

DATE: October 4, 2005

TO: Members, Local Agency Formation Commission

FROM: Peter Banning, Executive Officer

SUBJECT: Executive Officer's Report and Recommendation: **Southern Marin Sewer Alternatives Study & Spheres of Influence for Southern Marin Sanitary Districts**

### **Summary**

The Commission and its staff have been engaged in the service review and update of southern Marin sewer service agencies for the past three years. Following the completion of the *Southern Marin Sewer Service Alternatives Study*, LAFCO is now in position to adopt service review determinations as required by Government Code Section 56430 and updated sphere of influence designations for the six southern Marin sanitary districts. The Commission's consultants presented the report on September 13, 2005. The public hearing was continued to the October 13, 2005 meeting. Staff recommends the adoption of draft resolutions attached to this report to complete the process until the next periodic review of adopted spheres of influence in five years.

### **Background**

At a special meeting of LAFCO held September 13, 2005, the Commission heard the final presentation of the Southern Marin Sewer Service Alternatives Study by PB Consult and public testimony on the report's conclusions by several affected special districts. The hearing was continued to the meeting of October 13<sup>th</sup>. At the conclusion of the study process, the Commission will adopt resolutions for its municipal service review and update the adopted spheres of influence of the six sanitary districts in southern Marin.

LAFCO's intent in organizing the study has not only been to evaluate the potential cost savings from the permanent consolidation of small local government agencies, but also to define short-term actions that could be undertaken by the existing agencies to improve service and save money by working together - in what the study calls "functional collaboration." In one example described by the consultants, all sewer agencies in the Bay Area are now required to compile and adopt Sanitary Sewer

Management Plans, a major operational and administrative burden for some sewer districts with limited or no staff resources. However, functional collaboration of southern Marin sewer agencies would allow small sewer agencies to attain compliance with the new regulations without each one having to develop a unique approach. Collaboration may also allow the agencies to reduce the cost of capital improvements and to share specialized management skills sometimes not available to such small organizations.

The consultants report has identified a number of opportunities for cooperation and consolidation among southern Marin's ten different sewer agencies that would result in estimated cost savings of 8% to 12% of the operating and capital budgets of the various affected agencies. For the alternatives examined by the consultants, those annual cost savings range from \$375,000 to almost \$2 million per year.

LAFCO is required to revisit its municipal service reviews and adopted spheres of influence every five years. One of the crucial ingredients in LAFCO's long-term planning and regulatory decisions will be the interest and energy shown by the ten southern Marin sewer agencies in actively pursuing opportunities for cooperative improvements to service and efficiency in the immediate future. Southern Marin sewer agencies are off to an excellent beginning: nine of the ten cities and districts have adopted the attached resolution committing time and resources to research and possibly implement the functional collaboration measures identified in the consultants' report, including development of an implementation framework for feasible options. This working group will next meet on October 5, 2005.

### **Consolidation Process Examples**

Many local government experts, including LAFCO's consultants, believe that in order for permanent political consolidation of the agencies to work, it should be preceded by a period of collaboration on common projects or joint contractual activities. This process establishes methods of combining operations and builds familiarity and trust among the elected officials. Such arrangements have been the model for a number of successful consolidations, most recently the consolidation of Tamalpais and Alto-Richardson Bay Fire Districts to form the Southern Marin Fire District in 1999 and the annexation of the territory of the City of Belvedere into Sanitary District #5.

When these examples were cited at the September 13<sup>th</sup> meeting, some doubt was expressed on whether these instances were comparable to consolidation of southern Marin sewer agencies. The Commission asked staff to identify comparable examples if possible. Staff polled all other LAFCO executive officers for consolidations of sanitary districts and for instances in which sewer service responsibility was transferred from a

city or community services district to a sanitary district. No recent consolidations were reported.

Previous consolidations may seem more or less comparable to circumstances in southern Marin, but all ultimately differ in some important respect. The consolidation of southern Marin fire districts in 1999 did not involve sewer service, but did illustrate how districts can collaborate in the short term to resolve financial and service issues prior to permanent political consolidation. The transfer of sewer service from the City of Belvedere to Sanitary District #5 earlier this year illustrates how a service may be transferred from a general purpose local government agency - a city - to a special district while protecting the city's property tax base and management structure through negotiated terms and conditions.

Neither of these examples is precisely comparable to the potential consolidations of southern Marin sewer agencies. Their applicability lies in showing how the process of political consolidation is designed to empower affected agencies with the means to cooperatively overcome obstacles and achieve positive, equitable changes in local government structure.

### **Environmental Review**

The Commission's actions taken under the recommendations below are exempt from the provisions of the California Environmental Quality Act under Section 15319 of the State CEQA Guidelines which provides exemption for actions that do not change the geographical area in which previously existing powers of local government are exercised. In this case, "previously existing powers" includes previous actions by LAFCO to designate un-sewered areas as within the sphere of influence boundaries of southern Marin sanitary districts. Those areas previously designated are not altered by the recommendations below.

