

# Surfside Colony Storm Water Protection District

---

P.O. Box 235  
Surfside, California 90743  
(562) 592-2352

---

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

Sincerely,



V. John Kriss  
Trustee, Surfside Colony Storm Water Protection District

**SURFSIDE COLONY STORM WATER PROTECTION 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 district has not worked seriously toward its demise. The premise that this district is outmoded and/or redundant is considered to be totally in error. Since its inception in 1941, it has been supporting projects and functions that are unique to Surfside Colony alone and for which support outside its boundaries is not available at any reasonable cost. Each District was established for a specific purpose and is governed by specific state law. This law precludes the consolidation of the two Surfside 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 wholly! We have no idea what recommendations are being referenced. Which governmental agencies? When? Regarding what? Is this the same question as F1, that we should be eliminated? If so, see response to F1.

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

Response – F3. Disagree wholly! First, we are surrounded by no city. Surfside Colony has been politically attached to the City of Seal Beach since 1964 but it is neither surrounded by it nor is it even contiguous to it. Surfside Colony has been physically separated from the city of Seal Beach by over a mile of open land, water and marsh (Seal Beach Naval Weapons Station) since its inception. This is not a small point, the land separating the communities is not only private but no trespassers are permitted, it is defended. The communities are connected by Pacific Coast Highway, which transits the naval base. The services outlined in the introduction are not being performed by any other government agency. The district continues to be demonstrably relevant.

*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 - Disagree wholly! In one of the two references, to Surfside in particular, in this document, it is noted that The City of Seal Beach was in place for over a quarter of a century when the establishment of Surfside Storm Water Tax District was requested, approved, and with the full knowledge of the Seal Beach City capabilities, it was created. It was after this that the districts responsibilities really expanded. The district is more relevant now than it was at its inception.

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! The Storm Water Protection Tax District holds monthly meetings at the same time and on the same day of the week each month. The agendas of these meetings are posted and income, expenses and reserves are discussed at every meeting. Annually, Surfside Colony holds a meeting for all residents (a quorum must be obtained to hold the meeting) and a presentation is made by the district to the entire group, explaining each expense and each service provided during the prior year. The upcoming year's revenues and projects are also discussed. Written reports of revenues and expenses, as well as the designation and status of all district reserves and their purposes are presented. Furthermore, the Storm Water Protection Tax District is not able to "spend as they please". The purpose of the district and its spending allocations are specifically designated in The Storm Water Dist. Act of 1909. The board allocates the funds in accordance with this act and also with the understanding and acceptance of a majority of the residents. There has not been any fee, increases, special assessments or bond issuance by the district in decades, if ever at all. None would ever be initiated without the full knowledge and approval of the residents.

*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 Storm Water Protection Tax District reserves listed in Table #2b were \$282,000. This is money reserved for a year's worth of projects, which at that time included a major drainage project to relieve flooding that had existed throughout the community for years, as well as a portion set aside for the next beach restoration due in 2 to 3 years.

The county treasurer will send us a bill for payment of Surfside's share of that project. The project is provided by the U.S. Army Corps of Engineers. The Surfside Storm Water Protection Tax District's reserve amounts to a rounding error in the total county district reserves of \$866,000,000. That reserve, however, is very important to the well being of the community and the ongoing need to make improvements within an ever eroding environment.

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 this special duplicative service 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 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 only not gone away but more responsibilities have been added. Furthermore, the community has no confidence that a City or County could provide these services more efficiently.

*F13. - The Surfside Colony Storm Water Protection Tax District was formed in 1941 to protect the community from ocean swells during storms and high tide. Since then the community has changed and local governments have grown to where these services can be performed by other county or city services, resources and equipment.*

Response – F13. Disagree wholly! - This question is specific to Surfside but seems redundant with previous questions. The federal government, as well as the county, has required that Surfside participate in the costs of the beach restoration, by formula. The county sends the community (Surfside Colony) a bill for payment, in full, at the time of the request. The city of Seal Beach also asks Surfside to perform functions that it is unable to perform because of a lack of its capability.

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 partially! The district has annual audits performed by certified, outside, independent auditors. The auditors review all of our internal controls and evaluate our 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, which is considered 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. Please refer to the opening comments. Although Surfside Colony is politically attached to the City of Seal Beach, it is geographically separate and, because it has been doing so independently for so long, it singularly provides many required services to the beach community. ( See responses to F2, F3, F4, & F5.) Beach depletion affecting many other county, state and federal properties, located down coast, and refuse deposits derived from other Orange County communities create ongoing challenges for this community. The elimination of the District would create a public safety hazard to the community it presently serves.

*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 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, & F12.)*

Response - R2. The recommendation will not be implemented and appears to be in error since the Storm Water Protection District is not a community services district. However, 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. (See responses to F3, F4, & F12.)

R3, R4 & R5 – No response required.

*R6. - Special Districts should adopt "board of director's 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 F7 & F9.)*

Response - F6. Recommendation has been implemented. The district's most recent financial audit, dated 6/30/2011, was in full compliance with GASB 54 and it is anticipated that all future budgets will be prepared utilizing this criteria. The District does has a stated reserve policy and all reserves are maintained for individual, specific purposes which are outlined and presented to all 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 debts and had none at the time of the Grand Jury examination. It is not expected that any 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 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 its 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 required through a legislative process but when added by the Judiciary, seems burdensome.

R10 – No response required.