

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: May 4, 2007



CONSIDER STAFF PROPOSAL TO ADDRESS GRAFFITI REMOVAL

ITEM

Consider staff proposal to address graffiti removal and to seek activation of graffiti removal authority [RECOMMEND ADOPTION].

BACKGROUND

At the February 14, 2007 Board Meeting, your Honorable Board discussed activation of graffiti removal authority and directed staff to report back at this meeting with a concept proposal for consideration. Staff has worked with the Sheriff's Office, LAFCO Staff and District Legal Counsel to develop the initial concept embodied in the attached ordinance text. Also attached are materials outlining the options available in the law for graffiti removal and materials relevant to activation of latent authority by LAFCO.

As set forth in the draft ordinance text, staff's concept would be to:

- Adopt an ordinance prohibiting graffiti to remain on property within the district and declaring graffiti to be a public nuisance;
- Provide the community with information on the District's Abatement Program;
- Establish a system for observing/recording information on graffiti and coordinating with the Sheriff's Office where graffiti is observed;
- Establish a system for photographing, researching the property and documenting the graffiti;
- Coordinate with the Sheriff's Office to remove graffiti within the public right of way or on public property;
- Provide Formal Notice to the Property Owner of the Property Owner's responsibility to abate the graffiti within 48 hours of service of the notice;
- Coordinate with the Sheriff so that agents of the Sheriff's Department will remove the graffiti where the property owner has voluntarily granted permission for removal of the graffiti;
- Use volunteers, contractors, and/or District staff to remove graffiti within public view where the Property Owner has failed to respond within forty eight hours after service of the notice;
- Secure an Inspection Warrant and use volunteers, contractor, and/or District staff to remove graffiti not within public view where the Property Owner has failed to respond within forty eight hours after service of the notice;
- Invoice the Property Owner for the District's out of pocket expenses for abatement, track payment, and process collection;
- Process any appeals from Property Owners.

Although this concept uses a mixture of public and private efforts to abate graffiti, it does make the property owner ultimately responsible for the cost of removal. These costs can be minimized by voluntarily consenting to allow the Sheriff's Department to respond. This concept would involve the use of staff time and there would be some out of pocket costs not easily recovered from property owners. Any such un-recoverable costs could only be paid through property taxes.

This concept does not propose the use of indictments or civil procedures in court or the use of rewards for information leading to the arrest of those responsible for creating the graffiti. This concept only applies to properties inside the District and it is not applicable to properties outside of the District.

In regards to LAFCO, the cost of applying for Activation of the Graffiti Latent Authority would be \$2,500. In addition, NCSD would be required to develop a service actuation plan similar to the sample provided in the attached materials in regards to activation of solid waste authority by the Avila Beach CSD. In addition, NCSD would need to negotiate a Memorandum of Understanding with the SLO County Sheriff's Office and to develop the detailed procedures for processing notices and appeals.

Staff estimates that the total cost for activating the authority and setting up the program at \$10,000. According to District Legal Counsel the only available source of funds to pay for this cost would be property tax proceeds.

RECOMMENDATION

Staff believes that the decision to pursue a Graffiti Removal Program is a policy decision. Staff requests that your Honorable Board weigh the benefits of such a program with the cost and the dedication of staff to the new assignments described above.

Should your Honorable Board determine that you wish to pursue a program, staff respectfully requests feedback on the program described herein, authorization to negotiate a MOU with Sheriff Hedges for subsequent Board consideration, and authorization to develop a services plan for subsequent Board consideration.

ATTACHMENTS

- Draft Ordinance Text
- Materials Describing the Legal Basis for Graffiti Removal
- Materials Describing LAFCO procedures and a Sample Service Plan

NIPOMO COMMUNITY SERVICES DISTRICT
TITLE _____
GRAFFITI ABATEMENT

PURPOSE.

The purpose of this chapter is to provide a program for the removal of graffiti from public and private property and to provide regulations to prevent the spread of graffiti and the defacement of property within the District.

FINDINGS.

The District Board of Directors finds as follows:

(a) The increase of graffiti, on either public or private property, results in blight, decreases property values and deprives surrounding residents and owners of the right to comfortable enjoyment of life and property.

(b) Graffiti is obnoxious and constitutes a public nuisance, which must be abated to prevent its further proliferation.

(c) Graffiti must be removed as quickly as possible to minimize harm to persons and property in the community.

(d) This Title implements Government Code § 61100 (q) and 61102 (g), which authorizes the District to abate graffiti.

DEFINITIONS.

As used in this chapter:

“Abatement Charges or Cost of Abatement” means the District’s costs, including administrative and legal costs in the abatement of graffiti.

“District” means the Nipomo Community Services District.

“General Manager” means the General Manager of the Nipomo Community Services District.

“Graffiti” means any unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn, sprayed or painted on any real or personal property.

“Property” means real or personal property, whether publicly or privately owned, within the District boundaries.

“Responsible party” means any person who is the owner of property, or who has primary responsibility for control over property, or who has primary responsibility for the repair and maintenance of property.

GRAFFITI DECLARED A PUBLIC NUISANCE.

The District Board of Directors declares that graffiti is a public nuisance and is subject to abatement as prescribed in this Title.

GRAFFITI PROHIBITED.

It is unlawful for any person owning or otherwise being in control of any property within the District to maintain, permit, or allow any graffiti to remain upon such property when the graffiti is visible from the street or other public or private property.

VOLUNTARY GRAFFITI REMOVAL.

Whenever the General Manager or his/her designee finds that graffiti is located on any public or private property within the District so as to be visible from any public property or private property open to the public, the General Manager is authorized to provide for the removal of the graffiti, without reimbursement from the property owner upon whose property the graffiti has been applied, upon the following conditions:

(a) The private property owner or his/her designee should be encouraged to perform the removal with his/her own resources;

(b) The District shall not paint or repair a more extensive area than is necessary to remove the graffiti; and

(c) The removal of the graffiti may be performed by District, other departments of the County of San Luis Obispo, or their respective contractors, only after securing the consent of the property owner or his/her designee and that individual executes a release and right of entry form permitting such graffiti removal.

ABATEMENT.

In those instances when the District cannot obtain the consent of the property owner as provided in Section XXX, (above), the General Manager, upon a finding that the graffiti is located on property where there is no reasonable expectation of privacy, may cause the abatement and removal of graffiti on private property in accordance with the following procedure:

(a) **Notice.** The General Manager or his/her designee shall issue a forty-eight hour written notice of intention to abate the graffiti as a public nuisance and shall serve such notice by any of the following methods:

- (1) By personal service on the owner, occupant or person in charge or control of the property;

- (2) By posting at a conspicuous place on the property or abutting public right-of-way; or
- (3) By sending a copy of such notice by registered or certified mail addressed to the owner or person in charge or control of the property, at the address shown on the last available assessment roll, or as otherwise known.

(b) **Form. The notice of intention shall be in substantially the following form:**

NOTICE OF INTENT TO ABATE GRAFFITI

(Name and address of person notified)

Date:

“NOTICE IS HEREBY GIVEN that you are required by Nipomo Community Services District, Title _____, at your expense, to remove or paint over the graffiti in existence on the property located at (address), which is visible to public view, within forty-eight (48) hours after receipt of this notice; or, if you fail to do so, District employees or private contractors employed by the District will enter upon your property and abate the public nuisance by removal or painting over the graffiti. The cost of the abatement by the District employees or private contractors will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All persons having any objection to, or interest in said matters are hereby notified to submit any objections or comments to the General Manager or his/her designee within forty-eight (48) hours from receipt of this notice. At the conclusion of this forty-eight (48) hour period, without further notice and at your expense, the District may proceed with the abatement of the graffiti inscribed on your property unless you appeal the order of abatement to the District Board of Directors within forty-eight (48) hours from receipt of this notice. Any appeal shall be accompanied by a written statement of reasons and the payment of the filing fee established by Resolution of the District Board of Directors.”

