controlled. Dams were built on all three, the rivers themselves were modified by paving, and jetties were constructed to keep flood waters from periodically overflowing the river banks and submerging Orange County communities. The federal government constructed breakwaters for L.A. harbor protection and then jetties were constructed to create a safe harbor for the Seal Beach Naval Weapons Station. The effect of all of these actions, the Corps reported, was to completely alter the flow of sand to the ocean as well as the movement of any sand laterally along the beaches.

The combined effect of all of these actions, performed for the benefit of Orange County in general, has affected the beach communities and created maintenance requirements that will persist indefinitely. Making things worse, communities along these paved rivers have constructed storm drains that empty any refuse that is discarded along their streets and not picked up before a rain storm, into the rivers. Rain water carries all of this refuse or garbage to the ocean where it is deposited on the beaches, Surfside Colony being one of the first to be affected.

As a result of this study, the federal government published a report, dated October 2, 1962 from the Secretary of The Army, "San Gabriel River to Newport Bay, Orange County, California, Appendix V, Phase II, Beach Erosion Control Study". In its 167 pages, the problem was analyzed and the findings stated that these beaches, Surfside included, were negatively affected and would require periodic maintenance and restoration for the foreseeable future, perhaps forever. The restoration would be paid for, by formula, by all affected government agencies, including Surfside Colony.

Both Surfside Colony Storm Water Protection Tax District and the Surfside Colony Community Services Tax District have since been contributors in various capacities, authorized within their charters, to restoration projects, damage and drainage control, as well as collecting and removing refuse transported by the rivers, from the communities upstream that take no responsibility for Surfside's problem. These projects are still alive and well. They are enduring. At beach restoration time, the Orange County Treasurer calls Surfside to submit its share of the cost.

Furthermore, LAFCO currently agrees that our Districts "work" and that bigger isn't always better. We are absolutely sure that no other agencies could provide the necessary public services to our community more economically or effectively, given the Districts' extremely low overhead, direct knowledge of needs, and focus required by District state laws.

We respectfully submit the attached responses to your Findings/Conclusions and Recommendations.

Sincerely,



V. John Kriss  
Director, Surfside Colony Community Services District



**SURFSIDE COLONY COMMUNITY SERVICES DISTRICT  
RESPONSE TO FINDINGS/CONCLUSIONS AND RECOMMENDATIONS  
JULY 16<sup>TH</sup>, 2012**

**FINDINGS/CONCLUSIONS**

*F1. - Most Orange County special districts, with or without the assistance of the Local Agency Formation Commission (LAFCO), have been incapable and unwilling to consolidate, absorb, or eliminate these outmoded and/or redundant agencies. LAFCO typically addresses larger issues such as 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 non-enterprise special districts require independent evaluation and handling.*

Response - F1. **Disagree partially.** The Surfside Community Tax District has not worked toward its own consolidation or demise. It is believed that the district is currently relevant and necessary to fund ongoing services to the beach community. As stated in the introductory remarks, Surfside is in a unique situation geographically and has responsibilities to perform functions that not only pertain to its own circumstances but also to provide functions that affect other communities downstream along the coast. The District was established by state law to provide for specific needs of the community. That same state law precludes the consolidation of the districts.

*F2. - 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 - F2. **Disagree partially.** The recommendations and government agencies are not specified. We do take all recommendations and advice from all of our community neighbors and other higher government agencies seriously but we don't necessarily agree with all that might be presented. The district will comply with what is mandated but not necessarily with what is recommended, if we disagree.

*F3. - Most non-enterprise special districts of Orange County have outlived their purpose and usefulness. Services that were once only available through the special districts are now being provided by the surrounding cities and expanding county.*

Response - F3. **Disagree wholly!** It is not believed that the Surfside Community Services Tax District has outlived its usefulness and that it helps provide services that are unique to Surfside. The community is located on a constantly eroding beach for which the federal, state and county governments have mandated requirements. Surfside, as a community, shares these responsibilities and has not been replaced. The Community has no confidence that the City of Seal Beach or County of Orange could or would provide the current necessary public safety/maintenance services if the District was dissolved.

*F4. - The eleven non-enterprise special districts of Orange County founded before 1965 have not reflected the growth of the cities and county. The services that were unavailable from cities or the county have long since been made available as both the cities and 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 - F4. **Disagree wholly!** Perhaps, some districts could be removed from the county tax rolls but Surfside has ongoing responsibilities that are unique to it. Many of the services provided are not redundant and could, again perhaps, only be provided at a much higher cost elsewhere. It is believed that no other community could provide these services more efficiently.

F5 & F6 – No response required.

*F7. - The unrestricted reserves of the special districts are available to the governing boards to spend as they please. Local citizens are not openly informed of this wealth when agencies ask for fee increases, special assessments, or bond measures. Most of the special districts do not appear to have specific criteria for amassing these reserves nor do they have published long term plans for their constructive use.*

Response - F7, **Disagree wholly!** Local citizens are informed regarding all income, expenses and reserves at monthly scheduled meetings and an annual meeting which is held for all residents and at which a quorum is required in order for the meeting to be held. Utilization of reserves is a controversial discussion topic. The district board members are not allowed to “spend as they please”. The District’s assets must be allocated in accordance with The California Community Service District Law, Government Code #61000-61850. No fee increases, special assessments or bond measures have been introduced in decades. None would ever be initiated without the full knowledge and approval of the residents. This would definitely be a contentious proposal if introduced.

