

Who is Watching Our Special Districts?

Summary

The County of Santa Cruz has 92 special districts within its borders. There are special districts for water, fire, parks and recreation, cemeteries and many others. Each special district is created subject to a “principal act”, a set of individualized statutes pertinent to the purpose of the district. One of the tasks of the Grand Jury is to act as a “watchdog” over the special districts within the County in an attempt to ensure they are functional and operating within parameters that are in the best interest of the citizens they serve. Of the special districts in Santa Cruz County, 14 operate outside the purview of the Local Agency Formation Commission (LAFCO) and this report will not address those districts. Acting upon a complaint, the Grand Jury initiated an investigation into the operations of one of the districts, and determined that there is limited oversight of how this particular district functioned. Although statutes had been in place for years, the specific district was operating without written “rules for its proceedings” (otherwise known as bylaws) which is a violation of its principal act under Public Resources Code 5784.13(e). This special district had also only recently adopted parliamentary procedures for the conduct of its meetings.

Without bylaws and established parliamentary procedures, the governing board of a special district is virtually answerable to no one except the electorate, which in many cases is apathetic towards the operation of the district until an issue of critical neighborhood concern arises. Between election cycles, this leaves members of the public, as well as members of the district’s board, with no method of redress if there are concerns with the activities of the governing board.

This investigation opened the door to broader issues: One, how to ensure local special districts comply with state law; and two, the feasibility of compiling special district governing documents in a central repository for easy public access.

Initially, special districts were independent governmental agencies subject only to state and local laws until the California legislature created Local Agency Formation Commissions (LAFCO) in 1963. Among LAFCO responsibilities is to oversee the formation and/or modification of special districts within their counties. Another part of the LAFCO mandate is to perform Municipal Service and Sphere-of-Influence reviews of special districts every five years. Currently in this county, except for these reviews, once LAFCO approves creation of a new district, the interaction with that entity ceases. Additionally, little information about a special district is retained by LAFCO other than the original application.

LAFCO could confirm transparency to the public by making available for examination the following special district documents:

- Bylaws;
- Rules of parliamentary procedure, i.e., Robert’s Rules of Order or Rosenberg’s Rules of Order; and
- A mission/vision statement, if applicable, although not required by law, it gives their constituents a basic understanding of the district’s purpose.

The Grand Jury deems it appropriate that Santa Cruz County LAFCO expand its application and review process to include submission and retention of special district governing documents (mission statement, bylaws and parliamentary procedures) in a central repository as provided under LAFCO’s Municipal Service Review Guidelines: #7, Government Structure Options, #8, Evaluation of Management Efficiencies and #9, Local Accountability and Governance.

Definitions

Special District: An agency sanctioned under California law for the performance of a local government function within specific boundaries. Districts range in size from small to very large and often cross political boundary lines, such as city and county borders, to serve a common community interest.

Principal Act: A set of state statutes that allow for the creation of specific special districts.

Governing Board: Local elected officials of a special district.

Local Agency Formation Commission (LAFCO): Government agency authorized by state law with a variety of responsibilities, among which is regulation of the creation and boundaries of cities and special districts within its county, and any modifications thereof.

LAFCO Commissioners: Two county supervisors, two city council members, two from special districts boards and one member of the public at large.

Municipal Service Review: State law requires that LAFCO prepare service reviews of all governmental services once every five years for the purpose of identifying opportunities to improve the quality, efficiency or cost-effectiveness of local services.

Sphere-of-Influence: “A plan for the probable physical boundaries and service area of a local government agency (Government Code Section 56076).” A sphere of influence will reflect the limits of probable future growth of an agency during the applicable general plan period or twenty years. Spheres of influence are adopted by LAFCO following a public hearing and are required to be reviewed every five years.

Background

Of the 92 special districts within Santa Cruz County, many have been in existence 50 or more years. Special Districts have limited oversight and reporting requirements which include the four-year election cycle, the every-five-year Municipal Service and Sphere-of-Influence reviews performed by LAFCO and an annual financial statement submitted to the California State Controller’s Office. Both large and small districts (i.e., water vs. cemetery districts) have an obligation to be accessible and transparent to the public they serve. For the most part, larger districts appear to be professionally run, complying with the applicable statutes and the concerns of their constituents in fulfilling their intended purpose.

However, smaller districts operating with far less or no staff and often volunteer members of their governing boards, may fall into gray areas of minimal compliance with guidelines and statutes in the operation of their districts. It is in this area that the Grand Jury became aware of problems that could affect all special districts in providing consistent, quality performance.

