



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** CEO  
**Department No.:** 012  
**For Agenda Of:** 7/6/10  
**Placement:** Set hearing  
**Estimated Tme:** 15 minutes on 7/13/10  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Michael F. Brown, County Executive Officer  
Director(s)  
Contact Info: Terri Nisich, Assistant CEO, 568.3412  
**SUBJECT:** Response to the Grand Jury Report on "CURRENTS AND UNDERCURRENTS IN THE SANTA YNEZ VALLEY"

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:**

As to form: N/A

**Recommended Actions:** Set a hearing for July 13, 2010 (15 minutes) to discuss and consider the Board of Supervisors' responses to the 2009-2010 Grand Jury Report entitled "CURRENTS AND UNDERCURRENTS IN THE SANTA YNEZ VALLEY."

B. On July 13, 2010, discuss and consider the Board of Supervisors' responses to the 2009-2010 Grand Jury Report entitled "CURRENTS AND UNDERCURRENTS IN THE SANTA YNEZ VALLEY."

1. Adopt the responses in Attachment (1) as the Board of Supervisors' responses to the 2009-2010 Grand Jury Report entitled "CURRENTS AND UNDERCURRENTS IN THE SANTA YNEZ VALLEY;" and,
2. Authorize the Chair to sign the letter included in Attachment (1) forwarding the responses to the Presiding Judge.

**Summary Text:**

On April 30, 2010, the Civil Grand Jury released a report entitled "CURRENTS AND UNDERCURRENTS IN THE SANTA YNEZ VALLEY" regarding special districts that have a role in water and/or water-related services within the Santa Ynez Valley, including the Santa Ynez River Water Conservation District, Improvement District No. 1. (A copy of the report is attached for reference.) The report includes four Findings (Finding 1a, 1b, 2 and 3) as well as six Recommendations (Recommendation 1, 2a, 2b, 3a, 3b and 3c). The Civil Grand Jury has requested responses from Santa Ynez River Water Conservation District, Improvement District No. 1, Santa Ynez Community Services District, the Local Agency Formation Commission, and the County Board of Supervisors.

**Background:**

Per California Penal Code Section 933 (b), the governing body of the agency, the Board of Supervisors, must respond within 90 days after the issuance of the Grand Jury Report. Therefore, the Board response must be finalized and transmitted to the Courts and the Grand Jury no later than July 30, 2010.

**Performance Measure:**

**Fiscal and Facilities Impacts:**

**Fiscal Analysis:**

Narrative: Responding to a civil grand jury report is a State mandate.

**Staffing Impacts:**

**Legal Positions:**

**FTEs:**

**Special Instructions:**

The response of the Board of Supervisors must be transmitted to the Presiding Judge of the Superior Court no later than July 30, 2010. The Clerk of the Board is requested to return the signed letter to Sonia Thompson, County Executive Office, for distribution to the Superior Court. The signed letter, written responses and an electronic copy with the response in a Microsoft Word file must be forwarded to the Grand Jury.

**Attachments:**

1. Letter to the Superior Court Judge with Board of Supervisors' Responses
2. Civil Grand Jury Report entitled "CURRENTS AND UNDERCURRENTS IN THE SANTA YNEZ VALLEY"

**Authored by:**

Sharon Friedrichsen

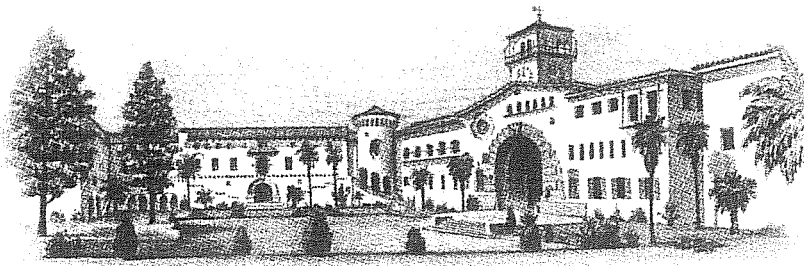
**SALUD CARBAJAL**  
First District

**JANET WOLF**  
Second District, Chair

**DOREEN FARR**  
Third District

**JONI GRAY**  
Fourth District, Vice Chair

**JOSEPH CENTENO**  
Fifth District



**BOARD OF SUPERVISORS**

County Administration Building

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## COUNTY OF SANTA BARBARA

July 13, 2010

Honorable Judge Arthur A. Garcia  
Santa Barbara County Superior Court  
312 C. East Cook Street  
Santa Maria, CA 93456-5369

### **Board of Supervisors' Responses to Fiscal Year 2009-2010 Grand Jury Report on "Currents and Undercurrents in the Santa Ynez Valley"**

Dear Judge Garcia:

During its regular meeting of July 13, 2010, the Board of Supervisors adopted the following as the Board's response to the relevant findings and recommendations in their Fiscal Year 2009-2010 Grand Jury Report entitled "Currents and Undercurrents in the Santa Ynez Valley".

