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May 31, 2016

**CONFIDENTIAL/ATTORNEY-CLIENT COMMUNICATION**

Charlotte Addington
Sonoma County Grand Jury
P.O. Box 5109
Santa Rosa, CA 95402

RE: Special Districts in Sonoma County

Dear Ms. Addington:

I have reviewed the above-entitled Grand Jury Report and in my opinion it:

Does not contain defamatory material. *Brooks v. Binderup* (1995) 39 Cal.App.4th 1289;

Meets the witness secrecy requirements. *McClatchy Newspapers v. Superior Court* (1988) 44 Cal.3d 1162, 1172-1178;

Is within the subject matter and geographic jurisdiction of the Grand Jury. *People v. Superior Court* (1973 Grand Jury) (1975) 13 Cal.3d 430, 437-438; *Board of Trustees v. Leach* (1968) 258 Cal.App.2d 281, 285; and,

Meets the requirement that "raw evidentiary material" not be disclosed, except as authorized by statute. *McClatchy Newspapers v. Superior Court* (1988) 44 Cal.3d 1162, 1178-1183; *Daily Journal Corp. v. Superior Court* (1999) 20 Cal.4th 1117. Please note, the prohibition in McClatchy does not extend to selective paraphrasing of testimony in findings that do not disclose the identity of the witness nor does it extend to quoting statements from public documents.

Please let me know if you have any questions or would like to discuss this further.

Very truly yours,

Jeffrey L. Berk
Deputy County Counsel

JLB:ao
cc: Judge Raima Ballinger

Raina Ballenger
June 7, 2016

# Special Districts in Sonoma County

## SUMMARY

California Government Code Section 16271(d) defines a special district as "any agency of the State for the local performance of governmental or proprietary functions within limited boundaries." In plain language, a special district is a separate local governmental entity that delivers a limited number of public services to a specific geographical area.

Most taxpayers have little understanding of special districts, of what they provide and how they are funded. As a result, these districts receive minimal public scrutiny. Special district boards are either elected by the public residing within their district boundaries or appointed by the Sonoma County Board of Supervisors. The forty-five independent special districts in the County receive $52 million in property tax assessments each year. More than 200 Sonoma County citizens serve on special district boards with little or no compensation.

Special districts escape wide public attention because their functions are narrow and technical. Most residents pay little attention to their special districts until problems arise. The special district component of local government is designed to effectively and responsibly deliver core services such as fire protection, water, and parks. The Grand Jury's recommendations are intended to improve existing oversight functions, providing enhanced transparency and accountability.

## BACKGROUND

The Grand Jury initiated this investigation to raise public interest and awareness of the often invisible, largely unsupervised agencies that have many of the same powers as the County and cities, and operate with limited external review.

## METHODOLOGY

Members of the Grand Jury conducted interviews with the following County agencies and departments: the Office of the Sonoma County Auditor-Controller-Treasurer-Tax Collector (County Auditor), the Sonoma County Administrator's Office, and the Local Agency Formation Commission. Additionally, members of the Grand Jury reviewed financial statements and audits from forty special districts for Fiscal Year 2014-15.

The Grand Jury contacted the Accounting and Reporting Division as well as the Division of Audits of the State Controller's Office, the California Special District Association, the Sonoma County Clerk's Office, the Sonoma County Registrar of Voters, the Sonoma County Administrator's Office and the Sonoma County

Water Agency. The Grand Jury also reviewed written sources of information listed below in the Bibliography.

## DISCUSSION

### What is a Special District?

The California State Senate Local Government Committee pamphlet *What's So Special about Special Districts?* provides this information:

> Inadequate revenue bases and competing demands for existing taxes make it hard for counties and cities to provide all of the services that their constituents want. When residents or landowners want new services or higher levels of existing services, they can form a special district to pay for them. Fire districts, irrigation districts, cemetery districts, and mosquito abatement districts exist today because taxpayers were willing to pay for public services they wanted. Special districts localize the costs and benefits of public services, allowing local residents to get the services they want at prices they're willing to pay. To pay for their regular operations, special districts generate revenue from three basic sources: taxes, benefit assessments, and service charges.