The Grand Jury investigated a complaint regarding the operation of a particular special district within Santa Cruz County and discovered many of the allegations made about the governing board of the district to be valid. It was found that the district in question (formed in the 1950s) had no written bylaws and to have only recently adopted parliamentary procedures to guide their meetings and operations. The combination of lack of formal procedures, bylaws and a mission statement led to ongoing problems and resulted in a breeding ground for hostility among the public and some members of its board.

Scope

The Grand Jury examined the statutory requirements and safeguards that ensure transparency to the public. In addition, the Jury looked at the benefits of expanding Santa Cruz County LAFCO’s application and review process to include submission and retention of special district governing documents.

Findings

1. Each county LAFCO operates independently and may adopt local policies. [LAFCO 101]
2. LAFCO, through Municipal Service and Sphere-of-Influence reviews, may hold special districts accountable for meeting community service needs, including governmental structure and operational efficiencies. [Government Code 56439(a)(5)]
3. From the inception of special districts, they were required to operate by “rules,” often redefined as bylaws or rules of proceedings as in (Kehoe) Government Code 61045(f).
4. All special districts fall under the mandate of the Ralph M. Brown Act, adopted in 1953 [Government Code 54950 to 54962], which requires agencies to have open meetings.
5. In Santa Cruz County the special district that initiated this investigation has operated, and others may continue to operate, in violation of statutes requiring adoption of bylaws and parliamentary procedures.
6. Santa Cruz County special districts have never been required to submit bylaws, parliamentary procedures and mission statements to LAFCO.
7. LAFCO special district files in Santa Cruz County contain very few, if any, copies of bylaws, parliamentary procedures or mission statements.
8. In Santa Cruz County no governmental agency has provided special district oversight to ensure existence of and operation within bylaws and parliamentary procedures.
9. Among the 78 special districts within Santa Cruz county that are the subject of this report, all are authorized to operate under various principal acts and California statutes.

Conclusions

1. The Santa Cruz County LAFCO has not ensured compliance with the law requiring adoption of bylaws and parliamentary procedures within a special district.
2. The Santa Cruz County LAFCO has no mechanism to verify that parliamentary procedures and bylaws are followed in the operation of special district boards.
3. There is no central repository of legally-required special district documents to guarantee public access, review and utilization.
4. The Grand Jury believes that minimal oversight and the lack of public access to special district governing documents could create problems within any district.

Recommendations

1. Santa Cruz LAFCO commissioners should require that a mission statement accompany the initial application for formation of a special district.
2. Santa Cruz LAFCO commissioners should require bylaws and parliamentary procedures be adopted, presented to and permanently lodged with LAFCO within 90 days of formation of a new district.
3. Santa Cruz LAFCO commissioners should require all existing special districts to have bylaws and parliamentary procedures and to submit copies for LAFCO’s files within six months.
4. The Santa Cruz LAFCO office should act as a central repository and maintain copies of each special district’s bylaws, parliamentary procedures and, if applicable, mission statement.
5. The public should have access during normal County business hours or by electronic media to LAFCO copies of special district governing documents.
6. The LAFCO commissioners and/or the County Board of Supervisors should draft enforceable penalties for failure to comply with these recommendations, following adoption.

Responses Required

Respondent	Findings	Recommendations	Respond Within / Respond By
County of Santa Cruz LAFCO Directors	1 – 4, 6 – 8	1 – 6	90 Days October 1, 2009
County of Santa Cruz Board of Supervisors	6 – 8	1 – 6	60 Days September 1, 2009

Sources

Publications / Documents

California Special Districts Association informational publication;

CSDA website: <http://www.csdanet.org/>

Local Agency Formation Commission (LAFCO) publication “LAFCO 101”;

LAFCO website: <http://www.calafco.org/>

Santa Cruz County LAFCO

S.C.C. LAFCO’s new special district application

LAFCO’s Municipal Service Review Guidelines

Robert’s Rules of Order

Rosenberg’s Rules of Order

Ralph M. Brown Act

Public Resource Code 5780(b)

Public Resources Code 5784.13(e)

SB 135 (Kehoe) 2006 - 61045 California Government Code

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

Government Code 56000; 56439(a)(5); 56425(h)

California State Controller’s Report dated 09/04/08

California Senate Local Government Committee publication;

“What’s so special about special districts?” 2002 Mizany & Manatt

Governing board minutes from 2007 and 2008 of special district named in complaint

Interviews

Complainant of 2008/2009 Grand Jury complaint number five

Chairman of special district named in complaint

Past board member of special district named in complaint

Staff member of S.C. Treasurer/Tax Collector’s Office

Executive Officer, Santa Cruz County LAFCO

Member of County Counsel

