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TO: MEMBERS OF THE COMMISSION

**FROM: ROB FITZROY, EXECUTIVE OFFICER
IMELDA MARQUEZ-VAWTER, ANALYST**

DATE: APRIL 18, 2024

**SUBJECT: INFORMATIONAL REPORT ON THE STATUS OF SAN SIMEON
COMMUNITY SERVICES DISTRICT**

RECOMMENDATION

Receive and file an informational report on San Simeon Community Services District's interest in dissolution.

COMMISSION DIRECTION

On January 18, 2024, at a regularly scheduled meeting, the Commission provided staff with direction to return with a briefing on San Simeon Community Services District (SSCSD) and the status of a potential divestiture or dissolution proposal in response to public comment provided during the comment period for items not on the agenda.

BACKGROUND

The San Simeon Acres Community Services District was formed following an election in 1961 for the purpose of providing street lighting, water, and street maintenance to the San Simeon Acres commercial strip bordering Highway 1. The SSCSD is currently authorized to provide water, sewer, street lighting, road maintenance, solid waste, and weed abatement, which are considered general terms used to identify the authorized powers of the District. These powers are further described in Government Code Section 61100. The CSD currently provides services to approximately 160 permanent residents and up to 1,500 transient visitors. A five-member elected board of directors manages District affairs. SSCSD has an annual operating budget of just over \$1.2 million as of FY 2023-2024

The District provides water service from wells located along Pico Creek with a permitted total production of 140 acre-feet per year. The District is also licensed to produce tertiary (recycled) water but has not done so for several years. The

community has one original 150,000-gallon wood-topped reservoir capable of holding one to two days of water supply. In 2016, the District installed a reverse osmosis desalination facility for dry periods. This facility has been used only for brief periods.

Wastewater treatment service was added in 1964. SSCSD is licensed to treat 200,000 gallons per day (GPD) of wastewater. This capacity includes up to 50,000 GPD of wastewater for California State Parks' Hearst Castle Visitor's Center and the San Simeon Village (Hearst Ranch houses, Hearst Ranch Winery, and Sebastian's Deli). The fifty-year State Parks agreement with SSCSD expired in 2021 and SSCSD has indicated that a new contractual agreement and billing arrangement is needed, and they are aware that LAFCO review and approval would be required for the outside agency agreement.

In 2019, SSCSD reached a settlement with the California Coastal Commission (CCC) for long-standing violations related to its wastewater treatment facility. In summary, the settlement consisted of a Coastal Development Permit (CDP) that authorized after-the-fact development which included a number of mitigation measures/conditions of approval.

The CDP also included *special* conditions that require SSCSD to build a new WWTP, decommission the existing WWTP, and fully restore the site. The CDP provided the District with a 20-year limited authorization to relocate its WWTP away from the ocean where it is presently located. The relocation of the plant is to be completed by 2039. The initial detailed plan for the relocation is due July 2024. The cost of the relocation is not known at this time but would likely be in the tens of millions of dollars.

KEY DISTRICT ISSUES

In a February 1, 2024, SSCSD staff report, District staff outlined the following challenges faced over the last several years. Note these challenges are written from the perspective of the District and are not necessarily reflective of LAFCO's analysis or assessment of the situation.

1. **Wastewater Treatment Plant Relocation:** SSCSD determined the initial detailed plan for the relocation of the WWTP is behind schedule (due July 2024). SSCSD determined that they have inadequate resources to perform the detailed engineering and environmental impact studies required for the development of a new WWTP as well as mitigation and removal of the existing plant to a requisite return of the affected area to natural bluffs and beach area. In 2018, the CCC established the cost of this beach loss impact over the 55 years of the WWTP's existence at just under \$5M, thus establishing the mitigation costs required of the District. The cost of moving the WWTP is not known at this time but is anticipated to cost tens of millions of dollars.
2. **Administrative functions:** In 2023 a multiyear investigation by the San Luis Obispo County District Attorney's Office concluded. It found that Grace Environmental Services (GES)

contracts with SSCSD violated state laws, including conflict of interest laws. The final court settlement agreement effectively required the immediate removal of Charles Grace as San Simeon's General Manager. This resolved the main conflict of interest and violation of state law but left the District without a general manager. The Board hired an Interim General Manager to begin the process of restructuring the district administration to more appropriately address the current needs of the District. SSCSD determined that the transition of administrative functions from GES, the previous and long-standing firm that managed the day-to-day operations of the district, has been the most challenging. The Interim General Manager and Accountant are both contractors and perform all of the administrative functions.