*F8. - The twenty-seven special districts in Orange County have amassed unrestricted reserves of over \$866,000,000. That is enough money to fund all of these special districts for more than year without taxes, fee, interest, or other sources of revenue. The boards of directors have the sole discretion to spend these unrestricted reserves.*

Response - F8, **Disagree wholly!** The Surfside Colony Community Services Tax District reserves as presented in Table 2b were \$403,000. This is money that was reserved for special projects designated by the community of Surfside Colony for future infrastructure and maintenance projects. If one looks at the district’s reports to the county, it will be recognized as being higher than usual but still, a very small number when looking at it in terms of the \$866,000,000 for all districts as a whole. It is believed to be truly low when considering that the Orange County assessment value for the community is nearly \$200,000,000. The District believes that, if anything, the reserves may be low. The District reserve policy, containing the allocation designation for the reserves, is considered a very serious matter within the community and is discussed at almost every district meeting as well as being a very special topic at the aforementioned annual meeting.



F9, F10, F11 – No response required.

*F12. - The community services that the original non-enterprise special districts provided can be provided by the surrounding cities 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 services.*

Response - F12 Disagree wholly! As stated in the response to Finding #3, we are not surrounded by Seal Beach. We have been geographically separated from the city of Seal Beach and many of our requirements are unduplicated by the city as a whole. In the response to F4, we mentioned that the city was in existence long before the district was requested and approved. The services that existed at that time have not gone away but instead, more responsibilities have been added.

F13 & F14 – No response required.

*F15. - Only one of the 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 - F15. Disagree wholly! The district has annual audits performed by certified, outside, independent auditors. The auditors review all of the districts internal controls and evaluate its procedures. If deficiencies are noted that require further oversight or evaluation, more extensive analysis will be undertaken. It is believed that a further audit will generate much higher costs to the district, believed to be unjustified under present conditions.

## RECOMMENDATIONS

*R1.- All special districts (except the Vector Control District and the County Cemetery District) should be eliminated from the county tax rolls and should rely solely on fees or services of the surrounding governments. (See F2, F3, F4, F5, and F6.)*

Response - R1. The recommendation will not be implemented. Surfside Colony, for which this district was formed to service, is politically attached to the city of Seal Beach but it is geographically separate and provides services which are unique to this community. The services that are provided are certainly performed as efficiently as we believe possible. The administrative costs to the community are minimal. District directors take no pay. Administrative costs are a bare minimum, simply for accounting and reporting. The County gets real value for the services provided.

*R2. - Community service districts should be absorbed either in the cities surrounding them or into surrounding homeowners associations. Each community service district should meet with LAFCO and the appropriate city or homeowner's association to develop plans and schedules for future of these districts. This meeting should be take place before September 30, 2012. (See F3, F4, & 2.)*

Response - R2. The recommendation will not be implemented. Please refer to the opening comments. The district services a local community which has special requirements for services, many unique to its location and different from those of other communities. Community Service District Law ensures that these services are provided in a focused, efficient manner, which would be lost if they were absorbed by another entity. (See responses to F3, F4, & F12.)

R3, R4, & R5 – No response required.

*R6. - Special Districts should adopt "board of directors practices" for all of their reserves, restricted and unrestricted. All reserves should be classified in their 2013-2014 budgets according to GASB Standard No. 54. LAFCO should work with the special districts to prepare standard criteria for accumulating reserves according to the new classifications by December 15, 2012. These standards should be used in preparing the 2013-2014 budgets. (See F& & F9.)*

Response - R6. Recommendation has been implemented. The district's most recent financial audit, dated 6/30/2011, was in full compliance with GASB Standard #54 and it is anticipated that all future budgets will be prepared utilizing this criteria. All reserves are maintained for individual, specific purposes, outlined in a stated District reserve policy, and which are presented to the residents during the Surfside Colony annual meeting in which a quorum is required.

*R7. - Excessive unrestricted reserves should be used to reduce existing debts. Future revenues should be reduced to avoid the accumulation of unallocated revenue that does not meet adopted new standards. (See F7 & F8.)*

Response - R7. Recommendation has been implemented. The district has no existing debt and had none at the time of the Grand Jury examination. It is not expected that debt will be added in the foreseeable future. Our reserves, when taken in light of Orange County's assessment valuation of Surfside Colony (\$190,000,000) appear to be minimal by any standard.

*R8. - Each special district should have an independent performance audit at least every three years. The executive summary of the performance audit should be distributed to all of the taxpayers of each special district. Each of the special districts that has not had a performance audit within the last five years should contract with an outside independent consultant to conduct such an audit during 2012. These audits should be repeated at least every three years. (See F13.)*

Response - R8. The recommendation will not be implemented, unless our independent auditors recommend a performance audit. The district has an independent, outside certified public audit annually and it's written findings are presented annually to the residents in a meeting in which a quorum is required. Based on the auditors' reviews of our internal control structure and processes, a performance audit has not been recommended since no material deficiencies have been noted. The summary of the audit is presented, analyzed and discussed in a public venue. Currently, this seems to be ample oversight. For a small district, an increase in costs does not seem to be warranted.



*R9.- Each special district should contribute 1% of it's unrestricted reserve fund to LAFCO to help finance preparing and directing the consolidation, absorption or elimination, and the setting of standards for reserves for the 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. (See F1, F2, F3, F4, F5 & F6.)*

Response - R9. The recommendation will not be implemented. It seems totally unwarranted to be directed to spend money from reserves for a project that does not exist, nor is approved. This seems to be an unwarranted tax on the districts at a time when finances are limited. Taxes are difficult enough when levied through the legislative process but, when added by the judiciary, seems overly burdensome.

R10 – No response required.