(c) **Appeal:**

- (1) Within forty-eight hours of receipt of the notice, the owner or person occupying or controlling such property affected may appeal the order of abatement to the District Board of Directors. Appeals shall be filed with the General Manager and shall be accompanied by a letter stating the reasons for the appeal and a fee as required by District Board of Directors resolution. The District Board of Directors shall hear such appeals;

- (2) Within fifteen days of receipt of the appeal application, the District Secretary shall notify the applicant of the date, time and location at which the District Board of Directors shall hear the appeal. The District Board of Directors shall hear and pass upon the appeal within thirty days of receipt of the appeal application. The decision of the District Board of Directors thereupon shall be final and conclusive.

REMOVAL BY DISTRICT.

Forty-eight hours after service of the Notice of Intent to Abate Graffiti, or if appealed, not less than twenty-four hours after the decision of the District Board of Directors declaring the graffiti to be a public nuisance, the General Manager is authorized and directed to cause the graffiti to be abated. The abatement may be performed by the District or private contractor.

COSTS RECOVERY PROCEEDINGS AND ASSESSMENT OF COSTS.

- (1) The General Manager shall keep an account of the cost of abatement, and such costs of abatement or abatement charges, shall constitute a charge of the District.
- (2) The cost for abatement shall be forwarded to the responsible party with a demand for payment.
- (3) If payment is not made within thirty (30) days from the demand for payment, then the abatement charge shall be deemed delinquent and shall be subject to a penalty of ten percent (10%) plus an additional penalty of one percent (1%) per month until paid in full.
- (4) In the event the abatement charge is not paid within thirty (30) days from the date of issuing the demand, the amount unpaid including penalties therein, shall constitute a lien on the property and the General Manager is authorized to record a certificate declaring the amount of the abatement charges and penalties due pursuant to Government Code § 61115 (c).
- (5) Any such lien not paid by the fifteenth (15th) day of May of each year, the Board of Directors may order that the abatement charges and penalties be collected on the tax roll in the same manner as property taxes pursuant to the procedures of Government Code §61115 (b).

INSPECTION WARRANTS AUTHORIZED.

Pursuant to Government Code §61069(a) the General Manager may request an inspection warrant for the purposes authorized by Government Code §61069.

NONEXCLUSIVE REGULATIONS.

The procedures set forth in this Title are not exclusive and do not, in any manner, limit or restrict the District in the enforcement of the abatement of graffiti in any manner provided by law. Nothing in this Title shall limit or prevent the District from initiating a criminal or civil action to abate graffiti as a public nuisance, in addition to, or as an alternative to administrative abatement proceedings of this Title.

SUSPENSION OR REPEAL.

The Board of Directors, by resolution, may suspend or repeal this Chapter.

CODE OF CIVIL PROCEDURE

PART 2. OF CIVIL ACTIONS

Chapter 2. Actions For Nuisance, Waste, And Willful Trespass, In Certain Cases, On Real Property

§ 731. Nuisance; action to abate, damages; parties authorized to sue; public nuisance

An action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by a nuisance, as the same is defined in section thirty-four hundred and seventy-nine of the Civil Code, and by the judgment in such action the nuisance may be enjoined or abated as well as damages recovered therefor. A civil action may be brought in the name of the people of the State of California to abate a public nuisance, as the same is defined in section thirty-four hundred and eighty of the Civil Code, by the district attorney of any county in which such nuisance exists, or by the city attorney of any town or city in which such nuisance exists, and each of said officers shall have concurrent right to bring such action for a public nuisance existing within a town or city, and such district attorney, or city attorney, of any county or city in which such nuisance exists must bring such action whenever directed by the board of supervisors of such county or whenever directed by the legislative authority of such town or city.

CREDIT(S)

(Enacted 1872. Amended by Stats.1905, c. 128, p. 130, § 1.)

CIVIL CODE

DIVISION 4. GENERAL PROVISIONS

Part 3. Nuisance

Title 1. General Principles

§ 3480. Public nuisance

A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

CREDIT(S)

(Enacted 1872. Amended by Code Am.1873-74, c. 612, p. 268, § 285.)

Title 2. Public Nuisances

§ 3490. Lapse of time cannot legalize public nuisance

LAPSE OF TIME DOES NOT LEGALIZE. No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right.

CREDIT(S)

(Enacted 1872.)

§ 3491. Remedies; public

The remedies against a public nuisance are:

1. Indictment or information;
2. A civil action; or,
3. Abatement.

CREDIT(S)

(Enacted 1872. Amended by Code Am.1880, c. 11, p. 1, § 1.)

§ 3492. Remedies; indictment or information; regulation

The remedy by indictment or information is regulated by the Penal Code.

CREDIT(S)

(Enacted 1872. Amended by Code Am.1880, c. 11, p. 1, § 2.)

§ 3493. Remedies; private person

REMEDIES FOR PUBLIC NUISANCE. A private person may maintain an action for a public nuisance, if it is specially injurious to himself, but not otherwise.

CREDIT(S)

(Enacted 1872.)

§ 3494. Abatement; parties authorized

ACTION. A public nuisance may be abated by any public body or officer authorized thereto by law.

CREDIT(S)

(Enacted 1872.)

§ 3496. Award of costs and attorney fees; cases where authorized

In any of the following described cases, the court may award costs, including the costs of

investigation and discovery, and reasonable attorneys' fees, which are not compensated for pursuant to some other provision of law, to the prevailing party:

(a) In any case in which a governmental agency seeks to enjoin the sale, distribution, or public exhibition, for commercial consideration, of obscene matter, as defined in Section 311 of the Penal Code.

(b) In any case in which a governmental agency seeks to enjoin the use of a building or place for the purpose of illegal gambling, lewdness, assignation, or prostitution; or any case in which a governmental agency seeks to enjoin acts of illegal gambling, lewdness, assignation, or prostitution in or upon a building or place, as authorized in Article 2 (commencing with Section 11225) of Chapter 3 of Title 1 of Part 4 of the Penal Code.

(c) In any case in which a governmental agency seeks to enjoin the use of a building or place, or seeks to enjoin in or upon any building or place the unlawful sale, manufacture, service, storage, or keeping or giving away of any controlled substance, as authorized in Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code.

(d) In any case in which a governmental agency seeks to enjoin the unlawful sale, service, storage, or keeping or giving away of alcoholic liquor, as authorized in Article 1 (commencing with Section 11200) of Chapter 3 of Title 1 of Part 4 of the Penal Code.

CREDIT(S)

(Added by Stats.1982, c. 1267, p. 4671, § 1. Amended by Stats.1983, c. 1178, p. 4671, § 1; Stats.1987, c. 1076, § 1.)

GOVERNMENT CODE

TITLE 6. DISTRICTS

Division 3. Community Services Districts

§ 61002. Definitions

Unless the context requires otherwise, as used in this division, the following terms shall have the following meanings:

- (a) "At large" means the election of members of the board of directors all of whom are elected by the voters of the entire district.
- (b) "Board of directors" means the board of directors of a district that establishes policies for the operation of the district.
- (c) "By divisions" means the election of members of the board of directors who are residents of the division from which they are elected only by voters of the division.
- (d) "District" means a community services district created pursuant to this division or any of its statutory predecessors.
- (e) "From divisions" means the election of members of the board of directors who are

residents of the division from which they are elected by the voters of the entire district.

(f) "General manager" means the highest level management appointee who is directly responsible to the board of directors for the implementation of the policies established by the board of directors.

