

LAFCO

Santa Barbara Local Agency Formation Commission

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September 4, 2014 (Agenda)

Local Agency Formation Commission
105 East Anapamu Street
Santa Barbara CA 93101

Receive Report on and Consider taking a Position on AB 2455 (Williams)

Dear Members of the Commission

RECOMMENDATION

It is recommended that the Commission consider new information regarding the Santa Rita Hills Community Services District and provide direction to staff regarding Assembly Bill 2455 (Williams).

DISCUSSION

In light of recent developments regarding the Santa Rita Hills Community Services District, Commissioner Moorhouse has requested that a business item be added to the Commission's the Commission's agenda.

Several recent developments have prompted the request to report and consider the Commission's previous support position on AB 2455. Firstly, staff was informed on August 25, 2014, by Assemblyman Williams' staff that AB 2455 would be moved to the Senate Floor on Tuesday, August 26th. As it is currently drafted AB 2455 would allow the Santa Rita Hills Community Services District to elect to reduce the number of members of its Board of Directors from five to three (a copy of AB 2455 is attached). The issue that the bill is intended to address is the inability of the district to assemble a quorum of directors to conduct the district's business. This is because there are a limited number of registered voters who are willing to serve on the Board. Another reason is that several properties have been sold and directors have moved out of the district. The intent of the bill is to allow a three member Board that would only require a two member majority to establish a quorum.

Commissioners: Bob Short, Chair ♦ Roger Aceves ♦ Doreen Farr ♦ Craig Geyer ♦ Jeff Moorhouse ♦ Bob Orach ♦ Janet Wolf ♦ John Fox ♦ Steve Lavagnino ♦ Jim Richardson ♦ Roger Welt ♦ **Executive Officer:** Paul Hood

Moving the bill forward to the Senate Floor is surprising because the Filing Deadline for Incumbents for the November 4, 2014 Election was August 8, 2014. All of the terms of the four remaining directors (Three 4-year and one 2-year, with one vacancy), will end on the first Friday on December 2014. Therefore, the incumbents needed to file for re-election on or before the August 8, 2014 deadline. The fact is that none of the incumbents filed for reelection by the August 8th deadline. Because of this, the filing deadline was extended to August 13, 2014 to allow new potential Board members to file for the November 4, 2014, election. No new candidates filed for election. Therefore, unless the Board of Supervisors appoints a new Board of Directors on December 5, 2014, there will be no Board of Directors on the Santa Rita Hills CSD when their current terms end. The last time there was a vacancy on the district's board of directors, the Board of Supervisors advertised for a director and no one applied (hence the one current vacancy)

The point is that regardless of if the district has five or three members on the Board of Directors, there are not enough registered voters within the boundaries of the district to serve. This could make the changes envisioned by Assembly Bill 2455 ineffective at best.

Information Item:

In addition to a report on Assembly Bill 2455, staff has received numerous e-mails for Attorney Patrick Morris, who represents the Cargassacchi Family. The Cargassacchi Family owns a number of parcels with the Santa Rita Hills Community Services District boundaries as well as a parcel outside the district that could provide access to the district. The Santa Rita Hills CSD was formed with the sole purpose of constructing and maintaining roads within its boundaries.

Over the past several months, Mr. Morris has sent numerous e-mails to staff regarding the Santa Rita Hills Community Services District. For the Commission's review and information, staff has copied some of the e-mails from Mr. Morris.

Please contact me if you have any questions.

Sincerely,



PAUL HOOD
Executive Officer

AMENDED IN SENATE JUNE 17, 2014
AMENDED IN SENATE JUNE 2, 2014
AMENDED IN ASSEMBLY APRIL 10, 2014
AMENDED IN ASSEMBLY MARCH 10, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2455

Introduced by Assembly Member Williams

February 21, 2014

An act to amend, repeal, and add Section 61040 of, and to add and repeal Sections 61040.1 and 61040.2 of, the Government Code, relating to community services districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2455, as amended, Williams. The Santa Rita Hills Community Services District.

The Community Services District Law specifies the procedures for district formation, procedures for the selection of district governing board members, the powers and duties of the board, and the procedures for changing those powers and duties. Existing law requires the board of directors of each district to consist of 5 members.

