



BUSINESS ACTION ITEM STAFF REPORT

ITEM B.1 DISCUSSION AND DIRECTION TO STAFF TO INITIATE THE PROCESS FOR DIVESTITURE OF WATER AND SEWER SERVICES PROVIDED BY THE SAN SIMEON COMMUNITY SERVICES DISTRICT, OR ALTERNATIVELY THE DISSOLUTION OF THE DISTRICT.

Summary:

As part of an overall evaluation of services and operations, the San Simeon Community Services District (the "District") has requested information regarding the procedures and actions either for dissolution of the District or divestiture of some of its services to another agency. The purpose in exploring these options is to provide the District Board of Directors ("Board") a comparison of options for a potential reorganization of the District's functions and services.

Any District action to pursue divestment of the District's function or dissolution of the District entirely would entail a multi-year process with significant input from the relevant state and local agencies and the public, as well as participation from the Board in moving the process forward. The information provided in this staff report is intended to solicit direction from the Board on whether to dedicate staff time, resources, and whether to incur the financial costs associated with making a formal request to the San Luis Obispo Local Agency Formation Commission ("LAFCO"). Attached to this staff report are two flowcharts provided by LAFCO depicting the multi-step process for either divestiture or dissolution.

The information provided below outlines the procedures for both options (divestiture and dissolution) as outlined in the California Government Code sections governing special districts.

Report:

The District, formed in 1961, provides water, sewer, street lighting and road maintenance to approximately 400 permanent residents and to the transient visitors that travel to and through San Simeon. The District is considered a community service district, a special district in California, and therefore subject to applicable state statutes and laws.

The procedure for reorganization (ex: divestiture) and dissolution of a community service

district is set forth by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the “Reorganization Act”), Government Code Sections 56000 – 57550. The Reorganization Act expressly states it is ‘the sole and exclusive authority and procedure’ for changes of organization, including district dissolution.’ LAFCO is the local agency that governs the boundaries of cities, county service areas and special districts within the County. LAFCO is tasked with ensuring that critical services are effectively and efficiently delivered to residents and has a significant amount of influence and oversight in discouraging urban sprawl, preserving open space and prime agricultural lands, and encouraging the orderly formation and development of local agencies.

LAFCOs are granted the authority to study and review the local governments within their boundaries. LAFCOs can initiate studies which determine service area and capabilities for special districts. (Gov. Code § 56378(a).) These studies require local governments to provide LAFCOs with relevant information about their services. (*Id.*) LAFCOs can independently initiate divestiture or dissolution proceedings but the requirements for such actions are similar to those set forth below.

1. Divestiture

The District provides three (3) key services and maintains the necessary facilities to provide such services: (a) the supply of water for any beneficial use, in the same manner as a municipal water district; (b) the collection, treatment, or disposal of sewage, wastewater, recycled water, and storm water, in the same manner as a sanitary district; and (c) the acquisition, construction, improvement, maintenance, and operation of street lighting and landscaping on public property, public rights-of-way, and public easements. (See Govt. Code section 61100(a), (b) and (g).)

The District may eliminate a power or divest itself of a power that it exercises in accordance with the process set forth in the Reorganization Act. A proposal for divestiture must be made by a Resolution of Application by the legislative body of the special district and must include all of the matters specified for a petition in Section 56700, except paragraph (6) of subdivision (a) of Section 56700, and must be submitted with a plan for services prepared pursuant to Section 56653.

The Resolution of Application is required to:

- (1) State that the proposal is made pursuant to the applicable provisions in the Reorganization Act.
- (2) State the nature of the proposal and list all proposed changes of organization.
- (3) Set forth a description of the boundaries of affected territory accompanied by a map showing the boundaries.
- (4) Set forth any proposed terms and conditions.
- (5) State the reason or reasons for the proposal.
- (6) State whether the petition is signed by registered voters or owners of land.
- (7) Designate up to three persons as chief petitioners, setting forth their names and mailing addresses.

- (8) Request that proceedings be taken for the proposal pursuant to this part.
- (9) State whether the proposal is consistent with the sphere of influence of any affected city or affected district. (Gov. Code § 56700.)