Special districts have four distinguishing characteristics: they are a form of government, have governing boards, provide services and facilities, and have defined boundaries.

There are two types of special districts: Independent special districts are separate local agencies, created by local petition or through popular election, and are directly accountable to their constituents. Dependent special districts are administrative extensions of the county. In Sonoma County the Board of Supervisors assumes the role of Board of Directors for the dependent districts.

### Legal Requirements and Oversight

All special districts are required by law to conform to democratic safeguards for transparency and accountability. The Ralph M. Brown Act (public meeting protocols), the Public Records Act (recordkeeping and public access to information), and the Political Reform Act (fair elections and service to all citizens) are laws that insure special districts are accountable, open and public. Special districts' websites can be an effective means of providing information to the public. Residents should be able to easily find a description of services provided, the names and contact information of board members and management, budgets, agendas, minutes and schedules of meetings.

The Grand Jury's review of the forty-five special district websites revealed that most districts failed to provide financial information, the names of staff and the names of board or commission members, and minutes of board or commission meetings. Only four websites included information about how residents could apply to serve on the boards of their special districts.

California Government Code Section 26909 requires all special districts to file annual audits with their County Auditor and the State Controller within twelve months of the end of the fiscal year, or years, under examination. We found that not all special districts submit their audit reports to the County Auditor in a timely manner. The Grand Jury reviewed the process by which the County Auditor ensures that special districts comply with their audit requirements. If a special district fails to submit an audit, State law requires that the County Auditor either conduct an audit or hire a Certified Public Accountant to audit these districts, at the district's expense.

In September 2015, when the Grand Jury began its review of the audits of the special districts, twenty-one audits for that year had not been submitted. By January 2016, five audits still had not been submitted. The County Auditor's Office reports that it seldom reviews special district audit submissions. Four of the forty audits the Grand Jury reviewed contained independent auditor's notes recommending remedial action by the special district. Of these, we found two districts with financial situations that led the Grand Jury to conduct separate investigations.

Audits are costly for special districts, especially for those with limited budgets. By unanimous request of its governing board, and with unanimous approval of the County Board of Supervisors, a special district may replace the annual audit requirement with either a biennial or a five-year audit. Special districts may also request a less-expensive financial review in lieu of a full scale audit. These options would provide cost savings for small districts.

Another agency with responsibility for special districts is the Local Agency Formation Commission (LAFCO). Pursuant to State law, among its other responsibilities LAFCO has authority over special districts relating to formation and dissolution, annexation and detachment of territory, and extension of services to territory outside their boundaries. According to California Government Code Section 56430, LAFCO is required to review special districts every five years in a process called Municipal Service and Sphere of Influence Reviews. Although its policy manual says it will perform these reviews, the LAFCO staff reports this obligation is rarely met.

In addition to oversight from the County Auditor and LAFCO, the State requires that special district board members receive education and training to fulfill their duties. Resources that support best practices include:

- The Special Districts Association is a membership organization that offers regional educational workshops and webinars designed for special districts.
- The Special District Leadership Foundation offers a number of scholarships designed to help special districts' elected or appointed officials and staff participate in the Foundation's programs and other educational offerings.
- Locally, the Volunteer Center of Sonoma County provides important member services including a Volunteer Referral Program, workshops, training and roundtables (webinars and video podcasts will be available soon).
- Website creation software, specifically designed for California special districts, is available from Digital Deployment, a private company.

Citizens interested in further information can identify special districts in their area at the Register of Voter's District and Elected Official Lookup at https://secure.sonoma-county.org/vote/districtlookup.aspx?sid=1070.

**Special Districts in the News**

LAFCO is involved in two issues related to Sonoma County's special districts in the news. Several Fire Protection Districts are considering a reorganization or consolidation which would provide opportunities to improve services. There are more than three dozen rural fire agencies in the County. The Board of Supervisors voted unanimously to help these fire agencies form regional partnerships and to set up an advisory council aimed at giving fire agencies a stronger voice at the County level. In December 2015, the Board of Supervisors pledged to seek an additional $800,000 for fire services, a boost that would add to the $1.1 million already set aside

The Palm Drive Healthcare District has also received community attention this year, as a group of west county residents want to be released from the District. This could be accomplished through a LAFCO process called "detachment" which would change the boundaries of the district.