This bill would authorize, until January 1, 2035, the board of directors of the Santa Rita Hills Community Services District to consist of 3 members, *if the board of directors receives a petition signed by a majority of voters requesting a reduction in the number of board members and thereafter adopts a resolution that orders the reduction*, as specified. The bill would ~~also~~ *also*, until January 1, 2025, authorize

the board, if the number of members is reduced to 3, to adopt a resolution to increase the number of members from 3 to 5, as specified.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Santa Rita Hills Community Services District.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 61040 of the Government Code is
2 amended to read:

3 61040. (a) Except as provided in Section 61040.1, a legislative
4 body of five members known as the board of directors shall govern
5 each district. The board of directors shall establish policies for the
6 operation of the district. The board of directors shall provide for
7 the implementation of those policies which is the responsibility of
8 the district's general manager.

9 (b) No person shall be a candidate for the board of directors
10 unless he or she is a voter of the district or the proposed district.
11 No person shall be a candidate for the board of directors that is
12 elected by divisions or from divisions unless he or she is a voter
13 of that division or proposed division.

14 (c) All members of the board of directors shall exercise their
15 independent judgment on behalf of the interests of the entire
16 district, including the residents, property owners, and the public
17 as a whole in furthering the purposes and intent of this division.
18 Where the members of the board of directors have been elected
19 by divisions or from divisions, they shall represent the interests of
20 the entire district and not solely the interests of the residents and
21 property owners in their divisions.

22 (d) Service on a municipal advisory council established pursuant
23 to Section 31010 or service on an area planning commission
24 established pursuant to Section 65101 shall not be considered an
25 incompatible office with service as a member of a board of
26 directors.

27 (e) A member of the board of directors shall not be the general
28 manager, the district treasurer, or any other compensated employee
29 of the district, except for volunteer firefighters as provided by
30 Section 53227.

1 (f) This section shall be repealed on January 1, 2035.

2 SEC. 2. Section 61040 is added to the Government Code, to
3 read:

4 61040. (a) A legislative body of five members known as the
5 board of directors shall govern each district. The board of directors
6 shall establish policies for the operation of the district. The board
7 of directors shall provide for the implementation of those policies
8 which is the responsibility of the district's general manager.

9 (b) No person shall be a candidate for the board of directors
10 unless he or she is a voter of the district or the proposed district.
11 No person shall be a candidate for the board of directors that is
12 elected by divisions or from divisions unless he or she is a voter
13 of that division or proposed division.

14 (c) All members of the board of directors shall exercise their
15 independent judgment on behalf of the interests of the entire
16 district, including the residents, property owners, and the public
17 as a whole in furthering the purposes and intent of this division.
18 Where the members of the board of directors have been elected
19 by divisions or from divisions, they shall represent the interests of
20 the entire district and not solely the interests of the residents and
21 property owners in their divisions.

22 (d) Service on a municipal advisory council established pursuant
23 to Section 31010 or service on an area planning commission
24 established pursuant to Section 65101 shall not be considered an
25 incompatible office with service as a member of a board of
26 directors.

27 (e) A member of the board of directors shall not be the general
28 manager, the district treasurer, or any other compensated employee
29 of the district, except for volunteer firefighters as provided by
30 Section 53227.

31 (f) This section shall become operative on January 1, 2035.

32 SEC. 3. Section 61040.1 is added to the Government Code, to
33 read:

34 61040.1. (a) The board of directors of the Santa Rita Hills
35 Community Services District may consist of three members.

36 (b) (1) Prior to reducing the board of directors to three members
37 pursuant to subdivision (a), the board of ~~directors~~ *directors, after*
38 *receiving a petition signed by a majority of voters requesting a*
39 *reduction in the number of board members*, shall adopt, by a

1 recorded majority vote of the entire board of directors, a resolution
2 proposing to reduce the number of directors to three members.

3 (2) The district shall hold a public hearing regarding the proposal
4 to reduce the number of directors.

5 (3) Notice of the public hearing shall be given by placing a
6 display advertisement of at least one-eighth page in a newspaper
7 of general circulation for three weeks, pursuant to Section 6063,
8 and by United States first-class mail to each landowner voter in
9 the district, postage prepaid, and notice shall be deemed given
10 when deposited in the mail. The envelope or cover of the mailing
11 shall include the name of the local agency and the return address
12 of the sender and the mailed notice shall be in at least 10-point
13 type.