(g) "Graffiti abatement" means the power to prevent graffiti on public or private property, receive reports of graffiti on public or private property, provide rewards not to exceed one thousand dollars (\$1,000) for information leading to the arrest and conviction of persons who apply graffiti on public or private property, abate graffiti as a public nuisance pursuant to Section 731 of the Code of Civil Procedure, remove graffiti from public or private property, and use the services of persons ordered by a court to remove graffiti.

(h) "Latent power" means those services and facilities authorized by Part 3 (commencing with Section 61100) that the local agency formation commission has determined, pursuant to subdivision (h) of Section 56425, that a district did not provide prior to January 1, 2006.

(i) "President" or "chair" means the presiding officer of the board of directors.

(j) "Principal county" means the county having all or the greatest portion of the entire assessed valuation, as shown on the last equalized assessment roll of the county or counties, of all taxable property in the district.

(k) "Secretary" means the secretary of the board of directors.

(l) "Voter" means a voter as defined by Section 359 of the Elections Code.

(m) "Zone" means a zone formed pursuant to Chapter 5 (commencing with Section 61140) of Part 3.

CREDIT(S)

(Added by Stats.2005, c. 249 (S.B.135), § 3.)

Chapter 5. General Powers

§ 61064. Enforcement of rules, regulations, and ordinances

(a) Violation of any rule, regulation, or ordinance adopted by a board of directors is a misdemeanor punishable pursuant to Section 19 of the Penal Code.

(b) Any citation issued by a district for violation of a rule, regulation, or ordinance adopted by a board of directors may be processed as an infraction pursuant to subdivision (d) of Section 17 of the Penal Code.

(c) To protect property and to preserve the peace at facilities owned or managed by a district, a board of directors may confer on designated uniformed district employees the power to issue citations for misdemeanor and infraction violations of state law, city or county ordinances, or district rules, regulations, or ordinances when the violation is committed within a facility and in the presence of the employee issuing the citation. District employees shall issue citations pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.

CREDIT(S)

(Added by Stats.2005, c. 249 (S.B.135), § 3.)

§ 61069. Inspections; abatement of public nuisances

(a) A district may request an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. The warrant shall state the location which it covers and shall state its purposes. A warrant may authorize district employees to enter property only to do one or more of the following:

- (1) Inspect to determine the presence of public nuisances that the district has the authority to abate.
- (2) Abate public nuisances, either directly or by giving notice to the property owner to abate the public nuisance.
- (3) Determine if a notice to abate a public nuisance has been complied with.

(b) Where there is no reasonable expectation of privacy and subject to the limitations of the United States Constitution and the California Constitution, employees of a district may enter any property within the district for any of the following purposes:

- (1) Inspect the property to determine the presence of public nuisances that the district has the authority to abate.
- (2) Abate public nuisances, either directly or by giving notice to the property owner to abate the public nuisance.
- (3) Determine if a notice to abate a public nuisance has been complied with.

CREDIT(S)

(Added by Stats.2005, c. 249 (S.B.135), § 3.)

§ 61070. Contracting authority

A district may contract with any local agency, state department or agency, federal department or agency, or any tribal government for the provision by or to the district of any facilities, services, or programs authorized by this division, within or without the district, subject to compliance with Section 56133.

CREDIT(S)

(Added by Stats.2005, c. 249 (S.B.135), § 3.)

Part 3. Purposes, Services, And Facilities

Chapter 1. Authorized Services And Facilities

§ 61100. Authorized services and facilities within district boundaries

Within its boundaries, a district may do any of the following:

- (a) Supply water for any beneficial uses, in the same manner as a municipal water district, formed pursuant to the Municipal Water District Law of 1911, Division 20 (commencing with Section 71000) of the Water Code. In the case of any conflict between that division and this division, the provisions of this division shall prevail.
- (b) Collect, treat, or dispose of sewage, waste water, recycled water, and storm water, in the same manner as a sanitary district, formed pursuant to the Sanitary District Act of 1923, Division 6 (commencing with Section 6400) of the Health and Safety Code. In the

case of any conflict between that division and this division, the provisions of this division shall prevail.

(c) Collect, transfer, and dispose of solid waste, and provide solid waste handling services, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code.

(d) Provide fire protection services, rescue services, hazardous material emergency response services, and ambulance services in the same manner as a fire protection district, formed pursuant to the Fire Protection District Law, Part 2.7 (commencing with Section 13800) of Division 12 of the Health and Safety Code.

(e) Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code.

(f) Organize, promote, conduct, and advertise programs of community recreation, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code.

(g) Acquire, construct, improve, maintain, and operate street lighting and landscaping on public property, public rights-of-way, and public easements.

(h) Provide for the surveillance, prevention, abatement, and control of vectors and vectorborne diseases in the same manner as a mosquito abatement and vector control district formed pursuant to the Mosquito Abatement and Vector Control District Law, Chapter 1 (commencing with Section 2000) of Division 3 of the Health and Safety Code.

(i) Provide police protection and law enforcement services by establishing and operating a police department that employs peace officers pursuant to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(j) Provide security services, including, but not limited to, burglar and fire alarm services, to protect lives and property.

(k) Provide library services, in the same manner as a library district formed pursuant to either Chapter 8 (commencing with Section 19400) or Chapter 9 (commencing with Section 19600) of Part 11 of the Education Code.

(l) Acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works. A district shall not acquire, construct, improve, or maintain any work owned by another public agency unless that other public agency gives its written consent.

(m) Convert existing overhead electric and communications facilities, with the consent of the public agency or public utility that owns the facilities, to underground locations pursuant to Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code.

(n) Provide emergency medical services pursuant to the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(o) Provide and maintain public airports and landing places for aerial traffic, in the same manner as an airport district formed pursuant to the California Airport District Act, Part 2 (commencing with Section 22001) of Division 9 of the Public Utilities Code.

(p) Provide transportation services.

(q) Abate graffiti.

(r) Plan, design, construct, improve, maintain, and operate flood protection facilities. A district shall not plan, design, construct, improve, maintain, or operate flood protection facilities within the boundaries of another special district that provides those facilities unless the other special district gives its written consent. A district shall not plan, design, construct, improve, maintain, or operate flood protection facilities in unincorporated territory unless the board of supervisors gives its written consent. A district shall not plan, design, construct, improve, maintain, or operate flood protection facilities within a city unless the city council gives its written consent.

(s) Acquire, construct, improve, maintain, and operate community facilities, including, but not limited to, community centers, libraries, theaters, museums, cultural facilities, and child care facilities.

(t) Abate weeds and rubbish pursuant to Part 5 (commencing Section 14875) of the Health and Safety Code. For that purpose, the board of directors shall be deemed to be a "board of supervisors" and district employees shall be deemed to be the "persons" designated by Section 14890 of the Health and Safety Code.

(u) Acquire, construct, improve, maintain, and operate hydroelectric power generating facilities and transmission lines, consistent with the district's water supply and waste water operations. The power generated shall be used for district purposes, or sold to a public utility or another public agency that generates, uses, or sells electrical power. A district shall not acquire hydroelectric power generating facilities unless the facilities' owner agrees.

(v) Acquire, construct, improve, maintain, and operate television translator facilities.

(w) Remove snow from public streets, roads, easements, and rights-of-way. A district may remove snow from public streets, roads, easements, and rights-of-way owned by another public agency, only with the written consent of that other public agency.

(x) Provide animal control services pursuant to Section 30501 of the Food and Agricultural Code. Whenever the term "board of supervisors," "county," "county clerk," or "animal control officer" is used in Division 14 (commencing with Section 30501) of the Food and Agricultural Code, those terms shall also be deemed to include the board of directors of a district, a district, the general manager of the district, or the animal control officer of a district, respectively. A district shall not provide animal control services in unincorporated territory unless the county board of supervisors gives its written consent. A district shall not provide animal control services within a city unless the city council gives its written consent.