Plan for Providing Services

Any application for reorganization must include a plan for providing services within an affected territory. (Gov. Code § 56653.) The plan for services must include:

- An enumeration and description of the services currently provided or to be extended to the affected territory.
- The level and range of those services.
- An indication of when those services can feasibly be extended to the affected territory, if new services are proposed.
- An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- Information with respect to how those services will be financed.

In addition to those requirements, the plan for services for purposes of this article (i.e., divestiture) shall also include all of the following information:

- The total estimated cost to provide the new or different function or class of services within the special district's jurisdictional boundaries.
- The estimated cost of the new or different function or class of services to customers within the special district's jurisdictional boundaries. The estimated costs may be identified by customer class.
- An identification of existing providers, if any, of the new or different function or class of services proposed to be provided and the potential fiscal impact to the customers of those existing providers.
- A written summary of whether the new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, will involve the activation or divestiture of the power to provide a particular service or services, service function or functions, or class of service or services.
- A plan for financing the establishment of the new or different function or class of services within the special district's jurisdictional boundaries.
- Alternatives for the establishment of the new or different functions or class of services within the special district's jurisdictional boundaries.

Once LAFCO receives a reorganization proposal, it must take action on the request after conducting a public hearing. (Gov. Code § 56824.14(a).) Usually, no election is required except for certain circumstances. (See Gov. Code § 56824.14(a)(2).)

2. Dissolution

The dissolution of a special district is the extinguishment and termination of the existence of a district and the cessation of all its corporate powers. In essence, any district seeking a change in organization or a reorganization in this manner requires a Resolution of Application similar to the process set forth for divestiture.

LAFCO must give mailed notice of the hearing prior to considering a request for dissolution. The executive of the commission must prepare a report of the application of reorganization and their recommendations and make the report available not less than 5 days before the hearing. (Gov. Code § 56665.) The hearing can be continued but continuances cannot exceed 70 days from the date of original notice. (Gov. Code § 56666(a).) At the hearing, LAFCO “shall hear and receive any oral or written protests, objections, or evidence that shall be made, presented, or filed, and consider the report of the executive officer and the plan for providing services to the territory.” (Gov. Code § 56666(a).)

Section 56669 outlines the factors LAFCO must consider when reviewing a proposal. Major considerations include population and growth, land use in the area, the need for organized services and the required costs, and the effect of the proposed action on adjacent areas. (Gov. Code § 56668.)

LAFCO can order the dissolution of a district without sending the decision to voters (Gov. Code § 57077.1(a).) However, if the protest thresholds set forth in Sections 57092, 57093, or 57094 are met, the decision must be confirmed by voters (Gov. Code § 57077.1(b).) Protests come in the form of signatures by the relevant voting party. Depending on the number of signatures gathered, a protest can terminate the reorganization proceeding or force the decision to the voters.

Majority protests terminate the proceeding. A majority requires 50% or more of the relevant voting party. For inhabited districts, the protest thresholds require termination of proceedings if a majority threshold has been met (i.e., at least 50% of the voting group), ordering the question to voters if a written protest has been filed (at least 25% of the voting group), or ordering the change in reorganization if there is no protest. (Gov. Code § 57091.) Protests must be signed by at least 25% of the required voting party. (Gov. Code § 57092.) If a majority protest is successful, or the decision has been sent out to voters and does not pass, “no substantially similar proposal for a change in organization” may be filed with the commission within two years of the date of termination. (Gov. Code § 57090.)

No later than 35 days from the conclusion of the hearing, the commission must adopt a resolution approving or denying the proposal of reorganization with or without conditions. (Gov. Code § 56880.) A copy of the resolution must be mailed to the proponents of the application and each affected local agency. (Gov. Code § 56882.) If the determination denies the reorganization no similar proposal shall be initiated for one year after the adoption of the resolution. (Gov. Code § 56884.)