14 (4) The public hearing shall be held at least 45 days after mailing
15 the notice pursuant to paragraph (3).

16 (5) At the hearing the board shall receive and consider any
17 written or oral comments regarding the proposed reduction in the
18 number of directors. After receiving and considering the comments,
19 the board, by a recorded majority vote of the entire board of
20 directors shall do one of the following:

21 (A) Disapprove the proposal.

22 (B) Adopt a resolution that orders the reduction in the number
23 of members of the board to three members.

24 (c) A reduction in the number of directors pursuant to this
25 section shall not affect the term of office of any director. A director
26 currently holding office as of the effective date of the reduction
27 in the number of members of the board of directors shall continue
28 to be the director until the office becomes vacant by means of term
29 expiration or otherwise.

30 (d) This section shall be repealed on January 1, 2035.

31 SEC. 4. Section 61040.2 is added to the Government Code, to
32 read:

33 61040.2. (a) If the number of members of the board of directors
34 of the Santa Rita Hills Community Services district is reduced
35 pursuant to Section 61040.1, the board may increase the board to
36 five members.

37 (b) (1) Prior to increasing the board of directors to five members
38 pursuant to Section 61040.1, the board of directors shall adopt, by
39 a recorded majority vote of the entire board of directors, a

1 resolution proposing to increase the number of directors to five
2 members.

3 (2) The district shall hold a public hearing regarding the proposal
4 to increase the number of directors.

5 (3) Notice of the public hearing shall be given by placing a
6 display advertisement of at least one-eighth page in a newspaper
7 of general circulation for three weeks, pursuant to Section 6063,
8 and by United States first-class mail to each landowner voter in
9 the district, postage prepaid, and notice shall be deemed given
10 when deposited in the mail. The envelope or cover of the mailing
11 shall include the name of the local agency and the return address
12 of the sender and the mailed notice shall be in at least 10-point
13 type.

14 (4) The public hearing shall be held at least 45 days after mailing
15 the notice pursuant to paragraph (3).

16 (5) At the hearing the board shall receive and consider any
17 written or oral comments regarding the proposed increase in the
18 number of directors. After receiving and considering the comments,
19 the board, by a recorded majority vote of the entire board of
20 directors shall do one of the following:

21 (A) Disapprove the proposal.

22 (B) Adopt a resolution that orders the increase in the number
23 of members of the board to five members.

24 (c) If the board adopts a resolution to increase the number of
25 directors pursuant to this section, it shall not subsequently reduce
26 the number of directors pursuant to Section 61040.1.

27 (d) This section shall be repealed on January 1, ~~2035~~. 2025.

28 SEC. 5. The Legislature finds and declares that a special law
29 is necessary and that a general law cannot be made applicable
30 within the meaning of Section 16 of Article IV of the California
31 Constitution because of the unique circumstances that exist with
32 respect to the composition of the board of directors of the Santa
33 Rita Hills Community Services District.

O



California

LEGISLATIVE INFORMATION

AB-2455 The Santa Rita Hills Community Services District. (2013-2014)

Senate: 1st Cmt 2nd 3rd Pass

Assembly: Int 1st Cmt 2nd 3rd Pass

Bill Status	
Measure:	AB-2455
Lead Authors:	Williams (A)
Principal Coauthors:	-
Coauthors:	-
Topic:	The Santa Rita Hills Community Services District.
31st Day in Print:	03/25/14
Title:	An act to amend, repeal, and add Section 61040 of, and to add and repeal Sections 61040.1 and 61040.2 of, the Government Code, relating to community services districts.
House Location:	Assembly
Last Amended Date:	06/17/14

Type of Measure
Active Bill - In Floor Process
Majority Vote Required
Non-Appropriation
Non-Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
08/26/14	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 28 pursuant to Assembly Rule 77.
08/26/14	Read third time. Passed. Ordered to the Assembly.
06/17/14	Read second time and amended. Ordered to third reading.
06/16/14	From committee: Do pass as amended. (Ayes 7. Noes 0.) (June 11).
06/02/14	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on GOV. & F.

