

LINCOLN ACRES LOWER SWEETWATER FIRE PROTECTION DISTRICT

SUMMARY

The 2008/2009 San Diego County Grand Jury (Grand Jury) received a report from the Office of the San Diego County Auditor and Controller detailing audits that are required to be completed and filed with the County of San Diego (County) per Administrative Code §91.4. *Pursuant to California Government Code Section 26909, each Special Purpose district is required to submit an annual report of its audited financial statements to the County's Auditor and Controller within twelve months of the fiscal year or years under examination.*

As of September 29, 2008 the Lower Sweetwater Fire Protection District (District) had failed to meet this requirement for fiscal years ended June 30, 2006 and 2007. The District has not responded to inquiries from the Office of Audits and Advisory Services or communicated the status of the required audit reports.

While conducting this study, the Grand Jury formed the opinion that the District is clearly dysfunctional. It appears to receive little support from the Lincoln Acres community, has a difficult time recruiting eligible community members to run for the Board of Directors (Board) and generally has a difficult time holding meetings of the Board to conduct the business of the District in a timely and/or expedient manner.

The Grand Jury recommends the dissolution of the District with the administration of the Lincoln Acres fire and medical services being absorbed by the existing County Service Area (CSA) 135. This action will allow the residents of Lincoln Acres to maintain their community identity within the County while not being in peril of annexation by any bordering city.

PURPOSE AND BACKGROUND

The purpose of this study was to inquire into the successes and failures of the District in their efforts to administer the fire protection and emergency medical needs of Lincoln Acres. The Grand Jury tried to determine if they are a viable special district that should continue to be in existence.

The District has a long history as a structural and watershed fire protection district. It was formed in March 1944 by request of a group of residents living in the unincorporated subdivision known as Lincoln Acres. The original area encompassed approximately 2,240 acres stretching from Lincoln Acres west to San Diego Bay. Currently this District, surrounded on three sides by the City of National City (National City) and on the fourth by the City of Chula Vista (Chula Vista), is an island of approximately 285 acres; 70 of those acres are freeway right of way and a freeway interchange.

The 1987/1988 San Diego County Grand Jury conducted a study of the District. They recommended: *That the District Board members make an effort to serve their community in a more cooperative and constructive spirit.*

The study conducted by the 1987/1988 Grand Jury determined there were allegations of misconduct that led to no identifiable illegal actions but did identify a lack of cooperation among members of the Board that created an atmosphere of distrust.

The District has contracted with National City to provide fire protection and emergency medical services since 1982.

In 1986 a group of Lincoln Acres citizens submitted a request to the Local Agency Formation Commission (LAFCO) to be annexed by National City. This was approved by LAFCO. The voters rejected this at the subsequent election with 64% of the three hundred voters voting to reject annexation.

In 1999 and 2000 efforts were made to dissolve the District through the County Board of Supervisors with support from LAFCO. Eventually, pressure from citizens of Lincoln Acres forced the abandonment of these efforts.

Since 1999 District participation from the community through applicants/candidates for the Board has continued to decline. The most recent election resulted in a full Board (three members) being elected. However, one member resigned prior to being sworn as a member of the Board. Another member of the Board owns a residence in Lincoln Acres but is currently living with a relative outside of the District.

Currently there are two members of the Board and one part time clerk who is considered an independent contractor providing clerical support services to the Board.

PROCEDURES

The Grand Jury reviewed the following historical and current documents relating to the District:

- Historical documents from LAFCO;
- Audits completed by Certified Public Accountants (CPA) on behalf of the District; and
- Reports and information provided by the San Diego County Auditor and Controller.

The Grand Jury interviewed staff and members of the District, representatives of LAFCO, a representative of the CPA Company which conducted the audits on behalf of the District, and representatives from the San Diego County Board of Supervisors. We also inspected the physical location of the District at 2711 Granger Avenue, National City, California.

DISCUSSION

Looking into the current state of the District has been difficult. The Grand Jury found there had been no recent meetings and no new meetings were scheduled as of March 18, 2009. The physical location on Granger Avenue was locked and notices on the public bulletin board had not been updated since September of 2008.

The Grand Jury unsuccessfully attempted to contact the District by telephone and in person at the address for the District. Eventually the Grand Jury was able to contact the Board clerk. The clerk provided information enabling the Grand Jury to contact current Board members of

the District, the audit company responsible for completing the audits and provided some historical information as well as information relating to the status of the existing Board.

The audit company provided information on the status of the audits and the frustration they have faced while working on behalf of the District. Audits have been completed to bring the District current in their required reporting as of fiscal year 2007. The audit for fiscal year 2008 has been completed but has not been submitted as of March 18, 2009.

During an interview with a representative of the audit company the Grand Jury learned the audit company was contracted by the District in a prepaid capacity to perform the audit work. The audit company has experienced frustration with the District in that they are not able to readily or effectively communicate with the District or the Board clerk. They were not able to receive approval of the audits from the Board so the audits could be filed as required by law.

The fiscal year 2008 audit was completed and sent to the District for approval in January 2009. The District has not responded to the audit company in regards to this audit. The audit company has changed its procedures and is now filing completed audits with the State of California and the County of San Diego.

A member of the Board was interviewed. The Grand Jury learned there is not a currently scheduled meeting of the Board as they can not get a quorum of directors to attend a Board meeting to lawfully conduct business. The sole business of the Board is to negotiate the fire and medical protection services contract with National City and authorize any payments to be made in support of those services and or any other required service such as insurance, clerical support or accounting bills.

The Grand Jury learned there are no existing bylaws or policies and procedures to guide Board members in their responsibilities and duties. The Board clerk and the Board member interviewed said they searched the facility and were unable to locate any written bylaws or policies and procedures.

