

L A F C O M E M O R A N D U M

SANTA BARBARA LOCAL AGENCY FORMATION COMMISSION
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June 1, 2017 (Agenda)

TO: Each Member of the Commission

FROM: Paul Hood *PLH*
Executive Officer

SUBJECT: **2017 Grand Jury Report – West Santa Ynez Annexation to the Santa Ynez
Community Services District**

*This is an Informational Report. No Action is Necessary **

The attached report on the West Santa Ynez Annexation to the Santa Ynez Community Services District was issued last month. “Under California Penal Code §933 and §933.05, the activity report does not require a response.” Therefore, the report attached as **Exhibit A**, is for information purposes only.

EXHIBIT

Exhibit A Grand Jury Report- West Santa Ynez Annexation to the Santa Ynez
Community Services District

Please contact the LAFCO office if you have any questions.

WEST SANTA YNEZ ANNEXATION TO SANTA YNEZ COMMUNITY SERVICES DISTRICT

SUMMARY

The 2016-17 Santa Barbara County Grand Jury (Jury) received several complaints about the annexation process of the western area of Santa Ynez to the Santa Ynez Community Services District (SYCSD). Some homeowners in the affected area (see APPENDIX A) complained that there had not been enough community input or public meetings prior to the annexation. They said they had not received enough information about how the annexation would impact them, what the costs would be for connecting to SYCSD's sewer line, and how a protest filing opportunity worked. This report is about a small portion of the Santa Ynez Valley that was designated by the Santa Barbara County Board of Supervisors as one of 24 "Focus Areas" of greatest concern from a public health and water quality perspective.

The Jury determined that the SYCSD and the Santa Barbara Local Agency Formation Commission had followed policies and procedures required for an annexation but their communications with landowners and registered voters were minimal and confusing.

BACKGROUND

The SYCSD provides sewer and sanitation systems for homes within its service area. Many homes in west Santa Ynez use septic systems, although some homeowners have gone through the process of annexation individually to the SYCSD in order to connect to the sewer system. It was found to be a cumbersome and costly process.

If properties in the proposed area are annexed, and the Santa Barbara County Environmental Health Services determines that a septic system is failing, the homeowner will have the option of connecting to the SYCSD's sewer system or replacing it with an advanced, on-site treatment system. In addition, annexation may afford the District the opportunity to receive grant monies and other assistance to offset the costs of constructing sewer lines where they do not already exist.

In January 2016, the SYCSD applied to the Santa Barbara Local Agency Formation Commission (LAFCO) for approval to annex west Santa Ynez, which was already within its sphere of influence. LAFCO is a public agency with countywide jurisdiction established by State Law (the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000). The intent of the Act is to discourage urban sprawl and to encourage orderly and efficient provision of services, such as water, sewer and fire protection. LAFCO oversees changes to local government boundaries involving the formation and expansion of cities and special districts.

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On May 5, 2016, LAFCO adopted a resolution approving the annexation. The Commission held a protest hearing on Thursday, June 30, 2016, to allow landowners and registered voters to file protests against the annexation. The written protests were tabulated and it was determined that there were insufficient protests to require a formal election. Therefore, the annexation was allowed to proceed.

The California Water Code authorizes the State Water Resources Control Board (SWRCB) to regulate all discharges of effluent that could affect the quality of the water anywhere in the state. The policies of the SWRCB are implemented locally through nine regional water quality control boards. Santa Barbara County falls under the Central Coast Regional Water Quality Control Board. In June 2012, the SWRCB adopted the “Water Quality Control Policy for Siting, Design, Operation and Maintenance of Onsite Wastewater Treatment Systems,” which became effective in May 2013. For the first time, this established a statewide, risk-based, tiered approach for the regulation and management of onsite water treatment systems (septic systems). The policy allows local agencies to develop a customized management program that addresses the conditions specific to their jurisdiction, called a Local Agency Management Program (LAMP).

Elements of a LAMP required by the State of California are:

- Development and maintenance of a Water Quality Assessment Program to evaluate On-site Water Treatment Systems’ (OWTS) impacts to ground and surface water
- Implementation of Salt and Nutrient Management Plan and Groundwater Sustainability Program Requirements
- Coordination with watershed management groups (Groundwater Basin Managers and Groundwater Sustainability Agencies)
- Monitoring and analysis of water quality data (nitrates and pathogens) in surface and groundwater
- Annual and 5-Year Reporting and Program Evaluation Requirements to the Regional Water Quality Control Board
- Regulatory Options

In early 2000, the Santa Barbara County Department of Public Works conducted an analysis of the unincorporated areas of the entire County to locate, characterize and track septic systems. They identified 24 “Focus Areas,” which encompassed the heaviest concentrations of septic systems and areas of potentially greatest concern from a public health and water quality perspective. A part of the Santa Ynez Valley was determined to be a special problem area due to infiltration and contamination of the groundwater during heavy rains.