The County Supervisors have carefully reviewed the findings and recommendations presented in the Grand Jury Report and provide the following responses:

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***Finding 1a***

Santa Ynez River Water Conservation District, Improvement District #1 and Santa Ynez Community Services District, each provide some form of water service and have separate governing boards, administration, staff, and legal counsel.

**Response:** The Board of Supervisors agrees with this finding.

***Finding 1b***

A merger of Santa Ynez River Water Conservation District, Improvement District #1 and Santa Ynez Community Services District, establishing a new single publicly accountable agency to provide both water distribution and sewage collection that shares administrative and field staff, will provide opportunities for economic efficiencies.

Subject: Board of Supervisors' Responses to Fiscal Year 2009-2010  
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**Response:** California Penal Code Section 933(c) provides that the governing body of a public agency shall comment to the presiding judge of the superior court on the findings and recommendations "pertaining to matters under the control of the governing body." The potential merger of these two independent special districts is under the jurisdiction of the Santa Barbara Local Agency Formation Commission and is not a matter under the control of the Board of Supervisors of the County of Santa Barbara. Therefore, the Board of Supervisors has no response to this finding.

*Recommendation 1*

Santa Barbara County Board of Supervisors convene a Santa Ynez Blue Ribbon Commission or its equivalent; that includes members of the public and elected representatives from Santa Ynez River Water Conservation District, Improvement District #1 and Santa Ynez Community Services District. This commission shall review jurisdictional issues and conduct public meetings to discuss the potential efficiencies and economic benefits to the public to be derived through a merger of these two districts.

**Response:** California Penal Code Section 933(c) provides that the governing body of a public agency shall comment to the presiding judge of the superior court on the findings and recommendations "pertaining to matters under the control of the governing body." The potential merger of these two independent special districts is under the jurisdiction of the Santa Barbara Local Agency Formation Commission and is not a matter under the control of the Board of Supervisors of the County of Santa Barbara. Therefore, the Board of Supervisors has no response to this recommendation.

*Finding 3*

Santa Ynez River Water Conservation District, Improvement District #1 has spent at least \$328,000 of public funds between 2006 and 2008 on the Local Agency Formation Commission jurisdictional issue and the reorganization effort, both of which remain unresolved.

**Response:** California Penal Code Section 933(c) provides that the governing body of a public agency shall comment to the presiding judge of the superior court on the findings and recommendations "pertaining to matters under the control of the governing body." The Santa Ynez River Water Conservation District, Improvement District # 1 is not under the control of the Board of Supervisors of the County of Santa Barbara. Therefore, the Board of Supervisors has no response to this finding.

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Recommendation 3c

Santa Barbara County Board of Supervisors ratify County Counsel's earlier opinions (letter from Alan Seltzer, October 29, 2001; letter from Bill Dillon dated July 19, 2006) on LAFCO's jurisdiction over Santa Ynez River Water Conservation District, Improvement District #1.

**Response:** California Penal Code Section 933(c) provides that the governing body of a public agency shall comment to the presiding judge of the superior court on the findings and recommendations "pertaining to matters under the control of the governing body." The Santa Ynez River Water Conservation District, Improvement District # 1 and the Local Agency Formation Commission are not under the control of the Board of Supervisors of the County of Santa Barbara. Therefore, the Board of Supervisors has no response to this finding.

Sincerely,

Janet Wolf  
Chair, Board of Supervisors

# **CURRENTS AND UNDERCURRENTS IN THE SANTA YNEZ VALLEY**

## **SUMMARY**

Water is the focus of three “special districts” in the Santa Ynez Valley. Each has specific roles regarding water. The Santa Ynez River Water Conservation District (SYRWCD) protects water resources in the river valley from Lake Cachuma to the ocean. Santa Ynez River Water Conservation District, Improvement District No.1 (ID#1) was created within the river district and manages infrastructure to distribute domestic water. Santa Ynez Community Services District (SYCSD) was created to control infrastructure to collect sewage.