Daily File Status		
File	File Date	Item
Asm Concurrence in Senate Amendments	08-27-2014	80

Dillon, William

From: E. Patrick Morris <epmlaw@yahoo.com>
Sent: Monday, August 25, 2014 4:16 PM
To: Paul Hood; Dillon, William
Cc: jwolf@co.santa-barbara.co.ca.us; cg@css.sbcoxmail.com; jmoorhouse@carpsan.com; Farr, Doreen
Subject: Meeting to Discuss SBLAFCO involvement RE Santa Rita Hills Community Services District

Gentlemen:

On August 12, 2014, after Mr. Hood, Executive Officer of SBLAFCO stated that he was "reluctant" to discuss with my clients, SBLAFCO's constituents and property owners to be affected by the proposed Bridge & Highway District, the process being developed "behind the scenes" between SRHCSD, some of its "de facto" "board" members (Messrs. Blanco and Salvucci), and Mr. Hood and Mr. Dillon representing SBLAFCO, I asked for additional for a meeting on this very public topic that Mr. Hood is so reluctant to discuss, the proposed new "district."

I have never received any response to my inquiry of nearly two weeks ago.

Please provide dates for us to meet this week or, at the latest, next week. At that meeting, I expect full and complete disclosure by you of the public's business you have conducted. It would be unfortunate if my clients had to seek outside compulsion to bring transparency to the process in which you have engaged.

There is no legal or factual basis to withhold from my clients what has been discussed by you, public servants, with others with whom you hold no legally recognized confidential relationship.

If you have authority to the contrary, I invite Mr. Dillon to provide it to me. Otherwise, I expect this "stonewalling" to stop, immediately, and for us to meet to discuss all communications you have had with the parties trying to convert SRHCSD into yet another public agency using SBLAFCO.

E. Patrick Morris

PERSONAL AND CONFIDENTIAL EMAIL FROM:

Law Offices of E. Patrick Morris, apc
137 E. Anapamu Street Santa Barbara, CA 93101
805.560.9833 tel.; 805.560.6964 fax

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Thank you.

Dillon, William

From: E. Patrick Morris <epmlaw@yahoo.com>
Sent: Monday, August 25, 2014 3:31 PM
To: Paul Hood
Cc: Dillon, William
Subject: Re: Request for Speical Notice

Mr. Hood:

To clarify, please take another look at my correspondence, with the following emphasis "**any** proposed action by SBLAFCO affecting in **any** way **any** land known by you, SBLAFCO or **any** petitioning organization to be owned by **any** member of the Cargasacchi family."

Thank you.

When can we meet?

E. Patrick Morris

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Thank you.

On Monday, August 25, 2014 3:26 PM, Paul Hood <hood.paul@sbcglobal.net> wrote:

Mr. Morris:

No problem sending notice of any future SBALAFCO actions to members of the Cargasacchi family. I'm assuming you are referring to properties owned by the Cargasacchi' s in the Santa Rita Hills area?

Paul Hood, Executive Officer
Santa Barbara LAFCO

From: E. Patrick Morris [<mailto:epmlaw@yahoo.com>]
Sent: Sunday, August 24, 2014 10:36 PM
To: hood.paul@sbcglobal.net
Cc: wdillon@co.santa-barbara.ca.us
Subject: Request for Speical Notice

Mr. Hood:

This communication is made pursuant to Government Code Section 56661(c) and any other applicable section of California statutory law, that this office be given notice by email and U.S. Mail of any proposed action by SBLAFCO affecting in any way any land known by you, SBLAFCO or any petitioning organization to be owned by any member of the Cargasacchi family.

At a minimum, such notice shall be given to Peter Cargasacchi, John Cargasacchi and Paula Cargasacchi.

Please be cognizant of your obligations of notice pursuant to Government Code Section 56661 at (h) and (i).

Please confirm your receipt of this communication and that SBLAFCO will comply with this request for notice, and do it forthwith.

Your anticipated cooperation is expected.

E. Patrick Morris

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Thank you.

Dillon, William

From: E. Patrick Morris <epmlaw@yahoo.com>
Sent: Tuesday, August 12, 2014 1:49 PM
To: Paul Hood
Cc: Dillon, William
Subject: Re: SBLAFCO Involvement in Proposed Santa rita Hills Bridge & Highway District

Gentlemen:

I am not available that date, or the remainder of that week. Please provide dates the following week.

We are not surprised that you would be reluctant to be open and candid about your discussions with these folks. Nothing has been open or candid from you, or your predecessor, when it comes to these issues.

