

## **DRAFT**

### **Policy: District Dissolution Initiation**

It is the Commission's policy to favor applications for dissolution of a special district from district constituents, the special district governing board, or the successor agency, and to deploy commission-initiated proposals only if other applications are not forthcoming.

### **Legal Authority**

The Legislature provides LAFCO with the authority to establish written policies and procedures and exercise its powers in a manner consistent with those policies and procedures, and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns (Government Code Section §56300).

### **Background and Discussion**

One of the powers granted to Local Agency Formation Commissions is to consider reorganization proposals for dependent and independent special districts. In some cases these proposals involve dissolution of agencies.

When dissolutions are considered, the Commission has two options: assigning a successor agency that will continue to provide the services that were offered by the special district, or assigning a successor agency (generally the County) to "wind down" the affairs of the district.

In the first case, the territory of the dissolved district is annexed to another agency. Options would include annexing to a neighboring district that provides the same services, or annexing the territories to one of two County Service Areas, that act as dependent districts of the county.

In the second case, the assets and liabilities of the district, along with taxation authority, are assigned to the County Controller, who then disposes of assets and pays liabilities. Any resulting surplus would be refunded to District ratepayers. If there is a resulting deficit, the Controller may continue collecting taxes to discharge the debt.

### *Typical Dissolution Proposals*

For Sonoma LAFCO, dissolution of special districts has largely been through a reorganization proposal that includes a subsequent annexation of territory to a neighboring district. Almost all of the fire and emergency medical service agency reorganization proposals that the Commission has considered have involved dissolution of fire districts, with subsequent annexation to a regional agency.

However, the Commission has processed two proposals that solely sought dissolution of districts with the aim of winding down the district affairs – the services that were provided by the district were not taken up by other agencies.

The first of these was the dissolution of Reclamation District #2061 in 2015. The reclamation district managed levees in the southern portion of Sonoma Valley next to San Pablo Bay. A reclamation project was being undertaken that involved removal of these levees, so the District no longer had a purpose.

In this case, the Vallejo Sanitation District, one of two property owners in the District, initiated the dissolution proposal and acted as the successor agency to wind down the affairs of the district.

In the second case, the Directors of the Palm Drive Health Care District, applied, by resolution, seeking dissolution of the district in 2020. LAFCO enjoined the County Controller as the successor agency with the condition to wind down the affairs of the district. Unfortunately for residents of the former district, special taxes are still being collected in order to pay down the debt that the district incurred over its lifetime.

(There has been one case where the County was enjoined to file for dissolution of a district – Del Rio Woods Recreation and Park District - because its board had ceased functioning. The County was named the successor agency, and the service provided by the district – a park – was transferred to the County’s park and recreation division.)

#### *Initiation of Proposals*

There are five constituencies that can seek district dissolutions:

- The County, by passing a resolution of application, has authority to seek independent or dependent district dissolutions.
- The directors of a district, by resolution, can seek dissolution.
- Another agency, again by resolution, can propose district dissolutions, generally as part of a broader reorganization involving annexation or consolidation.
- Landowners and/or registered voters of a district, by petition, can propose dissolution of the district.
- LAFCO can initiate dissolution independently.

To recap, Sonoma LAFCO has seen proposals initiated by the first three of these constituencies.

For proposals filed by the first four constituencies, the Cortese-Knox-Hertzberg Act set protest proceeding requirements that were consistent. A protest proceeding allows residents and landowners to indicate that they do not want a dissolution to take place by filing petitions with the Commission. If there is sufficient protest, an election – really a referendum – could be ordered, or the Commission’s action can be vacated entirely.

For dissolution proposals filed by the first four constituencies, the protest thresholds are as follows: 25% of registered voters or 25% of landowners must file valid petitions to trigger an election (referendum); if 50% plus one in either category filed protests, the Commission’s action would be vacated (without the need for an election).

Until recently, the protest proceeding thresholds for a Commission-initiated proposal were much lower, with valid petitions of only 10% of registered voters or 10% of landowners necessary to trigger an election.

Although the intent of setting the lower thresholds is unknown, they clearly had the effect of making Commission-initiated dissolution proposals more tenuous – granting the voters and landowners of a district a lower threshold in potentially challenging a dissolution order.

In 2021, the state legislature amended the Act and made the protest petition hurdles the same regardless of the constituency initiating the proceeding. The California Special District Association was not a supporter of this move, but nevertheless, the legislation was enacted.

In response to these circumstances, the Commission has determined that district dissolution applications should be initiated by the Commission only if other applicants cannot be identified or otherwise enjoined to file a proposal. This policy maintains a “bias” against commission-initiated dissolutions which was inherent in the pre-2021 code.