



Item: Discussion/Action/Direction regarding the Dissolution of the Salton Community Service District

Meeting Date: December 1, 2022

Meeting Time: 08:30 a.m.

Location: El Centro City Council Chambers
1275 W. Main Street
El Centro, CA 92243

EXECUTIVE OFFICER'S REPORT

To the

Imperial Local Agency Formation Commission

COMMISSIONERS

David H. West, Chair [Public]
Maria Nava-Froelich, Vice-Chair [City]
Ray Castillo [Supervisor]
Michael W. Kelley [Supervisor]
Javier Moreno [City]

ALTERNATES

Jesus E. Escobar [Supervisor]
Robert Amparano [City]
Jose Landeros [Public]

REPORT DATE: November 21, 2022

FROM: Jurg Heuberger, Executive Officer
Paula Graf, Sr. Analyst 

PROJECT: Discussion/Action/Direction on the recommendation to consider the dissolution of the Salton Community Service District

HEARING DATE: December 1, 2022 **TIME:** 08:30 a.m.

AGENDA ITEM NO: 6

HEARING LOCATION: El Centro City Council Chambers, 1275 Main St., El Centro, CA 92243

RECOMMENDATION(S) BY THE EXECUTIVE OFFICER (In Summary & Order)

- OPTION #1:** Status update on the Salton Community Service District, requesting direction to continue with prior direction to dissolve the District within the 12-month period as approved in August of 2022.
- OPTION #2:** Allow the district to continue without facing potential dissolution by retracting the original resolution to dissolve at the end of the 12 months as originally approved in August of 2022.

2. Executive Summary

This report is an update on the status of the Salton Community Service District.

Your Commission at the August 25th LAFCO meeting voted unanimously to Commence the Dissolution of the Salton Community Service District.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 grants a "remediation period" of 12 months, during which the district may take steps to remedy the stated deficiencies. The district was notified via Certified and Electronic Mail of the items that LAFCO requires be addressed.

Provided below is a list of items required to be addressed by the district.

- 1. Implement a fully functional and qualified staffing level. Address this both in the Service Area Plan and in direct explanation of how you plan to implement this and the justifications.**

Comment: The District retained the services of Rick Engineering Company to update the Service Area Plan. A draft update to the plan is currently in progress and expected to be received early December 2022.

- 2. The General Manager shall have the experience and qualifications to manage the day-to-day operations of a Community Service District. If in the opinion of LAFCO, you hire or attempt to hire a less than qualified individual for this position, LAFCO may consider this as non-compliance. It is strongly suggested you work with LAFCO staff on this prior to hiring a new GM at such time as the current Interim GM departs.**

Comment: The District does not currently have a General Manager as of the writing of this report.

- 3. Maintain the Interim General Manager for as long as necessary to provide a smooth transition to a new General Manager. Should the current Interim General Manager depart due to either a resignation or termination please notify LAFCO within 24 hours.**

Comment: The previous Interim General Manager resigned to be effective the first week of November. The district appointed a staff person from Sewer Maintenance to the Interim General Manager position and remains the same as of the writing of this report.

- 4. Maintain your current legal counsel as long as necessary to effect compliance and smooth transition to a new legal counsel. Should the current counsel resign or be terminated notify LAFCO within 24 hours. Additionally, the current legal counsel has the necessary background to assist in the investigations of the former district board and staff therefore any termination may be viewed by LAFCO as an attempt to avoid compliance by this Board.**

Comment: The Districts Legal Counsel remains the same as of the writing of this report.

5. **The district shall make every effort to focus on recovering all funds that may have been spent improperly, illegally, or fraudulently by the prior management/staff/Board. To that end we expect full attention and cooperation with investigators as well as the in-house staff to affect this.**
6. **The Board shall implement policies and procedures for staff/general manager to operate without undue influence from any one board member. A full set of polices will be expected to be presented to LAFCO before they are implemented or adopted. DO NOT WAIT UNTIL THE END OF THE 12-MONTH PERIOD. WE WILL EXPECT THESE WITHIN 60-90 DAYS OF THIS ORDER.**

Comment: An update on the status of this item was requested, no response received as of the writing of this report.

7. **Implement policies and procedures for the Board of Directors; to include ethics, controls on individual direction to staff, and sanctions for any board member that provides or attempts to influence the General Manager or staff. Again, these are to be presented to the LAFCO before final adoption for review and comment.**

Comment: An update on the status of this item was requested, no response received as of the writing of this report.

8. **Implement policies and procedures for Board and staff travel, as well as reimbursements, stipends, expense reimbursements. Include in these policies the types of travel that may be allowed or prohibited.**

Comment: An update on the status of this item was requested, no response received as of the writing of this report.

9. **Ensure that the Sewer system is in full compliance with all regulatory agencies and meets capacity requirements. Should the system need to be upgraded, provide to LAFCO all correspondence with the Regional Water Quality Control Board (RWQCB) and/other agencies on a continuous basis.**

The District retained the services of the Rural Community Assistance Corporation (RCAC) to conduct a Rate Study for Sewer. The purpose of a rate study is to evaluate the existing needs of the sewer system and to evaluate the future needs of the sewer system, both on an infrastructure level and financial level. This study is currently underway with an estimated completion during the 1st quarter of 2023.

The California Regional Water Quality Control Board, Colorado River Basin is the public agency responsible for regulating the wastewater discharge requirements of the district.

The District owns and operates three wastewater treatment facilities (ponds). As shown below, the treatment facilities are at, or over capacity.