E. Patrick Morris

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Thank you.

On Tuesday, August 12, 2014 1:08 PM, Paul Hood <hood.paul@sbcglobal.net> wrote:

Hi Patrick:

LAFCO Legal Counsel Bill Dillon and I are available to meet with you at 10:00 a.m. on August 21, 2014 in the SBLAFCO Office. Regarding the proposed formation of a Bridge and Highway District, pursuant to your Public Records Act, on July 10, 2014, I already sent you correspondence relating to the July 2, 2014 meeting to discuss this topic. I am reluctant to discuss the details of all communications with the below mentioned individuals regarding the proposed reorganization process. However, if they are agreeable, I would be willing to set up a meeting between you and them to further discuss this matter.

Please let me know if August 21, 2014 works for you.

Paul Hood, Executive Officer
Santa Barbara LAFCO

From: E. Patrick Morris [<mailto:epmlaw@yahoo.com>]

Sent: Thursday, August 07, 2014 2:58 PM

To: hood.paul@sbcglobal.net

Subject: SBLAFCO Involvement in Proposed Santa Rita Hills Bridge & Highway District

Mr. Hood-

I am requesting a meeting with you to discuss in detail all communications between you and Mike Seitz, Hank Blanco, Angelo Salvucci and anyone else regarding the proposed formation of a Santa Rita Hills Bridge & Highway District.

Please provide dates within the upcoming week so that we may coordinate.

Thank you,

E. Patrick Morris for the Cargasacchi Family.

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Thank you.

Dillon, William

From: E. Patrick Morris <epmlaw@yahoo.com>
Sent: Wednesday, June 11, 2014 4:07 PM
To: Paul Hood; Dillon, William
Subject: Fw: Santa Rita Hills Community Services District
Attachments: 140611 SBLAFCO.pdf

We recognize that the attachment failed to attach.

PERSONAL AND CONFIDENTIAL EMAIL FROM:

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Thank you.

On , E. Patrick Morris <epmlaw@yahoo.com> wrote:

Mr. Dillon:

Thank you for your response. However, it begs the critical issues of what powers are afforded, not to Districts generally, but specifically to SRHCSD under the terms of its specific formation by SBLAFCO in Resolution 03-13.

LAFCO and Special Districts enabling acts make it clear that LAFCOs have the right to determine the scope of activities of a Special District it forms. (See, generally, Government Code §61014.)

No one disputes the general powers laid out in Section 61060 are generally applicable to Special Districts; the issue before you is ***what are the powers specifically granted by SBLAFCO to SRHCSD***, not what might have been available if SRHCSD had been formed under all the terms of the general enabling act.

The fact is, SRHCSD was not formed with all the powers under the general enabling act. For instance, you refer only to §61060(d). Subdivision (e) grants generally to CSDs the power of eminent domain.

SBLAFCO's Resolution forming SRHCSD narrowed, with very specific language, the right of exercise of general powers under the enabling act afforded to SRHCSD.

For instance, at 5B these general powers in the section you cite, which include powers to be exercised outside the boundaries of a Special District (which is what your correspondence points out), were limited in the instance of SRHCSD by SBLAFCO which stated, unequivocally that the "powers and responsibilities as set forth in the enabling act" were to be exercised by SRHCSD only "*within its boundaries.*"

This very specific and limiting language was inserted as an express limitation of SRHCSD's formation due to protests, not only from my clients, but other neighbors who did not want this Special District to have any powers outside the land owned by those who formed it.

Of course, the limitation on SRHCSD's right to exercise the "powers and responsibilities as set forth in the enabling act" continued in section 5D of Resolution 03-13 wherein SBLAFCO further specifically limited the power of SRHCSD on the specific issue of an access road outside its boundaries, by stating that SRHCSD cannot construct an access road "either with or without the use of eminent domain."

The subdivision you cite, (d), gives a power under the enabling act for a Special District to "acquire any real or personal property within or outside the district, by contract or otherwise."

The only two other options to acquire land in California "otherwise" than contract are gift, and the exercise of eminent domain powers.

Clearly, there is not going to be any gift of land by my clients. That leaves only one option for acquiring land outside the District; eminent domain. However, as noted, SBLAFCO took away SRHCSD's power to proceed, both by contract and eminent domain, with the very specific words denying SRHCSD's involvement in the construction of any access road "*either with or without the use of eminent domain.*" The "without" can only refer to gift and contract.