Groundwater provides an estimated 75-85 percent of Santa Barbara County’s commercial, industrial and agricultural water through wells. As stated in an environmental report for the County:

Standard criteria are used for siting and designing onsite sewage disposal systems to prevent adverse impacts on groundwater. The most important factors are the provision of sufficient depth of unsaturated soil below the leachfield where filtering and breakdown of wastewater constituents can take place. Without adequate

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separation distance to the water table, groundwater becomes vulnerable to contamination with pathogenic bacteria and viruses, as well as other wastewater constituents, such as nitrogen. Additionally, where there is a high concentration or density of septic systems in a given area, groundwater can be degraded from the accumulation of nitrate, chloride and other salts that are not filtered or otherwise removed to a significant extent by percolation through the soil. Adverse effects on groundwater quality from septic systems can show up in the form of degraded or contaminated well water supplies, or potentially as subsurface seepage into streams, lakes, lagoons or ocean waters.¹

County Public Works staff led more than a yearlong stakeholder process to develop the County's LAMP, involving engineers, septic pumpers, agricultural representatives, the real estate community, Heal the Ocean, and others. In January 2016, the County adopted its LAMP to ensure that coastal ocean water, streams and groundwater are not adversely affected by inadequate or failing septic systems.

The SYCSD does not own its own treatment plant but contracts with the City of Solvang to use its facility. It currently contracts for 300,000 gallons of capacity per day but only uses approximately 100,000 gallons per day. Even with the annexation, it will have the capacity to handle the additional effluent.

METHODOLOGY

The Jury interviewed landowners, registered voters, board and staff members of the SYCSD and staff of LAFCO. The Jury also reviewed a map (see APPENDIX A) of the impacted area, Santa Barbara County's LAMP, Questa Engineering Corporation's Septic System Sanitary Survey for Santa Barbara County, SYCSD board minutes and informational documents pertinent to the annexation, and the LAFCO protest hearing notice and protest form. LAFCO's minutes were not available for review.

OBSERVATIONS

The non-profit organization, Heal the Ocean, focuses on wastewater infrastructure, sewers and septic systems, as well as ocean dumping practices that have contributed to ocean pollution. Because of its participation in developing the County's LAMP, on February 10, 2015, Heal the Ocean sent out an informational letter to Santa Ynez homeowners. The letter informed them of future changes to septic system regulations adopted in the LAMP and indicated that the homeowner "will not be required to hook up to the sewer line until your septic system fails per SYCSD, County and State Regulations." Because Santa Ynez is not on the ocean, the Jury learned that some homeowners discarded the letter without opening it, thinking it either did not pertain to them or was a fundraising solicitation.

¹ Septic System Sanitary Survey for Santa Barbara County, prepared for Santa Barbara County Environmental Health Services by Questa Engineering Corp., Project #210029, March 2003, pp 2-12 and 2-13.

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Santa Barbara County adopted its LAMP in January 2016. On January 20, 2016, as required by law, the SYCSD filed an application with LAFCO for annexation. On May 5, 2016, LAFCO adopted a resolution approving the annexation, under which 483 existing homes could potentially be connected to SYCSD's sanitation system. On May 27, 2016, in accordance with its statutory timelines, LAFCO mailed a notice to landowners and registered voters in west Santa Ynez informing them of the annexation and about a protest hearing to be held on June 30, 2016, at the SYCSD offices. The notice indicated that protest forms would be included, but it was not clearly stated that the form was, in fact, printed on the back of the notice. Neither the protest notice nor the protest form explained how the value of the written protests filed (and not withdrawn) would be determined. Also as required, LAFCO posted a notice in the newspaper regarding the hearing. However, it was only posted in the *Santa Maria Times* and not in other local publications.

The Jury learned that a LAFCO protest hearing is *not actually a discussion meeting on an issue but, merely, the last opportunity to hand in a protest form*. The *protest hearing* was held on a Thursday, June 30, at 11:00 a.m., and the deadline for handing in the protest form was 11:40 a.m., although eligible persons could have mailed in their protest form prior to the hearing.