Thomas R. Cannell	Design Capacity:	185,000 Gallons Per Day
	Average Daily Flow:	170,000 Gallons Per Day- July 2022
	Adequacy:	90% Capacity
Lansing	Design Capacity:	120,000 Gallons Per Day
	Average Daily Flow:	120,000 Gallons Per Day- July 2022
	Adequacy:	100% Capacity
Desert Shores	Design Capacity:	200,000 Gallons Per Day
	Average Daily Flow:	160,000 Gallons Per Day- July 2022
	Adequacy:	80% Capacity

10. Provide monthly expense accounting including but not limited to:

Reconciled Credit Card Statements, Reconciled Bank Statements, Reconciled Accounts Receivables and Payables, Adopted/Amended Budgets, Audited Financials, General Ledger.

Comment: The District retained the services of The Pun Group to provide the following:

- 1. Reconstruction of Accounting Books & Records for the year ending June 30, 2022.** *(Review and analyze monthly expenses, investigate financial transactions, identify missing transactions, determine the extent to which accounting books and records were/were not properly maintained. Reconstruct misstated, incomplete and/or falsified accounting books and records, research proper GAAP treatment of transactions and evaluates the propriety of financial reporting and/or disclosures.)*
- 2. Monthly Accounting- Commencing July 1, 2022**
(Clearing weekly/monthly bank feeds, perform bank reconciliation, record cash receipts as needed, payroll-monthly reconciliation, prepare financials, tag 1099 vendors in QBO, record prior period entries or period ending entries, as needed, prepare financial dashboard reports, prepare custom financial reports such as statement of net positions, revenues, and expenses cash flows budget to actual.)

- 11. Prepare and complete a full investigation of all funds expended by the district over the past 5-8 years including taking steps to recover all funds that were or may have been improperly or illegally spent.**
- 12. Cooperate fully with all law enforcement agencies that may need to investigate the operations of the prior board and staff.**
- 13. Develop a five-year operations plan including staffing and budgets to show the district has the capacity and funding to continue operating.**

Comment: An update on the status of this item was requested, no response received as of the writing of this report.

14. Notify LAFCO of any changes in staffing or board members within 24-48 hours.

Comment: No reported changes received.

15. Notify LAFCO of Board Meetings. Include agendas/backup, meeting minutes, and audio recordings.

Comment: Current

16. Establish/Maintain a web site that provides full transparency of board actions, to show agendas, backup to agendas, meeting minutes, state controller reports, budgets, budget amendments, and audited financials, etc.

Comment: The district maintains a website at www.saltoncsd.ca.gov. The agendas, backup, minutes, current budget, and the past 3-years of financial audits are posted online. A link to the state controller report is online. Budget amendments and prior budgets are not available on the website.

17. Notify LAFCO of any litigation that may be filed by the district or against the district as soon as it becomes known.

Comment: LAFCO received notification of a "Notice of Outstanding Salton Community Services District Liability on August 25, 2022. No additional notifications of litigation have been received.

2. Recommendation by the Executive Officer

At this time, it is the recommendation of the Executive Officer to continue with the original resolution to dissolve the Salton Community Service District by giving the District 12 months to prove to LAFCO that a dissolution was not necessary or appropriate. The District must show that they have the technical, managerial, and financial capacity to run the district for an extended period of time, with the minimum of a 5- year plan.

The current district staff is working with the Rural Community Assistance Corporation (RCAC) and the Regional Water Quality Control Board (RWQCB) in an effort to obtain funding for the necessary technical studies for their sewer system including the infrastructure and the ponds. Based on information received during meetings with the above agencies, there is the possibility that the district may qualify for such funding and under the right conditions may be able to obtain construction funding also.

However, this is not an easy task as it requires a comprehensive Rate Study to be completed. This is being done through the efforts of RCAC and RWQCB. Once this is done the rate study will have to be adopted and the rates implemented if and this is a crucial part if the Proposition 218 vote which is required passes.

Assuming they pass the Prop 218 to implement new and higher rates then the next step would be to apply for construction funding. This most likely would occur in late fall of 2023.

Given the direction of your Commission, the IC LAFCO determination to dissolve or not dissolve would be most likely be taken in July of 2023. The most likely time that the Prop 218 vote would take place would be April/May of 2023.

Given this timeline it is the Executive Officers position that we should continue on the path of a dissolution, making it clear to the district that if the Proposition 218 fails there is an almost guaranteed necessity to dissolve the district. Going this path however still allows for the RCAC process to be completed and even if the district is dissolved the successor entity, most likely the County of Imperial would then still qualify to be the applicant for the construction funding based on the RCAC/RWQCB efforts.

The other alternative, although not recommended by the EO would be to dissolve the District immediately. While that is an option, it comes with a lower threshold to be overturned by the voters if a challenge were filed. Additionally given the current efforts by RCAC it could not necessarily stop that effort but potentially delay it. Given the situation of the sewer system this could also force the RWQCB to take action that is not currently desired or planned and make the transition to a new successor more complicated.

Having stated the above, the EO must however be on record that we still have substantial concerns over the district's operations at this time.

3. Imperial LAFCO Policy

Note: All "cc" submittals are the Executive Officer's Report only. Attachments are generally too voluminous and are only supplied on CD upon request. Information about the project may also be found on the LAFCO web page at www.iclafco.com.

CC:

SCSD, Interim General Manager
County of Imperial, CEO
County of Imperial, Public Works Director