ID#1 provides water to the City of Solvang. ID#1 also contracts to provide water to the Chumash Indians Santa Ynez Reservation. SYCSD uses Solvang’s sewage treatment facilities. Each of these two districts has its own governing board, staff, budget, revenue sources and district office. The districts did not accept a 2006 Santa Barbara County Local Agency Formation Commission (LAFCO) suggestion that a merger of the ID#1 and SYCSD districts might be more efficient and cost effective.

In order to clear up jurisdictional disagreements with LAFCO, ID#1 initiated state legislation, Assembly Bill 2686 (AB 2686), that later expanded to include additional powers in the use of water. Due to insufficient information presented in board agendas and other public meetings, residents of the valley were not made aware of the increase in powers sought by ID#1 until late in the legislative process.

In the end, despite that expensive legislative process, the governor vetoed AB 2686 on September 30, 2008, after hundreds of thousands of public dollars were spent without resolution.

Against the backdrop of these events, an apathetic public made little effort to hold elected board members accountable or seek election to the board.

## **BACKGROUND**

The 2009-10 Santa Barbara County Civil Grand Jury (Jury) received six complaints containing fourteen separate issues resulting in an investigation regarding management of the Santa Ynez River Water Conservation District Improvement District No. 1 (ID#1). The issues raised included its relationships with other governmental agencies, the development of proposed legislation, the powers of the district, district governance, finance and public transparency.

Three special districts in the Santa Ynez Valley provide water conservation, water distribution, and sewer collection and sewer treatment:

- The Santa Ynez River Water Conservation District (SYRWCD) protects water resources in the river valley from Lake Cachuma to the ocean
- Improvement District No. 1 (ID#1) was formed within its Parent District (SYRWCD), to distribute water to the Santa Ynez community
- The Santa Ynez Community Services District (SYCSD) provides sewer services to the Santa Ynez community, entirely within ID#1 boundaries

Special districts have powers to provide various services, some of which are not currently used. The Local Agency Formation Commission (LAFCO), a state mandated agency, must approve the utilization of a district's unused powers.

LAFCO's stated responsibilities include "discouraging urban sprawl, preserving agricultural land, promoting adequate public services and encouraging orderly boundaries based on local circumstances and conditions." Participants are assessed annual fees to fund LAFCO operations.

LAFCO's seven member governing board is composed of two members of the Santa Barbara County Board of Supervisors (BOS), two council members chosen from among the eight cities, two from special district boards, and one public member. LAFCO also has an executive director; Santa Barbara County Counsel acts as their legal resource. The LAFCO board holds monthly meetings, open to the public. SYRWCD and SYCSD have historically accepted LAFCO jurisdiction; ID#1 did not, claiming an exemption as an "improvement" district.

There are agreements among valley districts and communities to provide water related services. For example, SYCSD contracts with the city of Solvang for treatment of sewage collected within the SYCSD area, and ID#1 provides the city of Solvang and the Chumash Indians Santa Ynez Reservation with domestic water deliveries.

## **METHODOLOGY**

The Grand Jury began its investigation with a review of:

- The official documents that created the SYRWCD in 1939<sup>1</sup>, ID#1 in 1959<sup>2</sup>, LAFCO in 1963<sup>3</sup>, and SYCSD in 1971<sup>4</sup>
- The roles these agencies played in the attempt of ID#1 to reorganize itself through AB 2686
- The actions of the ID#1 Board of Trustees that approved the efforts toward reorganization in 2007-08

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<sup>1</sup> Santa Barbara County Board of Supervisors Resolution 3109, October 23, 1939

<sup>2</sup> SYRWCD Resolutions 102 (June 16, 1959), 103 (July 7, 1959)

<sup>3</sup> Knox-Nisbet Act of 1963

<sup>4</sup> Board of Supervisors Resolution 71-773, November 15, 1971

The Grand Jury attended meetings of the Board of Trustees of ID#1 and the SYCSD, and interviewed several Santa Ynez Valley residents and agency officials. The Jury reviewed county resolutions, and numerous documents provided by the three special districts and LAFCO (including correspondence, agendas, minutes, budgets and financial reports). The Jury also researched the California Government and Water Codes, and State Assembly and Senate committee findings and reports.