When asked about approving the audits, the Board member said no one on the Board was knowledgeable enough about the finance and auditing requirements to be able to approve the audits.

The member did say the District has ample funds to pay for training to improve the skills of the members of the Board; however, no one has accessed the funds to attend any training classes.

A District Board member informed members of the Grand Jury that the District is required to provide a specified amount of insurance. The representatives from the County provided information that as of April 10, 2009 the required insurance could not be verified. The Board member was unsure what insurance was required or its current status. The County was subsequently able to verify the required insurance was current.

A Board member provided the Grand Jury with information with respect to the Board's activities for the past eighteen months. There have been approximately six Board meetings. Frequently, there has not been a quorum to conduct business. The phone service for the

District has been discontinued because the only telephone calls received at the office have been from recorded telephone solicitations. In the past eighteen months there have been no interactions with community members, and no requests for information or assistance from any community members. The clerk checks the mail weekly; however, there is rarely any mail relating to the business of the District.

The District has posted notices in the community at the district building, the local Post Office and a community store as well as advertising in the *San Diego Union-Tribune* newspaper requesting applicants for the vacant Board of Director's position. They were unable to generate any interested applicants for the position until May 2009 when they received an application for the position.

The Board member did say there have been meetings with a representative of the County to discuss dissolution plans and possibilities.

The Grand Jury met with representatives of the San Diego County Board of Supervisors. They informed the Grand Jury about the history of the District since its inception as well as plans for the future. Part of the history and culture of the district is a desire of the Lincoln Acres community to retain its identity and independence, not wanting to be annexed into either National City or Chula Vista.

Plans are currently in place, with funding, to raze the existing District building and meld the property into a community center/library and park. In order to facilitate that process the District has assigned ownership of the real property and all equipment and supplies to the County via a grant deed that was recorded on December 22, 2008. The current agreement with the County provides a secure office area and will provide lockable office space for the District in the new community center/library. This project is scheduled to be completed around April of 2011.

The representatives of the San Diego County Board of Supervisors supported the position the District should be dissolved with the responsibilities being assumed by the County via CSA 135. CSA 135 was created by the County Board of Supervisors to coordinate radio communication systems, fire protection and medical services in San Diego County including incorporated cities and dedicated fire districts. However, service is provided primarily in unincorporated areas of the County including unincorporated islands in the County.

On October 6, 2008, LAFCO conditionally approved a County proposal to activate latent powers for structural fire protection and emergency medical services (EMS) within a limited portion of CSA 135.

LAFCO staff was directed to assess the interest of cities and districts to resolve structural fire protection and EMS issues in unincorporated service islands through annexation or alternative plans. There are numerous smaller unincorporated service islands, which are either adjacent to, or completely within, city or district boundaries. All unincorporated service islands plus territory within the CSA 135 latent powers area, which is overlaid by the spheres of adjacent agencies, have been classified as *special study areas* that will be addressed by LAFCO.

The San Diego County Board of Supervisors, working with LAFCO, has the authority to dissolve the District and direct CSA 135 to assume the management and administrative duties of the district without needing to address or require annexation of the District by any city.

FACTS AND FINDINGS

Fact: The current Board frequently is unable to convene a meeting with a quorum of directors present.

Fact: Because the District has not been prompt in their business actions, the accounting firm currently files the audit reports as required by law and distributes copies without approval of the Board.

Fact: In 1986 and 1999-2000 two separate but unsuccessful efforts were made to dissolve the District.

Fact: In the past eighteen months the District has not interacted with the citizens in Lincoln Acres by providing information on fire protection programs, medical protection programs, nor answered any citizen inquiries in person, through written request or messages received by telephone. The only business conducted has been the annual contract negotiation with National City for fire and medical services.

Fact: Few citizens, if any, of Lincoln Acres have attended a District Board meeting in eighteen months.

Fact: The Board has advertised for applicants to fill vacancies on the Board.

Fact: A recently elected member of the Board resigned prior to being sworn in as a member.

Fact: In May 2009, a citizen has applied to fill the vacancy on the Board.

Fact: The real property housing the District has been deeded to the County of San Diego.

Fact: The County has the authority to initiate proceedings with LAFCO to dissolve the District and LAFCO may, as a condition of dissolution, direct the administrative, management duties and responsibilities of the District be assumed by CSA 135

Fact: Representatives of the County Board of Supervisors support the position the District should be dissolved and the administrative duties of the District assumed by CSA 135.

Finding #01: The Board has a difficult time conducting business.

Finding #02: The Board in the performance of its official duties and the District are dysfunctional.

Finding #03: The Lincoln Acres community has shown little interest in the District.

Finding #04: The District should be dissolved and all of the administrative, management duties and responsibilities should be assumed by CSA 135.

Finding #05: The County of San Diego Board of Supervisors has the authority to initiate proceedings with LAFCO to dissolve the District.

RECOMMENDATIONS

The 2008/2009 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

09-28: Dissolve the Lower Sweetwater Fire Protection District and have all of its administrative duties and responsibilities assumed by CSA 135.

The 2008/2009 San Diego County Grand Jury recommends that the Lower Sweetwater Fire Protection District:

09-29: Work with the San Diego County Board of Supervisors and LAFCO to dissolve the Lower Sweetwater Fire Protection District and have all of its administrative duties and responsibilities assumed by CSA 135.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the

finding that is disputed and shall include an explanation of the reasons therefor.

- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
San Diego County Board of Supervisors	09-28	8/19/09
Lower Sweetwater Fire Protection District	09-29	8/19/09