(y) Control, abate, and eradicate pests, in the same manner as a pest abatement district, formed pursuant to Chapter 8 (commencing with Section 2800) of Division 3 of the Health and Safety Code. A district's program to control, abate, or eradicate local pine bark beetle infestations shall be consistent with any required plan or program approved by the Department of Forestry and Fire Protection.

(z) Construct, maintain, and operate mailboxes on a district's property or rights-of-way.

(aa) Provide mail delivery service under contract to the United States Postal Service.

(ab) Own, operate, improve, and maintain cemeteries and provide interment services, in the same manner as a public cemetery district, formed pursuant to the Public Cemetery District Law, Part 4 (commencing with Section 9000) of Division 8 of the Health and

Safety Code.

(ac) Finance the operations of area planning commissions formed pursuant to Section 65101.

(ad) Finance the operations of municipal advisory councils formed pursuant to Section 31010.

(ae) Acquire, own, improve, maintain, and operate land within or without the district for habitat mitigation or other environmental protection purposes to mitigate the effects of projects undertaken by the district.

CREDIT(S)

(Added by Stats.2005, c. 249 (S.B.135), § 3.)

Chapter 1. Authorized Services And Facilities

§ 61106. Exercise of latent power; approval by commission

(a) If a board of directors desires to exercise a latent power, the district shall first receive the approval of the local agency formation commission, pursuant to Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of Division 3.

(b) After receiving the approval of the local agency formation commission, the board of directors may, by ordinance, order the exercise of that power.

CREDIT(S)

(Added by Stats.2005, c. 249 (S.B.135), § 3.)

copies of the report by the executive officer and who are to be given mailed notice of the hearing.

Plan for providing services submitted with resolution of application

56653. (a) Whenever a local agency or school district submits a resolution of application for a change of organization or reorganization pursuant to this part, the local agency shall submit with the resolution of application a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

(1) An enumeration and description of the services to be extended to the affected territory.

(2) The level and range of those services.

(3) An indication of when those services can feasibly be extended to the affected territory.

(4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

(5) Information with respect to how those services will be financed.

(Amended by Stats. 2000, Ch. 761.)

Resolution of application

56654. (a) A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency.

Notice of intention

(b) At least 20 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

Resolution contents

(c) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

(Renumbered and amended by Stats. 2000, Ch. 761.)

District Latent Powers

Latent powers are those services, facilities, functions, and/or powers authorized by the principal act under which the district was formed, but not currently exercised.

Background

Prior to enactment of the statutes of 2000 (AB 2838: (Cortese-Knox-Hertzberg Local Government Act of 2000)), special district representation on LAFCO was contingent upon the districts giving up their right to exercise latent powers without LAFCO approval. AB 2838 removed this requirement and authorized the seating of special districts without latent power restrictions. However, the measure retained LAFCO's ability to regulate special district latent powers as a component of the sphere of influence process (56425). Latent power procedures were further amended by AB 948, which became effective January 1, 2002. AB 948 retained the requirement that LAFCO catalog the services provided by special districts as a part of the sphere of influence process, but added a new section (56824.12) dealing exclusively with the process of exercising a new or different function or class of services by special districts.

Latent Powers Procedure

1. A proposal to provide a new or different function or class of services or the expansion of district latent powers must be made by the adoption of a resolution of application by the legislative body of a special district. Prior to submitting a resolution, the legislative body of the district shall conduct a public hearing on the resolution. Following the public hearing, the clerk of the legislative body shall file a certified copy of the resolution with the Executive Officer. The resolution must include all of the information specified for a petition (see 56700) and must include a plan for services pursuant to 56653. The plan for services must also include (56824.12):
 - A. The total estimated cost to provide the new or different function or class of services;
 - B. The estimated cost of the new or different function or class of service to customers;
 - C. An identification of the existing providers and the potential fiscal impacts to the customers of the existing providers;
 - D. A plan for financing the new or different function or class of service; and

- E. Alternatives for the establishment of the new or different function or class of service.

Commission Proceedings

The Commission shall conduct a public hearing and shall review and approve or disapprove with or without amendments, wholly, partially, or conditionally the proposal for the establishment of a new or different function or class of service. The expansion of latent powers shall not require a public hearing. In approving a new or different function or class of service, San Diego LAFCO may restrict the provision of the new or different function or class of service to a geographically specific area within the district. If the Commission imposes this restriction, any subsequent extension or enlargement of the service area will be subject to LAFCO review.

Conducting Authority Protest Proceedings

There are no protest proceedings in conjunction with the establishment of a new or different function or class of service, or the extension or enlargement of the service area. The effective date for the activation or expansion of latent powers will be the date of LAFCO's approval of the application, unless otherwise specified by the Commission.

LAFCO • The Local Agency Formation Commission
Serving the Area of San Luis Obispo County

COMMISSIONERS

BARBARA MANN, CHAIR
Special District Member

KATCHO ACHADJIAN
VICE CHAIR
County Member

SHIRLEY BIANCHI
County Member

DAVID BROOKS
Special District Member

DUANE PICANCO
City Member

RICHARD ROBERTS
Public Member

WENDY SCALISE
City Member

ALTERNATES

VACANT
Special District Member

TOM MURRAY
Public Member

JAMES R. PATTERSON
County Member

ALLEN SETTLE
City Member

STAFF

PAUL L. HOOD
Executive Officer

RAY BIERING
Legal Counsel

DAVID CHURCH
Senior LAFCO Analyst

DONNA J. BLOYD
Commission Clerk

TO: MEMBERS, FORMATION COMMISSION

FROM: PAUL L. HOOD, EXECUTIVE OFFICER

DATE: JANUARY 19, 2006

SUBJECT: ADDITION OF SOLID WASTE SERVICES POWER
TO THE AVILA BEACH COMMUNITY SERVICES
DISTRICT

Recommendation: That the Commission authorize the Avila Beach Community Services District to add the collection or disposal of garbage or refuse matter to its list of active powers with the following conditions:

- 1) The ABCSD shall abide by all the terms and conditions of the existing contract with South County Sanitation Services, Inc. for the remaining term of the franchise agreement with the County of San Luis Obispo.
- 2) The ABCSD shall comply with the recycling components currently in place for the remaining term of the agreement with the County of San Luis Obispo.
- 3) The ABCSD shall adopt rules and regulations pertaining to the collection of solid waste within the District. Upon adoption of such rules and regulations, the ABCSD shall be the authorized local agency to provide solid waste services within the Districts boundary.
- 4) The ABCSD shall join the Integrated Waste Management Authority,

Discussion: This is a request by the Avila Beach Community Services District (ABCSD) to add the "collection or disposal of garbage or refuse matter" to its list of active services. The authority to provide for the collection and disposal of garbage and refuse matter currently resides with the County of San Luis Obispo.

On November 10, 2005, the Board of Directors of the Avila Beach Community Services District (ABCSD) adopted a resolution requesting LAFCO to add the "collection or disposal of garbage or refuse matter" to its list of active services. When the district was formed in 1997, the provision of garbage collection and disposal services was not authorized by the voters. The District has provided water, sewer, street lighting and fire protection services to its residents.

Any district wishing to exercise a latent power, is required to receive LAFCO approval prior to providing the service. The recently revised CSD law provides that the LAFCO approval is the final action for activating a latent power. A vote of the District's residents is no longer needed to activate a power.

A copy of the ABCSD's Resolution of Application is attached for the Commission's information. This resolution includes background information (Exhibit A) and a Plan for Services (Exhibit B). The Background Information exhibit addresses Existing Providers of this service, CSD's already providing this service in other communities, advantages to District residents, and a description of the Integrated Waste Management Authority. The Plan for Services discusses the costs of service, the financing plan, the alternatives to having the District perform this service, the level and range of services, and proposed terms and conditions for the transfer of the Solid Waste function from the County to the District.