Recommendation:

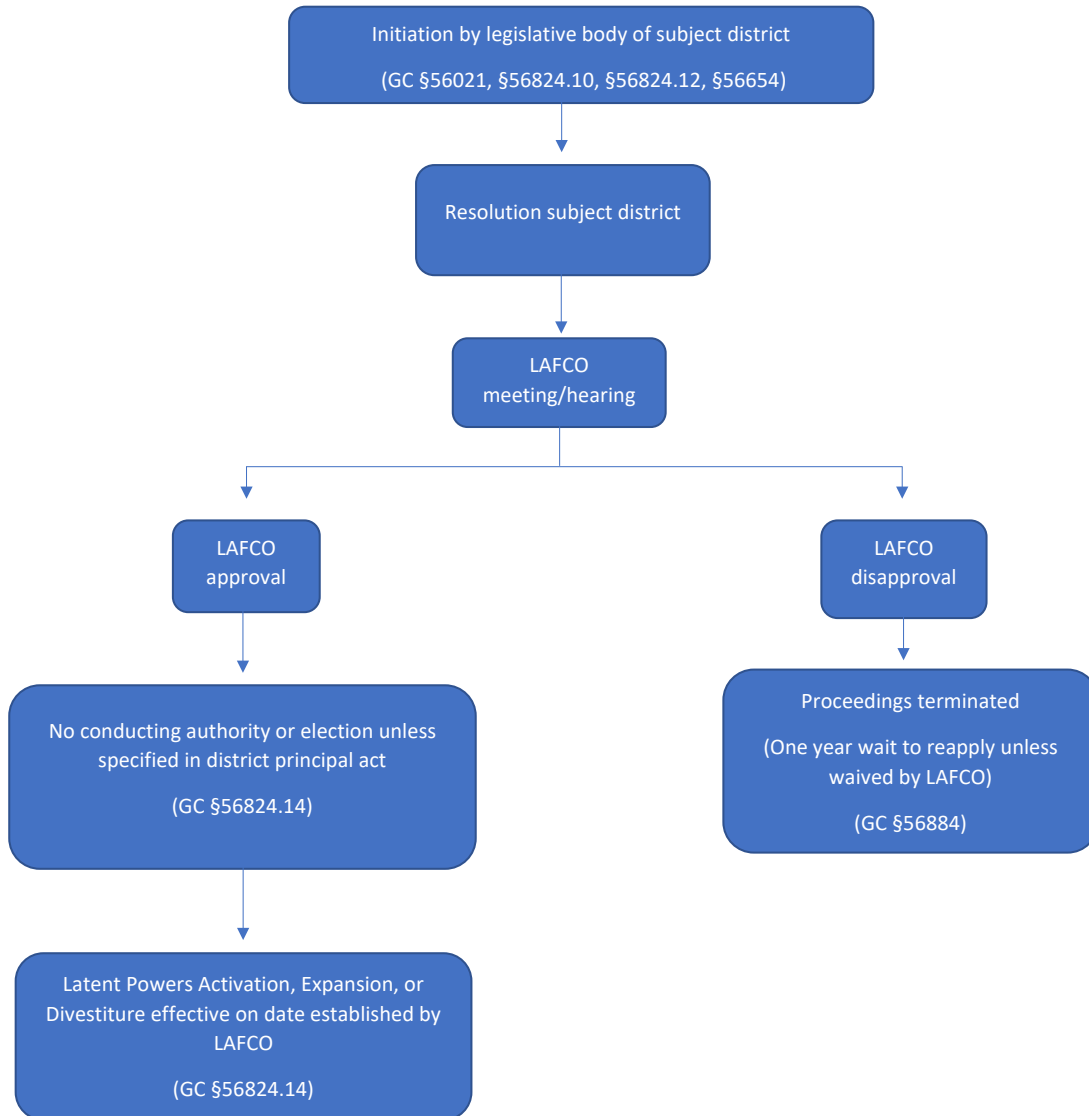
It is recommended that the Board, after considering all options and receiving public comment, direct staff to:

- (1) proceed with the steps to submit a formal request to LAFCO for divestiture of District services; or
- (2) proceed with the steps to submit a formal request to LAFCO for dissolution of the District; or
- (3) conduct additional research with regard to either option; or
- (4) take no further action.

Attachments:

2 LAFCO flowcharts for divestiture and dissolution

District Latent Powers Activation, Expansion, and/or Divestiture



District Dissolution