3. **Grants and Infrastructure Improvements:** SSCSD determined that over the last five years under the management of GES, the District lost over \$1 million in grants for various reasons, including false statements to grant providers; project mismanagement, and poor oversight.
4. **Development:** SSCSD determined that with the installation of the Reverse Osmosis Desalination facility in 2016, the District's decades-long development moratorium was expected to end. Ending the development moratorium has been the subject of legal actions, however, the District has not lifted the moratorium because it lacks District policies, procedures, ordinances, staff, experience, and resources to do so.
5. **District Board Instability:** SSCSD determined that due to their Board's action in 2022 to divide SSCSD into five voting districts, in order to comply with the California Voting Rights Act, they have been struggling to fill seats on their Board. With recent Board turnover and a community of about 450 residents and 200 registered voters, the District has a difficult time filling seats on the Board.
6. **Finance:** SSCSD has an overall budget of just over \$1.2 million as of FY 2023-2024. This budget is based on rate-payer fees, service fees, and property tax that fund SSCSD operations and basic maintenance needs. Budgeted expenses are \$1.1 million, leaving a forecasted net operating gain of \$0.1 million for FY 2023-2024. Direct costs for operations, including electrical power and depreciation, are \$660,000 or 61% of the budget. That leaves \$510,000 of revenue for administration, management, and other miscellaneous costs.

RECENT ACTIONS TO ADDRESS CHALLENGES

The SSCSD Board has recently taken certain actions in context to the above challenges.

1. **September 2023** - The new board majority terminated the GES contract entirely in September 2023. The Board hired an Interim General Manager to begin the process of restructuring the District administration to address the current needs of the District more appropriately.

2. **December 7, 2023** – At the request of the District, LAFCO staff provided a presentation to the Board of Directors on the process for divestiture or dissolution. At their December 7, 2023, meeting, the SSCSD Board voted to proceed with the steps to submit a formal request to LAFCO for divestiture of District services.
3. **February 1, 2024** – SSCSD Board provided staff direction to prepare an “Urgency Resolution” for Divestiture of water and sewer power. However, no further action was taken with regard to an “Urgency Resolution”.
4. **March 15, 2024** – SSCSD Board redirected staff to prepare a Resolution of Application and Plan for Services for dissolution to be considered at a future date by the Board. District staff will return, at a date not currently known, with the Resolution of Application and Plan for Services for dissolution of the SSCSD for consideration by the Board of Directors.

DISSOLUTION PROCESS OVERVIEW

Because it appears that SSCSD intends to propose dissolution, LAFCO staff have provided a high-level overview of the dissolution process for the benefit of the Commission and the public. The dissolution process is specified within State Government Code. If SSCSD ultimately takes action to approve a resolution to pursue dissolution, LAFCO staff will likely return with a study session item to discuss the details of the proposal.

It is important to note that dissolution of any agency and transferring all responsibilities and liabilities to another agency and effectuating those changes, is a complicated endeavor and can easily take one year or more to process. The process would involve and require extensive review of baseline conditions in terms of financial and infrastructure needs, liabilities, and any other outstanding issues. It would require a detailed plan for service as to how the new agency would provide those services and fund operations. It is possible this proposal would require the formation of a County Service Area (CSA), which would subject the community to new fees to pay for future infrastructure and operational costs via the Prop 218 process. Lastly, the LAFCO process is inherently democratic and involves the public. The public will have an opportunity to protest any action of LAFCO and if certain thresholds are met, it could affect the overall outcome.

"Dissolution" under State Government Code means the disincorporation, extinguishment, or termination of the existence of a district and the cessation of all its corporate powers. Below is a high-level overview of the dissolution process.