Commission Rules and Regulations. The Commission's Special District Rules and Regulations direct that the Commission will consider the following in reviewing a request to activate a new or additional function/class of service:

- 1) Whether the functions/services can be provided at greater advantage to the public by another public agency, and that public agency is ready, willing and able to provide the functions/services; or
- 2) Whether the territory where the functions/services are to be provided is within the sphere of influence of a city or special district that currently provides that function/service.

With the exception of the County of San Luis Obispo, there is no other agency that can provide the services. In addition, the area is not included within the sphere of influence of any other city or special district that currently provides these services.

Possibility of Increased Fees. As was pointed out in previous actions of this nature, the assumption of garbage services by independent special districts could have an adverse affect on the ability of the County of San Luis Obispo to work out economically advantageous franchise agreements with the garbage companies. This is because special districts are essentially "chipping away" at the unincorporated service area represented by the County. If this trend continues, it could eventually

LAFCO

January 19, 2006

Page 3

result in higher garbage rates for the remaining unincorporated areas represented by the County.

Past Actions and Agency Coordination. In past actions, the Commission has approved the activation of garbage collection and disposal services and the transfer of the franchise agreement with the South County Sanitary, Inc. to the Oceano and Nipomo Community Services Districts. LAFCO has also approved the activation of this power for the Templeton, Heritage Ranch and the Los Osos Community Services Districts. In each of these cases, several meetings were conducted with representatives of the Integrated Waste Management Association, County Counsel, the County's Solid Waste Coordinator, the County Auditor-Controller, and Districts' Legal Counsel and General Managers to develop conditions of approval.

For the current request by the ABCSD, staff also discussed conditions of approval that would be appropriate for this request. It was decided that the same conditions that were worked out for previous actions, should also be applied to the ABCSD's request. These conditions are included in the recommendation. We also received comments from County Public Works, the Integrated Waste Management Authority, and the County Auditor. These agencies concurred with the conditions of approval being recommended for this proposal. Letters of support for this action were also received from a number of CSD's that provide this service Attachment B. They cite several examples of how the Solid Waste power has helped implement projects at the local level, including:

Templeton CSD

- Salary for a recycling coordinator in Templeton
- Funding for public information materials about recycling

Los Osos CSD

- Reduction in the franchise fees
- Services are tailored to meet community needs
- Funding for public information materials about recycling

Heritage Ranch CSD

- Reduction in the franchise fees
- Increased public participation regarding recycling issues

Nipomo CSD

- Implement Nipomo Creek Clean Up
- Implement Nipomo Clean Up Week including car crushing
- Street Sweeping
- Purchase of trash receptacles for the Olde Towne
- Paid for monthly pick up for Olde Towne receptacles

ATTACHMENT A

Resolution of Application

RESOLUTION NO. 2005-07

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE AVILA BEACH COMMUNITY SERVICES DISTRICT
FOR APPLICATION TO THE LOCAL AGENCY FORMATION COMMISSION
TO ESTABLISH SOLID WASTE COLLECTION WITHIN THE
AVILA BEACH COMMUNITY SERVICES DISTRICT
GOVERNMENT CODE §§56824.10 et seq.

Exhibit "A": Additional Background Information
Exhibit "B": Plan for Service

WHEREAS, in February of 1997 the Avila Lighting District and the Avila County Water District were reorganized ("Reorganization") into the Avila Beach Community Services District (herein "District"); and

WHEREAS, pursuant to the Reorganization Certificate of Completion prepared and recorded by the Local Agency Formation Commission ("LAFCO"), the District was formed and established with all the purposes and powers authorized by Government Code Section 61000 et seq. of the Government Code with the exception of recreation functions for those portions of the District owned and operated by the Port San Luis Harbor District; and

WHEREAS, Government Code Section 61600(c) authorizes Community Services Districts to provide the collection or disposal of garbage for refuse matter; and

WHEREAS, in order to establish the authority to provide for the collection or disposal of garbage or refuse matter, it is necessary, in accordance with Sections 56824.10 et seq. of the Government Code to submit a Resolution of Application to be filed with the Executive Officer of LAFCO for the purpose of scheduling a hearing by the LAFCO Commission for the approval of the exercise of said authority; and

WHEREAS, the District, based on evidence and public testimony provided at public hearings regarding the collection or disposal of garbage or refuse matter, finds:

A. That the residents of the District desire a local voice and local control regarding the nature, extent and cost of solid waste collection including, but not limited to, the frequency of collection, the means of collection, the level of service, charges and fees, the nature, location and extent of providing solid waste handling services and whether the services are to be provided by means of non-exclusive franchise, contract, license, permit or otherwise.

B. That based on the experience and solid waste programs offered by the Nipomo Community Services District, the Oceano Community Services District, the Templeton Community Services District and the Los Osos Community Services District the Avila Beach Community Services District can provide garbage collection services to its residents at a greater advantage than the County of San Luis Obispo which currently provides garbage collection services within the District pursuant to an area wide franchise agreement.

C. That the District is not in the sphere of influence of another city or special district that currently provides garbage service; and

WHEREAS, the District further finds that this Resolution was adopted at a duly noticed public hearing pursuant to Government Code §56824.12 (c).

NOW THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the Avila Beach Community Services District Board of Directors, as follows:

1. Exhibit "A" – Additional Background Information is approved for filing with the Executive Officer of the Local Agency Formation Commission.

2. Exhibit "B" – Plan for Service is approved for filing with the Executive Officer of the Local Agency Formation Commission.

3. The Executive Officer of the LAFCO set the matter for public hearing by the Commission pursuant to Government Code §56824.14 and the Rules and Regulations of LAFCO.

4. That LAFCO approve the proposal of the Avila Beach Community Services District to provide its residents with the collection or disposal of garbage or refuse matter, pursuant to Government Code Section 61600(c).

5. That LAFCO adopt the following conditions for providing garbage and refuse matter collection within the District:

a. That the Avila Beach Community Services District join the IWMA.

b. That the terms and conditions of the existing franchise agreement between the County of San Luis Obispo and the South County Sanitation Services, Inc. be incorporated into the Avila Beach Community Services District franchise agreement during the unexpired term of said franchise agreement.

c. That the District adopt rules and regulations pertaining to the collection of solid waste services within the District.

d. Upon adoption of the rules and regulations referenced in condition c above, the Avila Beach Community Services District shall be the authorized local agency to provide solid waste services within the Avila Beach Community Services District.

6. The above referenced Recitals constitute findings in support of this Resolution.

On the motion of Director Guernsey, seconded by Director Brown, and on the following roll call vote, to wit:

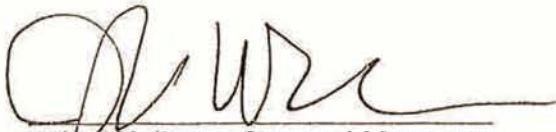
AYES:	Guernsey, Brown, Bernardo, Kelley
NOES:	None
ABSENT:	Helenius
ABSTAINING:	None

the foregoing Resolution is hereby passed and adopted this 10th day of November, 2005.