### **Discussion & Recommendations**

For LAFCO, the issues in southern Marin sewer service include both the efficiency and the political organization. It is generally understood by LAFCO and the sewer agencies themselves that ten separate organizations, 45 elected officials, their attendant management staffs and other duplicative features are not the optimal means of providing a single municipal service to the population of a small city. However, neither LAFCO nor the ten remaining southern Marin sewer agencies have reached conclusions on the appropriate timing of actions leading to permanent political reorganization. The primary topics of the Sewer Alternatives Study are simple economies of scale in sewer operations. Permanent political consolidations of some of

the ten organizations – LAFCOs statutory focus – will be more effective if they follow the voluntary cooperative action of the affected agencies to achieve cost savings in the short term.

Permanent political consolidation of southern Marin sewer agencies is desirable in the long-term. The logic of encouraging the collaboration of existing sewer agencies in the short term is to allow the existing agencies to resolve for themselves the implementation issues in more far-reaching reorganization.<sup>1</sup> The difficulty with this approach is that the success of collaborative efforts to reduce the operational inefficiency of the existing organizations may be cited as justification for preserving the administration of the existing ten separate agencies. The expected achievement of operational efficiencies will not address the shortcomings of governance of small units of government.

Ten separate organizations providing the same service in the same small region restricts each agency to an insignificance in the public's awareness that is inappropriate, given the importance of sewer service as a cornerstone of modern civilization. The fact that sanitary district directors are seldom opposed at election, sometimes cited as an expression of consumer satisfaction, may be also be interpreted as an indicator of a lack of public awareness and regard for the organizations themselves.

Over time, the importance of the sewer function in southern Marin should be elevated through the formation of larger units of organization i.e. fewer larger agencies. That process will be more orderly if it proceeds one step at a time under the leadership of elected officials, beginning with the functional collaborations described in the consultant's report.

LAFCO's immediate tasks are to complete the service review of southern Marin sewer agencies and adopt updated sphere of influence designations for the six sanitary districts in the area. Staff has drafted a resolution adopting service review findings based on the consultant's report as required by Government Code Section 56430 (see Attachment A).

Staff has also prepared draft resolutions updating the spheres of influence of each of the six sanitary districts in southern Marin. Each resolution includes a map of the sanitary district showing its current boundaries and any additional un-sewered area that would be logically served by that district (not all districts have associated un-sewered areas). Those areas together are referred to as the district's "adopted interim

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<sup>1</sup> Implementation issues in political consolidation will be significant. For example, consolidation of the collection-only agencies in SASM will require careful evaluation and amendment of the SASM joint-powers agreement prior to consolidation. Stranded management costs in the cities and Tamalpais CSD are another example.

sphere of influence.” The “interim” designation is meant to express LAFCO’s expectation that each district will continue to provide service within its present boundaries and may extend new service to indicated un-sewered areas while engaged in functional collaboration efforts with neighboring sewer agencies. The text of the draft resolutions further indicates the Commission’s expectation that political consolidations will be undertaken by southern Marin sewer agencies in the future at a time and in an order yet to be determined. Staff recommends the use of this language rather than using a more specific map or sequence of expected consolidations within the southern Marin area.

The alternative methods for conveying the expectation of consolidation in sphere of influence designations appear to be inapplicable in this case. A designation of “zero sphere of influence” indicates that a larger organization, such as a city, will absorb the service responsibilities of a district so designated. This designation also would not permit annexations of territory for those districts (Sanitary District #5 and Homestead Valley Sanitary) that may logically extend service to un-sewered areas in the short-term. The Commission could also designate expanded spheres of influence for the Richardson Bay and Sausalito-Marín City sanitary districts to mirror the organizational alternatives of the consultant’s report. This approach, however, would be more specific than the conclusions of the report actually support. A more generalized set of sphere of influence designations is needed to permit the districts themselves to develop the form and sequence of consolidation proposals within the southern Marin area.

Recommended Commission Action, by Resolution:

1. Adopt Draft Resolution 05-07 for completion of the Commission’s service review of sewer service in the southern Marin area.
2. Adopt Draft Resolutions 05-08 through 05-13 updating the spheres of influence of the Sausalito-Marín City, Alto, Almonte, Homestead Valley and Richardson Bay Sanitary District.

Recommended Commission Action, by Motion

Staff recommends that the Commission take additional action to remain involved in the development of organizational alternatives for southern Marin sewer agencies during the five year period prior to the next sphere of influence update:

1. Direct staff to periodically report on progress of southern Marin sewer agencies toward both functional collaboration and political consolidation.

2. Direct staff to work with and support the efforts of southern Marin sewer agencies to enhance public understanding of sewer service issues and possible changes of organization.
3. Direct staff to work with the Regional Water Quality Control Board to ensure that exemptions to the Board's regulatory requirements granted to sewer agencies with a population of less than 10,000 do not act as a disincentive to consolidation of small sewer agencies in southern Marin<sup>2</sup>. Alternatively, the Commission could direct staff to monitor voluntary compliance with all program requirements of the Regional Board (regardless of the available exemption) by all southern Marin sewer agencies through functional collaboration efforts.

Respectfully submitted,

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Executive Officer

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<sup>2</sup> All but one of the ten southern Marin sewer collection systems are exempt from some of the Regional Board's regulatory requirements under this provision.