## **OBSERVATIONS AND ANALYSIS**

### **Relationships among Agencies**

ID#1 had historically asserted that, as an improvement district, they were not subject to LAFCO jurisdiction. During LAFCO's 2006 Municipal Service Review (MSR), LAFCO suggested that ID#1 and SYCSD consider a merger to achieve cost efficiency.<sup>5</sup> ID#1, citing jurisdictional issues, declined LAFCO's request for information. In 2006, there were differing opinions among ID#1's attorneys, LAFCO and the Santa Barbara County Counsel's office about LAFCO jurisdiction. LAFCO considered litigation against ID#1 to clarify jurisdiction.<sup>6</sup>

To resolve that issue, LAFCO took the initiative and called a meeting on March 9, 2007, with ID#1 trustees and their attorneys, LAFCO's counsel, and SYRWCD. The result was "apparent agreement to seek legislation that would amend the Water Code to 'clarify that ID#1 is subject to LAFCO review regarding annexations and financial contributions to the [LAFCO] Commission budget.'"<sup>7</sup> They agreed that ID#1's counsel "would draft potential changes to the Water Code," and LAFCO offered to "insert the legislative change" in the California Association of LAFCO's (CALAFCO) annual omnibus bill.

### **Jurisdiction, Powers and AB 2686**

ID#1's legal counsel began work on proposed state legislation that that would resolve the jurisdictional issues with LAFCO. However, ID#1's counsel stated "it has yet to be determined if these can be addressed by omnibus legislation or require special legislation."<sup>8</sup> This appears to be when ID#1 decided to by-pass the LAFCO Omnibus Bill. In December 2007, ID#1 board's legal counsel advised: "...the staff is considering amending the water code or other options in which to broaden our power as a special district."<sup>9</sup>

Grand Jury review of ID#1 board agenda descriptions from late 2007 to early 2008, specifically regarding the proposed water code amendments, revealed vague and ambiguous language. The January 15, 2008 ID#1 board minutes explained what was to be included within the proposed legislation. ID#1 legal counsel advised that they had "prepared draft legislation for a special district" and the intent of the re-organization and

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<sup>5</sup> LAFCO Municipal Service Review, April 2006

<sup>6</sup> Minutes from October 5, 2006 LAFCO meeting

<sup>7</sup> LAFCO memorandum dated March 12, 2007

<sup>8</sup> Letter July 27, 2007

<sup>9</sup> December 18, 2007 Board Minutes



legislation under the Water Code would be to “broaden and clarify the District’s powers in certain areas...” To enable this action, ID#1 Board of Trustees passed a resolution authorizing staff to prepare “legislation regarding Reorganization of the District.”<sup>10</sup>

On February 22, 2008, State Assemblymember Pedro Nava introduced in the California Legislature, the Santa Ynez Valley Water District Act, 2008 (AB 2686).

While the initial intent had been for LAFCO to submit the jurisdictional change in their annual Omnibus Bill, LAFCO had not been included in the drafting of what became AB 2686. When LAFCO asked ID#1 counsel about the role of LAFCO and what changes in powers were proposed, ID#1 counsel responded that the bill would resolve once and for all the “nearly half a decade of debating between the District and Santa Barbara LAFCO...”<sup>11</sup> with respect to clarification of powers.

According to ID#1 counsel, AB 2686 would not only change the name of the district from ID#1 to Santa Ynez Valley Water District, but also add the powers of a replenishment district and provide for the operation of recreational facilities, among other powers.<sup>12</sup> ID#1 requested a “Letter of Support” from the City of Solvang and, on April 28, 2008, ID#1 counsel told the City of Solvang, “Basically this is merely a change in the name on the door.”<sup>13</sup>

In reality, AB 2686 would have granted to ID#1 the powers of a replenishment district: independent exercise of sewage, storm water and recycling powers; imposition of groundwater charges on the extraction of groundwater; require registration of water-producing facilities, such as wells; and the authority to require installation of water-measuring devices (water meters).<sup>14</sup>

## **Governance of the District**

### **Responsibilities of ID# 1 Board**

ID# 1 is governed by a five-member board of trustees, with a general manager in charge of day-to-day operations. Board members are elected to four-year terms. According to the county elections office, only two elections had contested seats in forty years. Essentially the same people have served on the board for many years.

The ID#1 Board of Trustees participates and directs interactions with a number of agencies, including federal, state, regional and local, joint powers agencies, cities and other districts. For example, the Board of Trustees authorizes contracts to provide water to the Santa Ynez Indian Reservation; the district must get approval from the US Bureau of Indian Affairs for projects and services for the reservation.