1. Resolution of Application adopted by the SSCSD Board
 - a. Application must contain, in part, a Resolution of Application pursuant to 56654(a) and a Plan for providing services pursuant to 56653.
2. SSCSD submits the Resolution of Application to LAFCO

- a. The date of application submittal is the date that LAFCO commences a 30-day review.
3. LAFCO 30-Day Review
 - a. LAFCO staff will determine if the application is sufficient for filing. If the application is not sufficient and additional information is needed, then the proposal will be placed on hold. The applicant will be informed of the status of the application through a 30-day review letter.
4. Notice/Referrals to Affected Agencies
 - a. Affected Agencies will have an opportunity to comment on the proposal.
 - b. The County will receive a referral requesting the County's position on the plan for services submitted by SSCSD. If warranted, the County should provide their own plan for services with analysis related to costs, time, and staffing to take on the responsibilities of the District and determine if they plan to pursue the formation of a County Service Area.
5. Certificate of Filing
 - a. Once the applicant has met all submission requirements and all items in the 30-day review letter have been met, LAFCO will issue a Certificate of filing accepting the application for filing.
 - b. A Hearing will be set within 90 days of the Certificate of Filing.
6. LAFCO Hearing
 - a. Staff will prepare a staff report and supporting documents for the hearing.
 - b. 21-day notice of Hearing & additional noticing would be conducted per gov code section 56660, 56661, & 56665
7. 30-Day Reconsideration Period
 - a. Following a 30-day period during which any person may request the Commission to reconsider its action approving a proposal per gov code section 56895.
8. Protest Proceedings/Election
 - a. If LAFCO approves the dissolution, protest thresholds are set forth in gov code section 57092. In summary, if more than 25% of landowners who own at least 25% of the assessed value of land within SSCSD or if 25% of registered voters oppose the action but less than 50%, it goes to an election, if more than 50% it's terminated, as per 57078.
9. Certificate of Completion
 - a. After all Commission Conditions of Approval have been met LAFCO may file the Certificate of Completion with the County Clerk Recorder.
 - b. Dissolution is not completed and effective until the Certificate of Completion is filed.

ALTERNATIVES

The list of options below is limited to two fundamental approaches, the details of each option may vary substantially, and other alternatives may be sought. The options listed below are only intended to facilitate discussion. Ultimately, it is the role of the SSCSD Board of Directors to determine which path is pursued.

Alternative #1: Continue to Operate as a District and Address Challenges

The District has the option to continue to operate as a district and address its challenges. The District would need to make internal improvements in order to manage its own affairs (i.e. passage of a special tax to fund projects, hire a full-time general manager and staff, contract for water and sewer service, grants, etc.). There are also many grants and technical assistance programs available for the District. This option would also allow LAFCO to continue processing the District's scheduled Municipal Service Review (MSR) and Sphere of Influence (SOI) Study, which was paused due to their recent actions to potentially divest or dissolve. Based on recent actions of the SSCSD Board, it does not appear they intend to continue to operate as a District, in part, due to the constraints noted above.

Alternative #2: Divestiture of Powers

This alternative is being listed because the District did previously express interest in divestiture previously. "Divestiture of power" means the termination of the power and authority to provide particular functions or classes of services within all or part of the jurisdictional boundaries of a special district. If SSCSD decided to pursue divestiture of water and sewer, then the District Board would have to pass a Resolution of Application that includes all statutory application requirements, including but not limited to a Plan for Services Pursuant to Government Code Section 56653 and 56824.12.

If the County is being proposed as the successor agency, then a plan for providing services would need to be approved by the County Board of Supervisors. LAFCO would consider the proposal to divest at a public hearing and may approve, conditionally approve, or deny the proposal. The LAFCO proceedings are also subject to a protest period. If LAFCO denied the proposal, SSCSD would still be legally obligated to provide services to the community. Refer to Attachment B for a procedural flow chart for Divestiture of Power.

CONCLUSION

Based on the SSCSD Board's action on March 15, 2024, it appears they wish to pursue dissolution and plan to move forward with a resolution of application at some point in the near future. Should this come to fruition, and they submit an application for dissolution to LAFCO, there will be many steps prior to LAFCO consideration, including a study session at LAFCO for the benefit of the Commission and the public. The County will need to evaluate the proposal and the Board

of Supervisors will need to determine how to wind up the affairs of the proposed dissolved district. The evaluation will likely include costs, time, and staffing to take on the responsibilities of the District. Once a final plan for services has been prepared by the SSCSD and the Board of Supervisors, LAFCO will consider the proposal. The dissolution process is complex and would likely take a year or more to complete the necessary studies and actions of the affected agencies before LAFCO can consider the proposal. If the District submits an application to LAFCO, staff will return with an informational item on the proposal to apprise the Commission.