Peter Kelley, Vice President
Avila Beach Community Services District
Board of Directors

ATTEST:



John Wallace, General Manager
and Secretary to the Board

FINAL FOR BOARD ADOPTION

**EXHIBIT A TO RESOLUTION 2005-07,
A RESOLUTION OF THE BOARD OF
DIRECTORS OF THE AVILA BEACH
COMMUNITY SERVICES DISTRICT
FOR APPLICATION TO THE LOCAL
AGENCY FORMATION COMMISSION
TO ESTABLISH GARBAGE
COLLECTION**

EXHIBIT "A" TO RESOLUTION 2005-07

I. BACKGROUND INFORMATION

A Community Services District is a form of local government that provides municipal services to its residents. Government Code Section 61600 articulates 16 different services that can be provided by a Community Services District. The Avila Beach Community Services District currently provides approximately three hundred (300) residents with the following services:

1. Water: Supply District residents with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation. (Government Code, Section 61600(a).)
2. Sewer: Collection and transportation of sewage and waste water. (Government Code Section 61600(b).)
3. Street Lighting/Landscaping: Provides limited street lighting to District residents. (Government Code Section 61600(f).)
4. Fire Protection: Provides fire protection by contract with San Luis Obispo County and California Department of Forestry ("CDF") (Government Code Sections 61600(c) and 61616).

EXISTING PROVIDERS

South County Sanitary Services, Inc., a California corporation, currently provides District residents with garbage collection pursuant to San Luis Obispo County Ordinances and a County franchise agreement that covers the area commonly known as the "South County". Attached hereto as Exhibit "A-2" is the South County Sanitary Services, Inc. franchise area.

The Avila Beach Community Services District proposes to be the governmental agency with the authority to provide its residents with the collection or disposal of garbage or refuse matter pursuant to Government Code Section

61600(c) within its jurisdiction. Attached hereto as Exhibit "A-1" is the District's boundary as previously approved by LAFCO.

PRIOR TRANSFER OF AUTHORITY TO COMMUNITY SERVICES DISTRICTS

Through the LAFCO process, both the Oceano Community Services District and the Nipomo Community Services District have previously been approved as the local agency as providing for the collection or disposal of garbage or refuse matter within the existing South County Sanitary, Inc. franchise area.

ADVANTAGES TO DISTRICT RESIDENTS

The driving force behind this proposal is local governance of a community oriented service. During the past couple of months the Avila Beach Community Services District has placed on its agenda the issue of garbage collection within the District. During these meetings the Board of Directors has been presented with evidence and testimony as follows:

1. That the District Board of Directors and the residents of the Avila Beach Community Services District desire local control regarding the nature, extent and cost of garbage collection, including but not limited to: the frequency of collection, the means of collection, the level of service, charges and fees, the nature, location and extent of providing solid waste handling services and whether the services are to be provided by means of non-exclusive franchise, contract, license, permit or otherwise.
2. That if the Avila Beach Community Services District is the provider of garbage service, all franchise fees collected would be used within the boundaries of the Avila Beach Community Services District to augment and implement community objectives related to solid waste. Examples include:
 - a. Chipping, community clean-up days and reduction in franchise fees to off-set increased costs of providing solid waste services established by the Los Osos Community Services District.
 - b. Mandatory solid waste collection and community clean-up days as established by the Oceano Community Services District.
 - c. Mandatory solid waste garbage collection and grants for community clean-up activities as established by the Nipomo Community Services District.

3. That with the approval of the District activating solid waste powers, approximately eleven thousand dollars (\$11,000) in franchise fees would be diverted from the County to the Avila Beach Community Services District to support of community objectives such as those referenced in subparagraphs 1 and 2 , above.

INTEGRATED WASTE MANAGEMENT AUTHORITY

The San Luis Obispo County Integrated Waste Management Authority ("IWMA") is a Joint Powers Authority that includes San Luis Obispo County, the cities of Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach and Special Districts within the County that provide solid waste services to their residents. These Special Districts include the Cambria Community Services District, Cayucos Sanitary District, Los Osos Community Services District, Nipomo Community Services District, Templeton Community Services District, Heritage Ranch Community Services District, and the California Valley Community Services District.

The IWMA was formed in 1994 to plan and implement regional solid waste and hazardous waste programs. These programs help its member jurisdictions in achieving the State mandated goal of fifty percent (50%) reduction in solid waste.

The Avila Beach Community Services District would join the IWMA, upon its approval to implement solid waste collection services within its jurisdiction.

THE CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT OF 1989 (Public Resource Code §§40000 et seq.)

In making this application, the Avila Beach Community Services District acknowledges the obligations of local agencies to comply with the Integrated Waste Management Act including the following Public Resource Code Sections:

Section 40051. Implementation; duties of board and local agencies.

In implementing this division, the board and local agencies shall do both of the following:

- (a) Promote the following waste management practices in order of priority:
 1. Source reduction.
 2. Recycling and composting.

- (II) Environmentally safe transformation and environmentally safe land disposal, at the discretion of the City or County.
- (b) Maximize the use of all feasible source reduction, recycling, and composting options in order to reduce the amount of solid waste that must be disposed of by transformation and land disposal. For wastes that cannot feasibly be reduced at their source, recycled, or composted, the local agency may use environmentally safe transformation or environmentally safe land disposal, or both of those practices.”

§ 41821.2. Districts to provide information

- (a) For the purposes of this section, “district” means a community services district, public utility district, or sanitary district that provides solid waste handling services or implements source reduction and recycling programs.
- (b) Notwithstanding any other law, each district shall do all of the following:
 - (1) Comply with the source reduction and recycling element and the household hazardous waste element of the city, county, or regional agency in which the district is located, as required by the city, county, or regional agency. The city, county, or regional agency shall notify a district of any program that it is implementing or modifying when it annually submits a report to the board pursuant to Section 41821.
 - (2) Provide each city, county, or regional agency in which it is located, information on the programs implemented by the district, the amount of waste disposed and reported to the disposal tracking system pursuant to Section 41821.5 for each city, county, or regional agency, and the amount of waste diverted by the district for each city, county, or regional agency.
- (c) The board may adopt regulations pertaining to the format of the information to be provided pursuant to paragraph (2) of subdivision (b) and deadlines for supplying this information to the city, county, or regional agency, so that it may be incorporated into the annual report submitted to the board pursuant to Section 41821.
- (d) A district is subject to the portion of a penalty imposed, pursuant to Section 41850, upon a city, county, or regional agency in which the district is located, that is in proportion to the district’s responsibility

for failure to implement that jurisdiction's source reduction and recycling element and household hazardous waste element, as determined by that city, county, or regional agency. The board shall not determine the proportion of a district's responsibility as part of its determination to impose penalties. The city, county, or regional agency shall provide the district with a written notice regarding the district's responsibility, including the basis for determining the district's proportional responsibility, and an opportunity for hearing before the city, county, or regional agency's governing body, before assessing the district a proportion of the penalty imposed by the board.

- (e) A district may impose a fee in an amount sufficient to pay for the costs of complying with this section. The fees shall be assessed and collected in the same manner as the fees imposed pursuant to Sections 41901 and 41902.

FINAL FOR BOARD ADOPTION

**EXHIBIT B TO RESOLUTION 2005-07,
A RESOLUTION OF THE BOARD OF
DIRECTORS OF THE AVILA BEACH
COMMUNITY SERVICES DISTRICT
FOR APPLICATION TO THE LOCAL
AGENCY FORMATION COMMISSION
TO ESTABLISH GARBAGE
COLLECTION**

**EXHIBIT "B" TO RESOLUTION 2005-07
GOVERNMENT CODE SECTION 56824.12**

II. PLAN FOR SERVICES

**DESCRIPTION OF THE TERRITORY WHICH IS THE SUBJECT OF THE
PROPOSAL**

The territory which is the subject of the proposal is the boundaries of the Avila Beach Community Services District as identified on Exhibit "A-1".

IMPACTS ON COST OF SERVICE

As previously referenced solid waste services are currently provided within the Avila Beach Community Services District by the County of San Luis Obispo pursuant to an exclusive area wide franchise agreement that covers the area described in Exhibit "A-2".