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<sup>10</sup> SYRWCD ID#1, Resolution 653

<sup>11</sup> Letter from ID#1 Legal Counsel, March 13, 2008

<sup>12</sup> Ibid

<sup>13</sup> Solvang City Council Minutes, April 28, 2008

<sup>14</sup> Assemblymember Pedro Nava – website at [democrats.assembly.ca.gov/members/a35](http://democrats.assembly.ca.gov/members/a35)

Other Board of Trustee interactions concern the US Bureau of Reclamation, National Marine Fisheries Service, Upper Santa Ynez River Operation Agreement with the US Bureau of Reclamation, the Santa Ynez River Water Conservation District, the City of Solvang, State Water Project, Central Coast Water Authority (CCWA) and the Santa Ynez Community Services District.

The Board of Trustees holds monthly public meetings. The reading of a typical agenda indicates the complexity of issues and relationships with many water agencies involved with Lake Cachuma, the Santa Ynez River, ground water, State Water Project and delivering retail water to customers.

## **Lack of Transparency**

### **Agenda Descriptions**

In contrast to the many complex issues noted above, agenda descriptions of the development of AB 2686 were notably lacking in detail and transparency. The public had no way of knowing about the disagreement regarding LAFCO's jurisdiction over ID#1 because agenda items for both ID#1 and LAFCO meetings were not descriptive of what was being considered. In 2006, after ID#1 declined to provide information to LAFCO for the Municipal Service Review, LAFCO agendas referred to the matter as "Report by Ad Hoc Committee Regarding Status of Santa Ynez River Water Conservation District, ID No. 1."<sup>15</sup> As the issue expanded into the development of AB 2686, LAFCO agendas were captioned "Status Report on SYRWCD ID# 1," or "Legislative Report." On ID #1's agendas, it was simply called "LAFCO."

The public would not have been able to determine what was to be discussed from these agenda descriptions, nor their impact. ID#1 and LAFCO may have met California state law requirements that agendas for each legislative body be posted "at least 72 hours before a regular meeting." However, Section 54954.2 of the Brown Act also requires "a brief general description of each item to be discussed or transacted at the meeting ... A brief general description of an item generally need not exceed 20 words ... The purpose of this is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting...."<sup>16</sup> The posted agendas of both agencies did not meet this requirement.

### **Special Meeting**

When the ID#1 Board of Trustees resolved to seek state legislation in order to meet a legislative deadline of January 25, 2008, this important action took place at a special meeting on January 23, 2008<sup>17</sup>, rather than the regular monthly board meeting. The agenda item for that meeting was "Manager's Report," with the explanation "The board will consider introducing special legislation regarding reorganization of the District." With no members of the public present, the board passed Resolution 653 authorizing the special legislation.

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<sup>15</sup> LAFCO minutes, December 7, 2006

<sup>16</sup> Ralph M. Brown Act – Open Meetings for Local Legislative Bodies, §54954.2

<sup>17</sup> ID#1 Board Minutes January 23, 2008

ID#1 board agendas continued to list “District Reorganization” or “LAFCO” as topics with no further explanation until April, 2008, when a subtitle “Legislative Update” was added.

### **Uninformed Public and Government Agencies**

It was not until ID#1 asked for letters of support from the City of Solvang and SYCSD that the public became aware of the issue. The minutes of the Solvang City Council meeting of April 28, 2008 indicated the agenda item was described as “Letter of Support for AB 2686 Establishment of Santa Ynez Water District.” Both the Solvang City Council members and SYCSD complained that they had not been informed of this “impending” legislation.

The SYCSD was concerned that the proposed new district would have sewer service ability, and City of Solvang did not want the new district to have power of eminent domain over the ownership of the sewage treatment facilities in Solvang. Solvang City Council agreed to send a letter of conditional support, specifying language prohibiting use of eminent domain against the City of Solvang.

At that same April 28, 2008 meeting, during a discussion of the proposed AB 2686, ID#1 staff said “There are no plans to charge additional groundwater fees,” and ID#1 counsel said that “no intent was meant to change ID#1 and its powers.”

