

Richard Swan

From: Richard Swan
Sent: Thursday, April 13, 2006 3:33 PM
To: (pfin529@earthlink.net); Charles Krenz; Curt Parkin; David Smernoff; 'Doug Fuchs'; 'Frazier Miller'; 'Karen Tate'; 'Perry Blackmon'; stan@ostassoc.com; T. Michael Ward
Subject: Remaining a Water Board, LAFCo and Budgets
Attachments: Aug_2005_LTCWD_minutes.doc

Hi,

Last night the Mission/Lafco group met and mostly discussed LAFCo strategy.

It was clear that not everybody in the broad community has the same interpretation that I do about the legal issues with LAFCo.

I want to lay out what I understand, plus the evidence and seek comment on factual matters. This has a crucial impact on the attitudes taken into the LAFCo review.

Please see the highlighted areas in the attached Board document, also refer to the LAFCO findings.

1. LTCWD is a water district, formed for the purposes of providing water services.
2. LAFCo's position is that by transferring the water assets that LTCWD ceased providing water services and so should dissolve.
3. The Board has contemplated 3 pathways to providing non water related services:
 - a. Provide them under the current water district powers for land maintenance, etc
 - b. Adoption of dormant powers, to provide park and rec (requires LAFCO approval but not much more)
 - c. Recreation as a Services or Park and Rec district (Requires 2/3 vote, loses current tax money,, etc)
4. Option C is probably not feasible, and I think is not seriously considered.
5. Option A and option B both presuppose continuation of LTCWD as a water district.
6. The following excerpt covers both A and B.

Martha Payotos offered that any change in the scope of the District's activities to include recreational or park services would require an approval by LAFCO. If the District wished to change the central focus of its activity to Parks and Recreation, it would most likely result in the dissolution of the current District and the loss of the current tax revenue. A new source of funding or tax revenue would need to be established to fund the park activities. She added that any such request to LAFCO would probably need to be accompanied by a consultant study to show why such park facilities were needed locally, how many people would make use of them, how far away other existing facilities were, and other factors. An environmental impact report would also probably be necessary. She expressed a general feeling that such a change to a Parks and Recreation focus would be difficult to get approved. Martha suggested contacting the County Parks and Recreation Director and or seeking to partner with other public entities to attempt to achieve the Parks and Recreation goal if that is the goal of he community.

The inputs from the District's legal counsel, Sandy Sloan, regarding allowed uses of water district lands as stated in the California State Water Code were also reviewed. Sandy's inputs concurred with Martha's that approval by LAFCO would be necessary for any substantive change in the District's focus. Sandy also expressed that if the District lands were sold, the resulting revenue could **NOT** be distributed to the District's customers. The revenues could be used for other investments related to the primary goals in the original charter of the District such as offsetting the cost of the sewer installation or interest paying loans to other water districts.

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President Gage---The legal obligation of the District as stated in Ordinance No. 4, is to provide and disperse water. According to Supervisor Richard Gordon, if the District were to redirect itself, it could lose its revenue stream and in effect be unable to rebate to subscribers. Martha Payotos also reinforced this caution.

The County Grand Jury report on special districts and the LAFCO Municipal Services review were further discussed in the context of the concerns expressed in both of these analyses that special districts in many instances were holding on to assets or had cash reserves that were not appropriate to the activities of the district's. Director Gage expressed that the Los Trancos County Water District was at risk through having assets that could no longer be argued as being relevant to the stated purpose of the District.

- 7 My reading of this (not being a lawyer), and other affirmations, is that the crucial issue is **central focus of activity**. My interpretation, backed by Sandy Sloan (via Stan) is that focus can be measured by where the spending goes. For example, if a public Bond measure was to buy books and upgrade the library, it would probably be illegal to spend 90% of the money on creating a new office for the Mayor.
- 8 Hence, it follows that unless the Board wishes to dissolve, that the LAFCO strategy has to be to establish that LTCWD is a strongly operating water district.
- 9 It also follows that independent of any desires from the community, the central focus of LTCWD expenditures must be water related.
 - a. Setting of effective water rates (via rebates)
 - b. Encouragement of efficient water usage
 - c. Emergency access to Lake water, etc
- 10 I believe that this issue must be taken into account if any budget resolutions are made that might drop overall water related spending below 50%.
- 11 I suspect that the true legal situation is somewhat murky, or LAFCO would have taken a strong stand, but unless somebody has a legal theory to the contrary, we should all keep our eye on remaining a water district so as to deliver broad services to our community out of existing money.
- 12 I do believe that most of the reasonable needs of the community can be met with an appropriate balance under the existing Water Board.

Cheers

Richard

Richard Swan
CTO

T3Ci
303 Ravendale Drive
Mountain View, CA 94043-5228
650-969-5201
www.t3ci.com