In accordance with its procedures and timelines following an annexation approval, LAFCO sent out its protest hearing notices with a protest form on the reverse side. However, the SYCSD had not held a public meeting to inform those affected of costs and options regarding septic tanks and sewer hook-ups. Therefore, on June 9, 2016, SYCSD quickly sent out a letter to landowners and registered voters inviting them to the Board of Directors' meeting on June 15th, emphasizing that they were not being forced to connect to the sewer system.

At the June 15th board meeting, the SYCSD provided a handout explaining the reason for the annexation and the LAMP policy. They outlined two options if septic tanks fail: to install an advanced treatment system requiring routine, ongoing maintenance and periodic, official inspections or to connect to the sewer system. According to SYCSD, an advanced treatment system would cost approximately \$40,000 plus repairs, maintenance and inspections. In contrast, the District estimates a hook-up to the sewer system will cost \$25,000, which could either be paid upfront or spread over 20 years at Prime plus 1 percent, and billed with property tax. The costs could be less if the SYCSD secured grants for some of the work, including laying new sewer lines where none previously existed. There would also be an annual user fee of approximately \$800 added to the property tax bill. Additionally, the homeowner would be responsible for the line from their house to the main sewer and for decommissioning and crushing the old septic tank.

The results of written protests by landowners and registered voters, filed and not withdrawn against the annexation, were tabulated pursuant to *Government Code §57075*. Because the area of annexation was "inhabited territory," the protest proceeding was conducted for both landowners and registered voters. Protests filed by registered voters were referred to and examined by the Santa Barbara County Elections Office. Protests filed by landowners within the affected area were referred to and examined by the Santa Barbara County Assessor's Office.

The County Elections Office determined there were 712 registered voters residing in the affected area as of Wednesday, July 29, 2016, and 153 submitted a valid protest against the annexation,

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which is 21.49 percent. The County Assessor’s Office determined there were 531 landowners in the affected area as of close of business on Wednesday, July 29, 2016, and 131 filed valid protests against the annexation, which is 24.67 percent. The total assessed value of the land within the affected area was \$98,354,004 and the total assessed value of the land owned by landowners who filed valid protests was \$21,828,905, which is 22.19 percent. If either the landowner or the registered voter protests had been more than 25 percent but less than 50 percent, the annexation issue would have gone to an election. If 50 percent or more submitted valid protests, then the annexation would have been terminated. In this case, because both sets of protests were less than 25 percent, the annexation was forwarded to the State for final approval.

Timeline Leading to Annexation

Date/Year	Activity
In 2000	Santa Barbara County conducts an analysis to locate, characterize and track septic systems in unincorporated areas. West Santa Ynez determined to be one of 24 Focus Areas of concern.
June 2012	State Water Resources Control Board adopts “Water Quality Control Policy for Siting, Design, Operation & Maintenance of Onsite Water Treatment Systems.”
May 2013	State Water Quality Control Policy becomes effective.
Between 2014-15	County-led stakeholder process takes place to develop County’s Local Agency Management Program (LAMP).
February 10, 2015	Heal the Ocean informational letter sent to homeowners in west Santa Ynez re LAMP.
January 2016	Santa Barbara County adopts its LAMP.
January 20, 2016	SYCSD files application to Local Agency Formation Commission (LAFCO) for annexation.
May 5, 2016	LAFCO adopts resolution approving annexation subject to protest proceedings.
May 27, 2016	LAFCO mails notice regarding protest hearing, including protest form, to landowners and registered voters.
June 9, 2016	SYCSD sends letter to property owners inviting them to their board meeting on June 15, 2016.
June 15, 2016	SYCSD holds board meeting; provides handout explaining reason for annexation, LAMP and cost estimates.
June 30, 2016	LAFCO holds a protest hearing (deadline to submit written protests).
September 1, 2016	LAFCO Memorandum to Commission members gives the results of protest hearing. Because protests were less than 25 percent, the annexation is considered complete and forwarded to the State for ratification.

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CONCLUSION

The Jury sees the option provided to landowners in the affected area to connect to the sewer system as beneficial, especially as the total cost may be amortized over 20 years. At the same time, the Jury understands that not all landowners may choose to connect to the sewer system. They do not have to do anything until such time as their septic system fails. At that time, instead of hooking up to the District's sanitary system, they may prefer to install an advanced treatment system and perform routine, ongoing maintenance as well as have official inspections by qualified inspectors at least once per year. Both these options will protect the groundwater from serious contamination.