We are aware that over the last five years, those who claim to be duly elected to the SRHCSD board have operated under some tortured claim that SBLAFCO's use of the word "construct" left them free to proceed to acquire land, even by eminent domain. That position is an absurdity, and contrary to the plain English meaning of the phrase "either with or without the use of eminent domain." One does not use eminent domain to *construct* a road; it uses eminent domain to acquire the land on which to construct the road.

SBLAFCO expressly prohibited SRHCSD from acquiring such land, "either with or without the use of eminent domain." Thus, whether by gift, contract, or eminent domain, SRHCSD is expressly limited to exercising the powers of the enabling act to "within its boundaries," and with regard to the specific power of building an access road, including acquiring any land therefore, SBLAFCO specifically stripped SRHCSD of such powers, "either with or without the use of eminent domain."

We are absolutely confident that any objective person, and in particular a judge of the superior court, will come to exactly the same conclusion in enforcing these express limitations in SRHCSD's conditions of approval, even if SBLAFCO will not.

In the meantime, my clients, as constituents of SBLAFCO and directly affected parties, are entitled to SBLAFCO's position on its willingness to enforce its own restrictions on SRHCSD's formation, once and for all (until changed by due and proper process.)

To that end, sent by this communication to Mr. Hood as EO, and you as counsel, is my clients' specific, written request to have the issue placed on the agenda of the next SBLAFCO meeting.

Thank you for your consideration of these critical legal issues.

E. Patrick Morris

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137 E. Anapamu Street Santa Barbara, CA 93101
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Thank you.

On Wednesday, June 11, 2014 1:58 PM, "Dillon, William" <Wdillon@co.santa-barbara.ca.us> wrote:

Mr. Morris

Sorry for the delayed response, as I was out most of yesterday and very busy on Monday. I don't recall exactly what I may have said to Mr. Keefe and Mr. Porter.

However, the General Powers of Community Services Districts are set forth in Government Code Section 61060, which provides the following:

A district shall have and may exercise all rights and powers, expressed and implied, necessary to carry out the purposes and intent of this division, including, but not limited to, the following powers:

(d) To acquire any real or personal property within or outside the district, by contract or otherwise, to hold, manage, occupy, dispose of, convey, and encumber the property, and to create a leasehold interest in the property for the benefit of the district.

I don't know how often it happens, but I understand from Mr. Hood that there are instances of CSD's and municipalities owning land outside their jurisdiction.

Sincerely,

William M. Dillon
Senior Deputy County Counsel
105 E. Anapamu St. Suite 201
Santa Barbara, CA. 93101
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From: E. Patrick Morris [mailto:epmlaw@yahoo.com]
Sent: Sunday, June 08, 2014 6:39 PM
To: Dillon, William
Subject: Santa Rita Hills Community Services District

Mr. Dillon:

We have been advised that you met with Gary Keefe and Paul Porter and advised them that there is no legal restriction on SRHCSD acquiring property outside the District boundaries for an access road.

Did you so advise them that this is the case?

We would appreciate your candor in this regard.

Thank you,

E. Patrick Morris

PERSONAL AND CONFIDENTIAL EMAIL FROM:

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Thank you.

LAW OFFICES OF E. PATRICK MORRIS

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW

06/09/2014

Bob Short, Chair
Doreen Farr, County Member
Janet Wolf, County Member
Craig Geyer, District Member
Jeff Morehouse, District Member
Paul Hood, Executive Officer
SBLAFCO
105 E. Anapamu Street
Santa Barbara, CA 93101

Re: July 3, 2014 Agenda; Santa Rita Hills Community Service District Extra Territorial Powers

Dear Mr. Chair, Members of the Commission, and Mr. Hood:

As you are well aware, my job is to protect and advance the interests of Giovanni and Clementina Cargasacchi as Trustees of the Cargasacchi Family Trust, as well as John, Laura, Peter and Mark Cargasacchi, all of whom are the owners of Cargasacchi Ranch immediately adjacent to the Santa Rita Hills Community Services District ("SRHCSD").