Pursuant to Public Resource Code §549520 the District, without the written consent of the existing franchisee, must honor the terms and conditions of the existing agreement during the unexpired term. Therefore, the cost of providing services or the level of services will not be increased beyond the existing levels and rate formulas without the express written consent of the franchisee. However, franchise fees collected during this period of time would be used within the boundaries of the Avila Beach Community Services District to augment and implement community objectives related to solid waste as referenced in the Resolution.

FINANCING PLAN

The District proposes to finance District overhead in providing solid waste services with a partial transfer of franchise fees to District Administrative costs.

ALTERNATIVES TO THE DISTRICT TO PROVIDE SOLID WASTE SERVICES

The alternative to the approval of the exercise of the latent power is a continuation of the County of San Luis Obispo, as a regional authority to provide solid waste services within the District boundaries pursuant to an area wide franchise agreement, as opposed to the local authority of the Avila Beach Community Services District.

LEVEL AND RANGE OF SERVICES

Currently solid waste services are provided to District residents on a volunteer basis as opposed to mandatory service. Solid waste services are provided to both commercial and residential customers within the District. The current level of service would not be affected unless the community, through the Avila Beach Community Services District Board of Directors and South County Sanitary Services, Inc., amended the franchise agreement during the unexpired term.

PROPOSED TERMS AND CONDITIONS FOR THE TRANSFER OF SOLID WASTE SERVICES TO THE AVILA BEACH COMMUNITY SERVICES DISTRICT

- a. That the Avila Beach Community Services District join the IWMA.
- b. That the terms and conditions of the existing franchise agreement between the County of San Luis Obispo and the South County Sanitation Services, Inc. be incorporated into the Avila Beach Community Services District franchise agreement, during the unexpired term.
- c. That the District adopt rules and regulations pertaining to the collection of solid waste services within the District.
- d. Upon adoption of the rules and regulations referenced in condition (c) above, the Avila Beach Community Services District shall be the authorized local agency to provide solid waste services within the Avila Beach Community Services District.

NAMES OF THE OFFICERS OR PERSONS, NOT TO EXCEED FIVE, WHO SHOULD BE GIVEN MAILED NOTICE OF HEARING:

1. John Wallace, General Manager
Avila Beach Community Services District
P. O. Box 309
Avila Beach, CA 93424

2. Jerry Lenthall
County Supervisor, District No. 3
County Board of Supervisors
County Government Center
San Luis Obispo, CA 93408

1. San Luis Obispo County Integrated Waste Management Authority
C/O William A. Worrell, Manager
870 Osos Street
San Luis Obispo, CA 93401

2. Mary Whittlesey
Solid Waste Coordinator
County Engineering Department
Room 207, County Government Center
San Luis Obispo, CA 93408

3. Tom Martin
South County Sanitary Services, Inc.
970 Monterey Street
San Luis Obispo, CA 93401

6. Jon S. Seitz, District Legal Counsel
Avila Beach Community Services District
1066 Palm Street
San Luis Obispo, CA 93401

May 13, 1996

Avila Beach Community Services District

Those portions of Rancho San Miguelito in the County of San Luis Obispo, State of California as shown on the map of the Subdivision of Rancho San Miguelito as filed in Book A of Maps at Page 38, and the Plat of Part of the Rancho San Miguelito as filed in Book B of Maps at Page 96 and the Town of Avila as filed in Book A of Maps at page 5 all in the Office of the County Recorder, of said County described as follows:

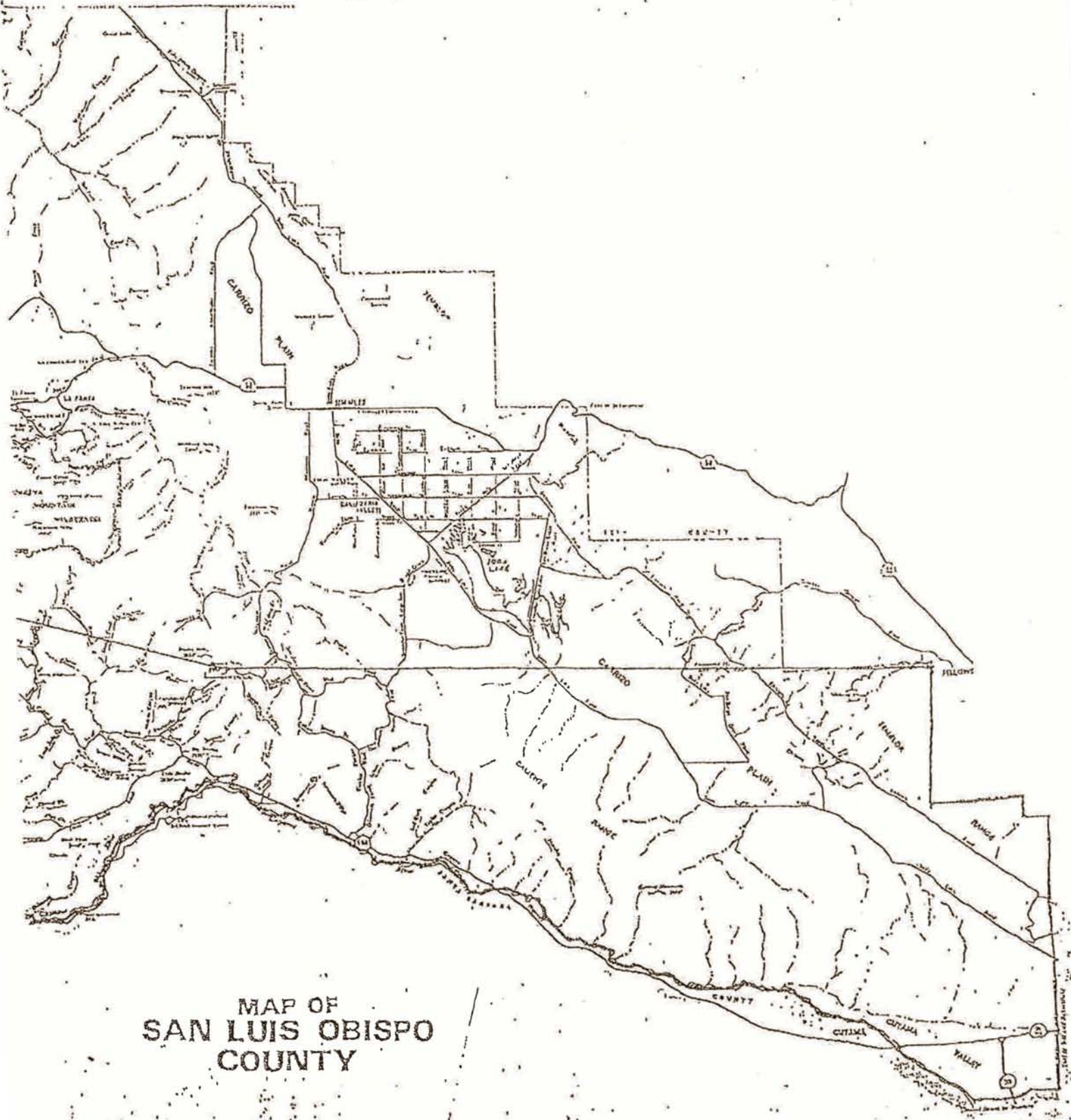
Beginning at the intersection of the Northerly Right-of-Way of Avila Beach Drive (formerly known as Harford Drive old County Road # 13016), as shown on the plan and profile maps for Harford Drive, Document # 1277, dated May 1968 and consisting of 15 sheets, on file in the office of the County Engineer of said County and the Easterly line of the land described in Book 1490 of Official Records at Page 31, records of said County, and being approximately 59.00 left of centerline station 234+92.85, as shown on said plan and profile maps; thence along said northerly right of way the following courses and distances:

north 71° 28' 13" east,	61.22 feet;
north 71° 07' 36" east,	76.61 feet;
south 85° 50' 29" east,	93.87 feet;
south 77° 23' 58" east,	113.14 feet;
south 66° 58' 41" east,	111.56 feet;
south 62° 27' 26" east,	150.68 feet;
north 89° 00' 00" east,	55.75 feet; thence leaving said northerly right of way as shown

on said plan and profile maps, northeasterly along the centerline of San Luis Obispo Creek to the Easterly line of the land described in the deed filed in Volume 1797 of Official Records at Page 343 in said County Recorders Office; thence southwesterly along said Easterly line to an angle point in said northerly right of way; thence the following courses along said right of way;

south 20° 16' 28" west,	13.80 feet;
south 71° 57' 13" east,	368.80 feet (erroneously noted as 453.98' on said plan and profile maps, Document # 1278);
south 46° 54' 42" east,	183.44 feet;
south 64° 21' 32" east,	375.00 feet;
north 76° 03' 43" east,	91.03 feet;
south 69° 00' 56" east,	144.27 feet;
south 81° 48' 42" east,	124.20 feet;
north 81° 54' 42" east,	127.02 feet;
north 66° 37' 00" east,	129.35 feet;

MAP OF
SAN LUIS OBISPO
COUNTY



ATTACHMENT B

Letters of Support

AUG 20 2005

TEMPLETON COMMUNITY SERVICES DISTRICT

BOARD OF DIRECTORS

John T. Gannon, President
Robert Bergman, Vice-President
David Brooks, Director
Judy Dietch, Director
Kevin Hunt, Director



STAFF

William Van Orden, General Manager
Laurie A. Ion, Administrative &
Recreation Supervisor
Jay Short, Utilities Supervisor
Greg O'Sullivan, Fire Chief

P.O. Box 780 • 420 Crocker Street • Templeton, California 93465 • FAX (805) 434-4820 • (805) 434-4900

August 24, 2005

Mr. Paul Hood, Executive Director
Local Agency Formation Commission
1042 Pacific Street, Ste. A
San Luis Obispo, CA 93401

RE: Activation of Avila Beach Community Services District
Latent Power - Solid Waste Services

Dear Paul,

On behalf of the Templeton Community Services District Board of Directors we would like to urge you to support the Avila Beach Community Services District's request to activate their solid waste service within its boundaries. As you may be aware this district has two refuse collection companies, i.e. Paso Robles Country Disposal and Mid-State Solid Waste & Recycling that it deals with in the collection of refuse within our boundaries. For the exclusive right to collect refuse we charge each of the haulers a franchise fee. This fee supports the salary and wages for a part-time Recycling Coordinator, who actively promotes recycling programs within the schools and local community. In addition, funds from this source are also utilized to pay for exhibits and materials associated with the recycling program. A portion of the District's administrative overhead is also charged to this activity.

If you have any questions regarding this District's support for the Avila Beach CSD in its desire to implement its Refuse Collection Program, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Van Orden", written over a circular stamp or seal.

William G. Van Orden, General Manager

WGV:lai

cc: John Wallace, General Manager of ABCSD
Jon Seitz, Legal Counsel



August 24, 2005

President

Stan Gustafson

Vice-President

Gordon Hensley

Director

Richard LeGros

Lisa Schicker

Julie Tacker

Paul Hood, Executive Officer
SLO LAFCO
1042 Pacific, Suite A
San Luis Obispo, CA 94401

SUBJECT: Avila Beach CSD Request to Activate Solid Waste Authority

General Manager

Bruce S. Buel

Utilities Manager

George J. Milanés

**Administrative
Services Manager**

Patricia J. McClenahan

Fire Chief

Phill Veneris

Dear Paul

I am writing to support Avila Beach CSD's application to activate Solid Waste Authority within its boundaries. LOCSD's experience with management of solid waste authority has been positive for both our customers and for our District. We have been able to reduce our franchise fee from 10% to 7.15% and to tailor the services to meet the needs of our community. We have also been able to provide substantial information on Recycling to our community and to assist constituents in their interaction with our franchisee.

Feel free to contact me if you have any questions at 528-9375 or e-mail me at bbuel@losososcsl.org.

Sincerely

A handwritten signature in black ink, appearing to read "Bruce Buel", written over a circular stamp or seal.

Bruce Buel
LOCSD General Manager



Offices At:

2122 9th Street

Los Osos, California 93402

Mailing Address:

P.O. Box 6064

Los Osos, California 93412

Phone 805/528-9370

Fax 805/528-9377

www.losososcsl.org

CC: LOCSD Board of Directors
Jon Seitz
John Wallace, ABCD, Box 309, Avila Beach, CA 93424
File

received
8-30-05



Heritage Ranch Community Services District

4870 Heritage Road, Paso Robles, California 93446

(805) 227-6230 • fax 227-6231

August 25, 2005

Paul Hood, Executive Officer
Local Agency Formation Commission
1042 Pacific, Suite A
San Luis Obispo, CA 93401

Dear Mr. Hood:

The Heritage Ranch Community Services District urges the Commission's approval of the application by the Avila Beach Community Services District for activating solid waste service powers. As you know, our District has provided solid waste services for the community of Heritage Ranch since 1996. Over this time period, the community has actively participated in and supported solid waste management issues for Heritage Ranch.

Reducing franchise fees for the community was the initial focus for activating solid waste services by our District. We accomplished this, but also achieved much more public participation in the decision making process for the community's solid waste management. Issues of local concern that have been debated and ultimately approved include mandatory solid waste service for all residents, a single rate plan and recently a comprehensive curbside diversion program. Our District's management and control of the community's solid waste program allowed public participation and funding at the local level for these services.

The Heritage Ranch Community Services District believes a community's solid waste management decisions are best served at the local level.

Sincerely,

A handwritten signature in cursive script that reads "John D'Ornellas".

John D'Ornellas
General Manager
Heritage Ranch Community Services District

NIPOMO COMMUNITY

BOARD MEMBERS

LARRY VIERHEILIG, PRESIDENT
ED EBY, VICE PRESIDENT
JUDITH WIRSING, DIRECTOR
CLIFFORD TROTTER, DIRECTOR
MICHAEL WINN, DIRECTOR



SERVICES DISTRICT

STAFF

MICHAEL LeBRUN, GENERAL MANAGER
LISA BOGNUDA, ASSISTANT ADMINISTRATOR
DAN MIGLIAZZO, UTILITY SUPERVISOR
JON SEITZ, GENERAL COUNSEL

SEP 14 2005

Celebrating 40 Years of Service 1965-2005

148 SOUTH WILSON STREET POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326
(805) 929-1133 FAX (805) 929-1932 Website address NipomoCSD.com

September 13, 2005

Paul Hood, Executive Officer
Local Agency Formation Commission
1042 Pacific, Suite A
San Luis Obispo, CA 93401

John Wallace, General Manager
Avila Beach Community Services District
P.O. Box 309
Avila Beach, CA 93424

Dear Mr. Hood:

Nipomo Community Services District is in support of Avila Beach Community Services District's request to activate solid waste service within its boundaries and recommends Local Area Formation Commission approve this request.

Nipomo Community Services District activated the solid waste power several years ago. Since that time, NCSD has utilized a portion of the franchise fees for the following:

- Nipomo Creek Clean Up
- Nipomo Clean Up Week (including car crushing)
- Street Sweeping
- Purchase of trash receptacles for the Olde Towne
- Monthly service charges for trash pick up of trash receptacles in Olde Towne

These services would not have been provided to the residents of NCSD if not for local control of solid waste franchise fees.

Please support Avila Beach Community Services District request.

Sincerely,

NIPOMO COMMUNITY SERVICES DISTRICT

Michael LeBrun
General Manager

C: Jon Seitz