ATTACHMENTS

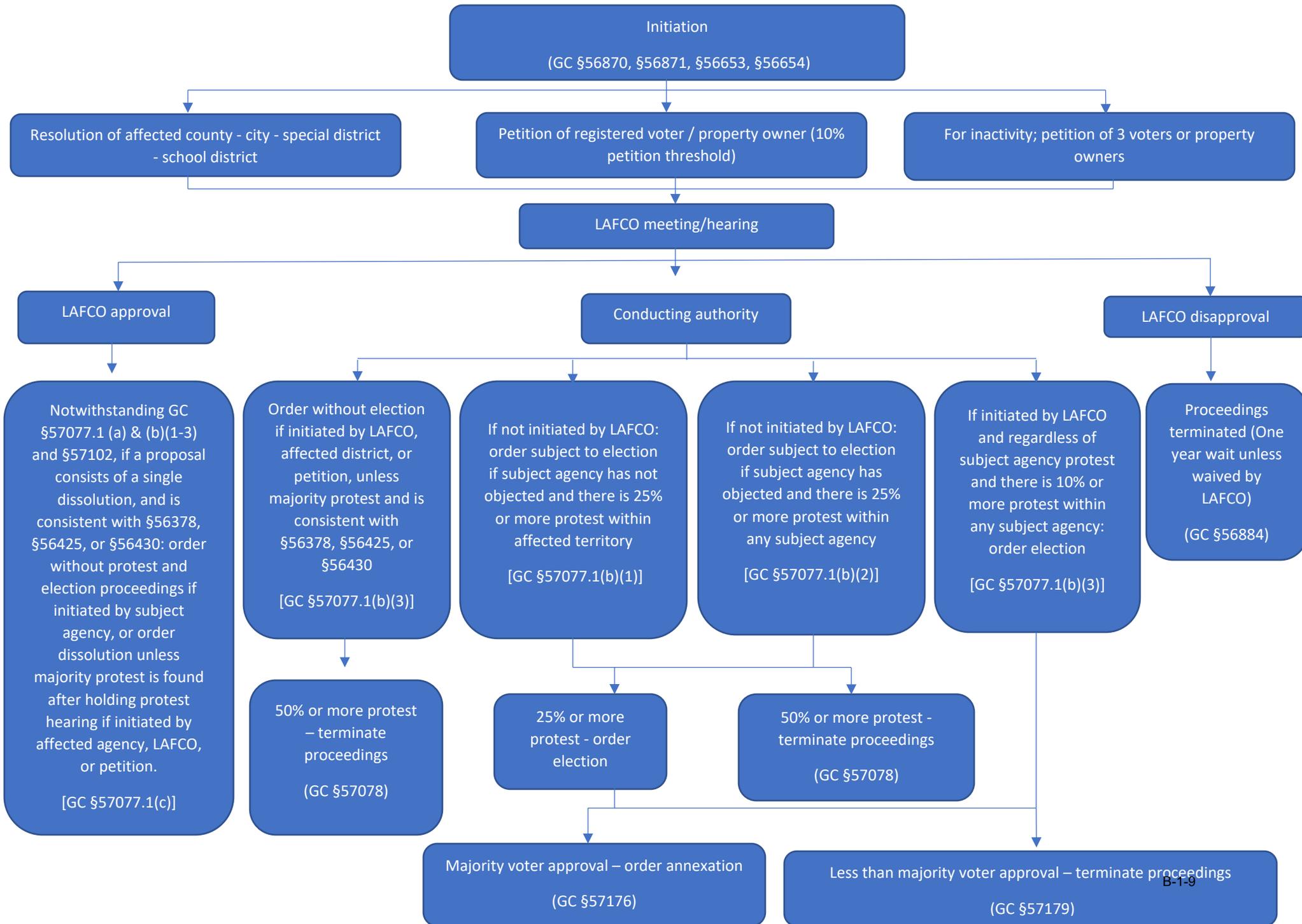
Attachment A: Procedural Flow Chart for District Dissolution

Attachment B: Procedural Flow Chart for District Latent Powers Activation, Expansion, and/or Divestiture

Attachment A

Procedural Flow Chart for District Dissolution

District Dissolution



Attachment B

Procedural Flow Chart for District Latent Powers
Activation, Expansion, and/or Divestiture

District Latent Powers Activation, Expansion, and/or Divestiture