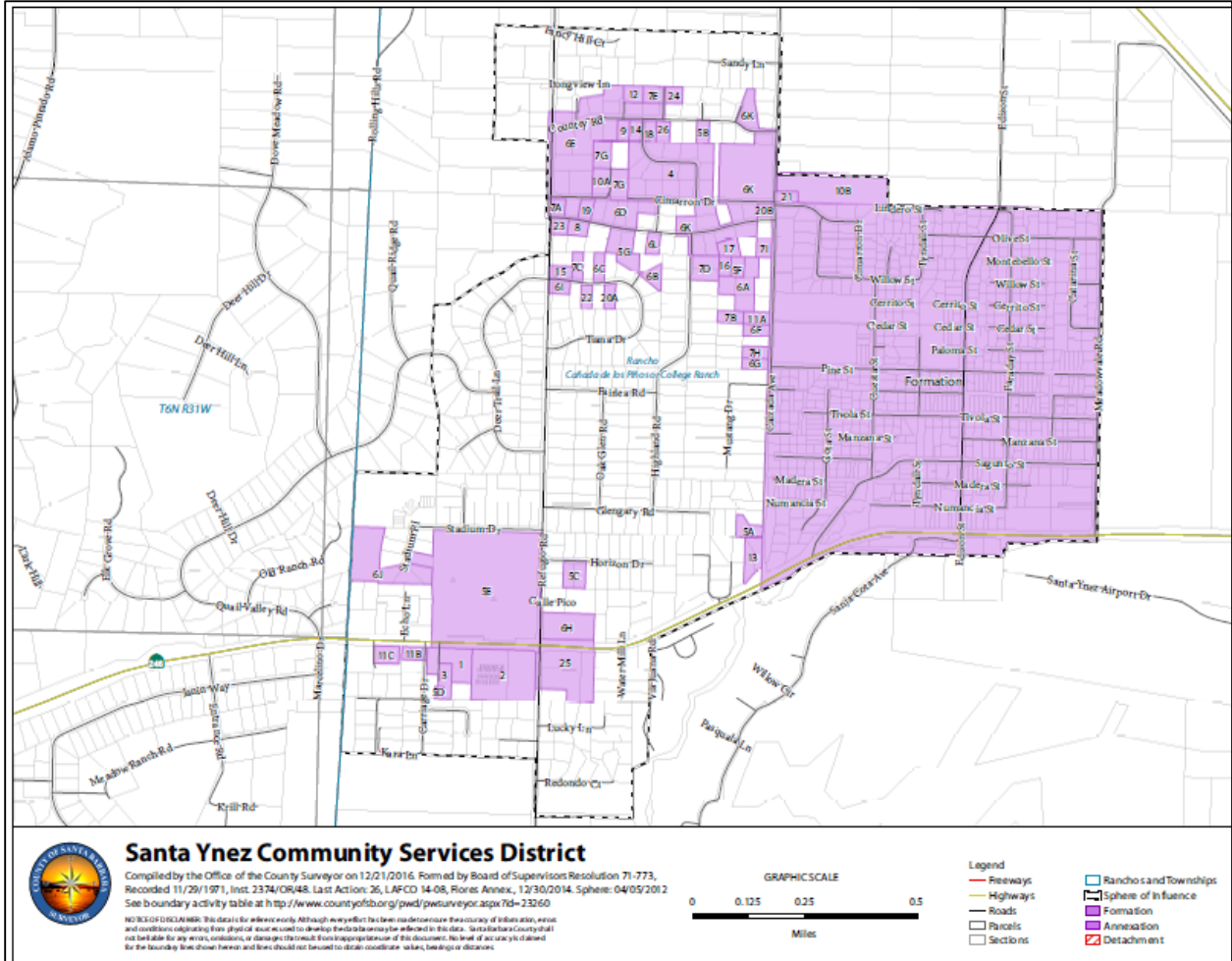
The 2016-17 Santa Barbara County Grand Jury determined that the Santa Ynez Community Services District and Santa Barbara Local Agency Formation Commission followed statutory procedures regarding the annexed area of west Santa Ynez. What was needed were more public informational meetings, better communication with the public and better coordination between the two agencies.

Under *California Penal Code §933 and §933.05*, this activity report does not require a response.

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APPENDIX A

Santa Ynez Community Services District



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