For the first time since discussion of proposed legislation began by ID#1 trustees in January 2008, ID#1’s May 20, 2008 agenda item stated in more detail, “District Reorganization – Assembly Bill 2686; Update on Bill status.” Minutes for that meeting state that the Santa Ynez Band of Chumash Indians (Chumash) had expressed concerns about this bill. Although the public had not been aware, in April the Chumash had independently gone directly to Assemblymember Nava with a request to add language regarding tribal governments and their water rights into AB 2686.<sup>18</sup>

### **Inadequate Public Information**

Due to vague board of trustee agenda titles and little public knowledge, the original plan to clarify ID#1’s issue over LAFCO jurisdiction had progressed without a fair opportunity for meaningful public scrutiny into state special legislation that would have expanded the powers of ID#1. It is noteworthy that the district made no effort to explain the rationale for the expansion of powers to their ratepayers until May 30 2008. ID#1 explained AB 2686 to the public in a letter mailed to its ratepayers dated May 30, 2008.

The letter stated, “The need for the legislation has been discussed over the past several months at ID No. 1’s Board meetings and in other public forums including the Santa Barbara Local Agency Formation Commission (“LAFCO”) and City of Solvang ... AB 2686 builds upon and refines ID No. 1’s existing authority ... to meet its customer’s needs, primarily by providing water replenishment authority to recharge and maintain a

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<sup>18</sup> Email from Chumash to Assemblymember Nava, April 30, 2008 – Published in SYV Journal, September 17, 2008

healthy groundwater aquifer...” In addition, according to Assemblymember Nava’s office, AB 2686 would allow water banking and selling.<sup>19</sup>

Now that the public had knowledge of these proposed changes in ID#1’s authority, they demonstrated an increased level of interest. Community members attended the July 15, 2008 ID#1 Board of Trustees meeting. In response to a request for a public hearing about the bill made by several citizens during this meeting, the chairman of the board stated that “... this District has held 22 meetings to date that discussed the bill, LAFCO has held numerous public meetings about the efforts to reorganize ID#1, the County of Santa Barbara, Santa Ynez Community Services District as well as the City of Solvang have had meetings regarding the bill and that we are not required to hold a public town hall meeting.”<sup>20</sup>

### **The Public Meetings**

Even though the Board of Trustees had 22 board meetings where “District Reorganization” was on the agenda, the public was not made aware of the scope of the changes that were in progress.

ID#1 defended the way they informed the public. A letter from ID#1’s Counsel to the Santa Barbara County Board of Supervisors dated July 11, 2008, presented this information:

- *AB 2686 has been collaboratively developed in open and public meetings by ID#1 and LAFCO. LAFCO has held numerous public meetings about efforts to reorganize ID#1. The issue was on LAFCO’s agenda or discussed in staff reports three times in 2006, four times in 2007 and three times in 2008. Interested parties and the general public had opportunities at each of those ten meetings to provide input and ask questions about the legislation.*
- *ID#1 has held twenty-two public meetings about the efforts to reorganize the District and resolve its jurisdictional issues with LAFCO. The issue was on ID#1’s agenda and discussed openly at each of ID#1’s six monthly meetings this year, at eleven meetings in 2007, and five meetings in 2006.*
- (These were the same LAFCO and ID#1 Board of Trustees meetings with agenda items previously cited, labeled “Status Report,” “LAFCO” or “District Reorganization”, with no detail.)
- *AB 2686 was discussed at public meetings of the County of Santa Barbara’s Legislative Committee, the City of Solvang, the Santa Ynez River Water Conservation District (SYRWCD) and the Santa Ynez Community Services District (SYCSD).*
- *A letter describing the legislation was sent to 2,560 ratepayers of ID#1 on May 22, 2008” (The letter is dated May 30, 2008)*

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<sup>19</sup> Assemblymember Pedro Nava – available at [democrats.assembly.ca.gov/members/a35](http://democrats.assembly.ca.gov/members/a35)

<sup>20</sup> ID#1 minutes July 15, 2008

## **Public Action**

Once the public learned the details and scope of AB 2686, they began writing letters of protest or concern to Assemblymember Nava, as well as to the governor over provisions in the bill including the language regarding “Tribal Governments,” requesting that these references be removed. In addition, SYCSD’s counsel went to Sacramento attempting to accomplish language changes in the bill, but was unsuccessful. SYCSD counsel reported, “We were told by Assembly Local Government Committee staff that if the District would have been notified sooner ... we may have had a better chance of amending AB 2686. ID#1’s counsel said they have apologized for not bringing this item directly to our attention.”<sup>21</sup>