This office also protects John, Laura, Peter and Mark Cargasacchi owners of lots 2 and 10 of the "Lakeview Estates"; John and Paula Cargasacchi who own lots 25, 26 and 27; and Peter Cargasacchi who owns lots 30, 31 and 36. All of their properties are within the boundaries of SRHCSD and are taxed yearly to support the operations of SRHCSD. These persons pay 20% of the taxes given to SRHCSD, supposedly to spend legally, and for public good.

These citizens, your constituents, seek your assistance as their SBLAFCO commissioners to ensure that their tax dollars are legally and properly spent, and that the laws and regulations affecting SRHCSD that SBLAFCO formed are followed.

SBLAFCO formed SRHCSD, and according to the formation documents, among other limitations, it is restricted to acting only within its boundaries.

Specifically, Section 5B of the SBLAFCO formation resolution 03-13 states that the District "shall, *within its boundaries*, have powers and responsibilities as set forth in the

enabling act" . . . , and only then "to acquire, construct, improve and maintain streets and rights-of-way."

Further the formation of SRHCSD was "approved subject to the following terms and conditions:"

"The District shall not have authority to provide services outside its boundaries, including the construction of an access road, either with or without the use of eminent domain."

(SBLAFCO Resolution 03-13 5D.)

The records of the formation proceedings reflect that concerns were raised, not only by my clients, but other area landowners about giving the persons forming SRHCSD power outside the boundaries of their own land. It was these concerns that led to the limiting of this Special District's powers, some of which would unless restricted allow conduct outside the boundaries of the District, to within its boundaries. Some of those same landowners expressed that same concern last year when SRHCSD tried to expand its sphere of influence.

"Services" of a CSD are defined by law as "a specific governmental activity established within, and as a part of, a general function of the special district . . ." (Government Code §56074.) Acquiring land is a service, as is building a road, as is maintaining a road.

From the Cargasacchi perspective, and we think the perspective of common sense and plain English, SRHCSD cannot act outside its boundaries, for any purpose ("service") under these very specific conditions and definitions used by SBLAFCO in imposing limits on SRHCSD at its formation.

If acquiring a road right of way and building a road on it are not "specific governmental activities," what are they? If they are, then in spending money to acquire and/or build an access road outside its boundaries, SRHCSD is illegally spending tax payer dollars on "services" SBLAFCO did not permit SRHCSD to engage in.

Why then has SBLAFCO continually allowed SRHCSD to blatantly violate the conditions SBLAFCO imposed upon it?

Apparently with the informal consent of SBLAFCO's EO and Counsel, and contrary to the restrictions on its conditions of formation, the only "services" to which SRHCSD has dedicated itself for more than a year are the acquiring of an access road, (including by eminent domain), and the building of that road. In fact, as the SRHCSD records reflect, in January of this year it moved \$30,000 (about 15% of its total budget) from improving and maintaining roads to a budget item to pay its General Manager for issues "relating to . . . access road." It spent *nothing* on acquiring, constructing, maintaining and/or improving any internal roads.

It seems simple that SBLAFCO prohibited the very activities in which SRHCSD has engaged. Yet, my clients are informed that SBLAFCO's legal position, as expressed by William Dillon and Paul Hood to the SRHCSD "General Manager" Gary Keefe and "outside counsel" Paul Porter (actually, an attorney long representing one of the richest landowners within the District, but now paid by SRHCSD with my client's tax dollars), is that SRHCSD is free to spend tax payer money to acquire land outside its boundaries, and to use taxpayer money to make plans to build an access road on the land it acquires outside its boundaries, "just like any other CSD under the enabling act," and without regard to its conditions of formation expressly limiting those "general" powers.

Which is it? **Under its current conditions of formation, does SRHCSD have the legal right to spend taxpayer dollars on the process of acquiring and/or building an access road outside its boundaries, or does it not have that legal right?**

The SRHCSD constituents owning 20% of the affected properties, and paying 20% of the taxes for the SRHCSD to spend, **want to know the answer to this simple question**, as do my clients over whose land this CSD plans to build this access road " either with or without the use of eminent domain."

Only SBLAFCO can answer this question, and SBLAFCO is requested, at a minimum, to place this specific issue on its July 3, 2014 agenda, to be posed to and then answered by its counsel, not later than the next meeting held, if not sooner given the exigencies of the situation presented to the Commission.

Very truly yours,

LAW OFFICES OF E. PATRICK MORRIS



E. Patrick Morris, Esq.

Cc: Clients; William Dillon