**Conclusion**

Independent special districts spend $52 million of taxpayer money annually and provide critical services. However, these districts operate with little oversight of their financial accounting or whether they meet their legal requirements for open meetings, public access to information, and detailed websites, all of which would promote transparency and accountability.

**FINDINGS**

F1. A complete list of all dependent and independent special districts in Sonoma County is not available, depriving residents of information that would allow them to become involved in this component of local government.

F2. Many special districts lack consistent County oversight and supervision to assure compliance with the Ralph M. Brown Act, the Public Records Act and the Political Reform Act laws.

F3. Special districts with limited budgets find full-scale financial audits costly.

F4. The Sonoma County Clerk's Office does not maintain a formal Roster of Public Agencies, listing special districts within the County, as required by Government Code Section 53051.

F5. The lack of readily available financial information and records prevents citizens from exercising their right of oversight of their local special districts.

F6. The Local Agency Formation Commission does not complete Municipal Service and Sphere of Influence Reviews for special districts every five years as required by Government Code Section 56430.

## RECOMMENDATIONS

The Grand Jury recommends that:

R1. The Sonoma County Auditor-Controller-Treasurer-Tax Collector, LAFCO and the Sonoma County's Clerk-Recorder-Assessor cooperate to create and publish a listing of Sonoma County special districts on the County website. The list should include existing websites, names and terms of office of board members and special district contact information.

R2. The County Auditor track, monitor and review the audit reports of independent special districts. Non-submissions, late reports and audit report findings should be highlighted in a report to the Board of Supervisors.

R3. The County Auditor provide information to all special districts regarding the options and procedures for obtaining approval for either a multiyear audit or a financial review in lieu of an actual audit.

R4. The County Auditor comply with Government Code Section 26909 requiring that her office audit, or contract for outside audits, of any special district failing to submit the same.

R5. The Local Agency Formation Commission complete Municipal Service and Sphere of Influence Reviews for special districts every five years as required by State law.

## REQUIRED RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requires responses as follows:

R1 - Sonoma County Auditor-Controller-Treasurer-Tax Collector, LAFCO Commissioners, Sonoma County's Clerk-Recorder-Assessor

R2, R3, R4 – Sonoma County Auditor

R5 - LAFCO Commissioners

## BIBLIOGRAPHY

*About Special Districts Guide,* California Special Districts Association, Copyright, 2016

*Guide to Special Districts,* Sonoma Local Agency Formation, January 2013

*Laws Governing Special Districts,* California Special Districts Association, December, 2015

"*Minimum Audit Requirements and Reporting Guidelines for California Special Districts*", State Controller's Office, Division of Audits

*What's So Special about Special Districts? A Citizen's Guide to Special Districts in California,* Senate Local Government Committee, October 2010

## *GLOSSARY*

***California Public Records Act*** – enables the public to have access to information needed to monitor the functioning of government. The public has the right to inspect public records during the office hours of any government agency and to request and obtain copies of records, subject to the payment of fees.

***Political Reform Act*** – passed by voters in 1974 to ensure elections are fair and that State and local officials perform their duties impartially and serve all citizens equally. The Act includes a number of ethics rules for government officials.

***Ralph M. Brown Act*** - designed to ensure government actions and deliberations are conducted openly so that all people "may retain control over the instruments they have created". The Act requires that meetings of local governmental bodies be conducted during noticed public meetings.

The **Local Agency Formation Commission** (LAFCO) - was created by State law in 1963 to regulate the boundaries of cities and special districts.

Each LAFCO is an independent public agency, whose objectives are:

- to encourage the orderly formation of local government agencies and promote the efficient provision of public services,
- to preserve agricultural land and open-space resources, and
- to promote orderly growth and discourage urban sprawl.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information