In its September 17, 2008 issue, the Santa Ynez Valley Journal published a copy of an e-mail letter sent on April 30, 2008 by Chumash legal counsel directly to Assemblymember Nava, stating, “To date, ID#1 has not communicated at all with the Tribe,” and requested language changes to the bill. Since most of the request was not accomplished, members of the Santa Ynez Valley community went to Sacramento to lobby, mounted a letter writing campaign to both Assemblymember Nava and the governor. By then it was too late. The bill passed on August 18, 2008 on a 76 to 0 vote of the Assembly and on August 14, 2008 by a vote of 27 to 12 in the Senate. However, the issue remains unresolved because the governor vetoed AB 2686 on September 30, 2008 on the basis it was not a priority for the state.

## **District Reorganization Costs**

The ID#1 Board of Trustee’s attempt to have state legislation resolve the LAFCO jurisdiction issue and to expand its powers involved much staff and legal counsel time and effort. ID#1’s legal expenses from November 30, 2006 until February 29, 2008 on the LAFCO interactions alone were \$60,261. Legal costs for AB 2686 amounted to \$264,586.<sup>22</sup> There is an additional charge of \$3,153 for “Parent District Relations.” ID#1’s legal cost for the incomplete reorganization and unresolved jurisdictional issue totaled \$328,000.

## **Duplication of Efforts by Two Service Districts**

The Santa Ynez community has two special districts with overlapping powers. These districts were formed sequentially as needs became evident. ID#1 was created in 1959 by the Santa Ynez River Water Conservation District and authorized to provide water distribution. When the county board of supervisors formed SYCSD in 1971, the rural community had failing septic systems, so a sewer collection system was needed.

In their April 2006 Municipal Service Review of Santa Ynez Community Services District, LAFCO stated, “There may be benefits to ‘merge’ or combine the District with Improvement District No. 1. In addition to possible economies by sharing administration

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<sup>21</sup> SYCSD June 18, 2008 Board Meeting minutes

<sup>22</sup> ID#1 Provided financial documents

and field staff, such a change would establish a publicly accountable agency to provide both water distribution and sewage collection.”

LAFCO can initiate reorganization, but only if all districts involved have a Municipal Service Review (MSR) and Sphere of Influence study<sup>23</sup> to indicate the ability to provide services. Since ID#1 declined to provide any information in a MSR, LAFCO could not initiate a merger.

SYCSD was not interested in consolidation. ID#1 did not consider itself subject to LAFCO, so the suggestions went no further. The community was not informed of the possibility of a merger. Neither ID#1, SYCSD nor LAFCO invited public discussion of the possibility of a consolidation or the potential economic benefits to be gained by customers/ratepayers.

## **CONCLUSIONS**

### **Government Transparency**

The public was kept from knowing the full scope of the proposed AB 2686 changes in powers of ID#1 by the lack of information provided in agenda titles, such as “LAFCO” or “District Reorganization,” during the attempt to add special legislation to supplement the Water Code. The Brown Act requires greater transparency in the public interest and a “brief description” of the subject must be set forth so that the public can be informed in a meaningful manner. They were not. Clearly, the spirit, if not the letter of the law, was ignored.

### **Use of Public Funds**

The ID#1 Board of Trustees spent hundreds of thousands of public dollars in the attempt to resolve the disagreement with LAFCO and the attempt to expand their powers by initiating state legislation. The governor vetoed the legislation. These efforts have been fruitless to date and remain unresolved. The customers/ratepayers have received no benefit.

### **Efficiency of Local Government**

With water the focus of these districts, a more effective and efficient approach to self-government, with one new district in charge of water, would be more responsive to the residents regarding the future of the valley.

The two special districts, ID#1 and SYCSD, in the unincorporated area of the Santa Ynez Valley each deliver limited services. Residents are paying for duplicate Boards of Trustees, staff, law firms, facilities, operations, equipment, vehicles, and other expenses. Merging these two districts could reduce overhead costs and provide the opportunity to reduce rates. It could also provide an opportunity for more public transparency and easier public participation because there would be only one agency to monitor.

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<sup>23</sup> Footnote in letter to LAFCO from ID#1 legal counsel, March 23, 2006

### **Public Apathy**

Except for the Santa Barbara County Board of Supervisors, the only elected local governments that residents of the Santa Ynez area have are the special districts. The public has been relatively uninvolved in their actions. Elections to the ID#1 Board of Trustees have essentially gone unchallenged for forty years. Even after the public concern associated with AB 2686 surfaced in 2008, no resident filed to run for a seat on the board. Therefore, incumbents were unchallenged and remained on the Board. A more involved citizenry is needed.

## **FINDINGS AND RECOMMENDATIONS**

### **Finding 1a**

Santa Ynez River Water Conservation District, Improvement District #1 and Santa Ynez Community Services District, each provide some form of water service and have separate governing boards, administration, staff, and legal counsel.

### **Finding 1b**

A merger of Santa Ynez River Water Conservation District, Improvement District #1 and Santa Ynez Community Services District, establishing a new single publicly accountable agency to provide both water distribution and sewage collection that shares administrative and field staff, will provide opportunities for economic efficiencies.

### **Recommendation 1**

Santa Barbara County Board of Supervisors convene a Santa Ynez Blue Ribbon Commission or its equivalent; that includes members of the public and elected representatives from Santa Ynez River Water Conservation District, Improvement District #1 and Santa Ynez Community Services District. This commission shall review jurisdictional issues and conduct public meetings to discuss the potential efficiencies and economic benefits to the public to be derived through a merger of these two districts.

### **Finding 2**

Agendas of Santa Ynez River Water Conservation District, Improvement District #1 and Local Agency Formation Commission did not provide adequate information to inform the public as to their legislative reorganization actions.

### **Recommendation 2a**

Santa Ynez River Water Conservation District, Improvement District #1 provide wording in agenda items to fully inform the public of all items on the agenda to be discussed, in compliance with Section 54954.2 of the Ralph M. Brown Act - Open Meetings for Local Legislative Bodies: "The purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body."

### **Recommendation 2b**

Local Agency Formation Commission provide wording in agenda items to fully inform the public of all items on the agenda to be discussed, in compliance with Section 54954.2 of the Ralph M. Brown Act - Open Meetings for Local Legislative Bodies: “The purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body.”

### **Finding 3**

Santa Ynez River Water Conservation District, Improvement District #1 has spent at least \$328,000 of public funds between 2006 and 2008 on the Local Agency Formation Commission jurisdictional issue and the reorganization effort, both of which remain unresolved.

### **Recommendation 3a**

Santa Ynez River Water Conservation District, Improvement District #1 work with Local Agency Formation Commission to resolve the LAFCO jurisdictional issues efficiently and inexpensively.

### **Recommendation 3b**

Local Agency Formation Commission work with Santa Ynez River Water Conservation District, Improvement District #1 to resolve the LAFCO jurisdictional issues efficiently and inexpensively.

### **Recommendation 3c**

Santa Barbara County Board of Supervisors ratify County Counsel’s earlier opinions (letter from Alan Seltzer, October 29, 2001; letter from Bill Dillon dated July 19, 2006) on LAFCO’s jurisdiction over Santa Ynez River Water Conservation District, Improvement District #1.

## **REQUEST FOR RESPONSE**

In accordance with *California Penal Code Section 933.05*, each agency and government body affected by or named in this report is requested to respond in writing to the findings and recommendations in a timely manner. The following are the affected agencies for this report, with the mandated response period for each.

### **Santa Barbara County Board of Supervisors - 90 Days**

Findings 1a, 1b  
Recommendation 1

### **Santa Ynez River Water Conservation District, Improvement District #1 – 60 Days**

Findings 1a, 1b, 2, 3  
Recommendations 2 a, 3a



**Santa Barbara County Local Agency Formation Commission - 60 Days**

Findings 1a, 1b, 2  
Recommendations 2b, 3b

**Santa Barbara County Board of Supervisors – 90 Days**

Findings 1a, 1b, 3  
Recommendation 3c

**Santa Ynez Community Services District – 60 days**

Findings 1a, 1b

**Copies provided to:**

Supervisor Janet Wolf, Second District, Chair, Board of Supervisors  
Supervisor Salud Carbajal, First District  
Supervisor Doreen Farr, Third District  
Supervisor Joni Gray, Fourth District  
Supervisor Joseph Centeno, Fifth District  
The Santa Barbara County Chief Executive Officer  
The Santa Barbara County Counsel  
Santa Barbara County Local Agency Formation Commission  
Santa Ynez Community Services District  
Santa Ynez River Water Conservation District, Improvement District No. 1  
Santa Ynez River Water Conservation District