



**STAFF REPORT**

Meeting Date: March 16, 2005

**TO:** LAFCO Commissioners  
**FROM:** Everett Millais, Executive Officer  
**SUBJECT:** Triunfo Sanitation District Governance

**RECOMMENDATION:**

Receive and file.

**DISCUSSION:**

At the November 17, 2004 LAFCO meeting, the Commission reviewed the sphere of influence for the Triunfo Sanitation District. During the discussion on this matter questions were raised about the governance of the District. In particular it was noted that a majority of the members of the Triunfo Board of Directors do not reside within the District and are not directly elected by the voters of the District. Of interest was what actions might be necessary to change the current governance structure of the District, and if LAFCO might have a role in effectuating a change in the governance structure. Because the issue of Triunfo's governance was not on the LAFCO agenda for the November 17<sup>th</sup> meeting, the Commission requested that a discussion about Triunfo's governance structure be an agenda item for a subsequent LAFCO meeting. This matter is now scheduled for discussion at the March 16, 2005 LAFCO meeting.

The Triunfo Sanitation District is a county sanitation district formed in 1963 and operating pursuant to Health and Safety Code Section 4700 et seq. It is a dependent district as the current Board of Directors, formulated pursuant the Health and Safety Code Section 4730.1, consists of five members:

- The chair of the Board of Supervisors or a Supervisor designated by the Chair of the Board.

**COMMISSIONERS AND STAFF**

**COUNTY:**  
Linda Parks, Vice Chair  
Kathy Long  
*Alternate:*  
Steve Bennett

**CITY:**  
Don Waunch  
John Zaragoza  
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*Alternate:*  
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**EXECUTIVE OFFICER:**  
Everett Millais

**LAFCO ANALYST:**  
Kim Uhlich

**OFFICE MANAGER/CLERK:**  
Debbie Schubert

**LEGAL COUNSEL:**  
Leroy Smith

- A member of the Board of the Ventura Regional Sanitation District (VRSD - another county sanitation district with boundaries that overlap the boundaries of Triunfo).
- A member of the City of Thousand Oaks City Council (the City boundaries overlap part of the Triunfo boundaries).
- Two members directly elected by voters in the district boundaries.

Issues about the governance structure of the Triunfo Sanitation District are not new. In reviewing the LAFCO files about the District it is clear that the make-up of the Triunfo Board has changed at least once in the past. Based on this review and a review of the County Sanitation District law, the County Counsel, acting as legal counsel for LAFCO, was requested to provide an opinion about two questions:

1. What actions are necessary to change the current governance structure of Triunfo?
2. What role might the Ventura LAFCO have in effectuating a change in the governance structure of Triunfo?

The County Counsel's response to these questions is attached and is self-explanatory. Basically the conclusion is that the Triunfo Board itself can change its structure to one of several different forms pursuant to the procedures and requirements in the County Sanitation District law. It is also clear that LAFCO does not have any authority to directly effectuate any governance change for the District. This information has been provided to the Ventura Regional Sanitation District staff that serves as staff to Triunfo with a request that it be provided to the Triunfo Board.

Attachment: County Counsel Memo RE: Triunfo County Sanitation District Governance, March 3, 2005

**MEMORANDUM  
COUNTY OF VENTURA  
COUNTY COUNSEL'S OFFICE**

March 3, 2005

TO: Everett Millais, Executive Officer, Local Agency Formation Commission

FROM: Leroy Smith, Chief Assistant County Counsel

RE: TRIUNFO COUNTY SANITATION DISTRICT GOVERNANCE

You have asked several questions about the structure of the governing board of the Triunfo County Sanitation District ("Triunfo") and the Local Agency Formation Commission's role, if any, in determining Triunfo's governance structure. Currently, Triunfo is governed by a board of directors consisting of a member of the Ventura County Board of Supervisors, a member of the City Council for the City of Thousand Oaks, a member of the Ventura Regional Sanitation District ("VRSD") Board of Directors, and two members who reside within Triunfo's boundaries and who are elected by the registered voters of the district for four-year terms.

**ISSUES**

Your specific questions are:

1. What actions are necessary to change the current governance structure of Triunfo?
2. What role might the Ventura County Local Agency Formation Commission ("LAFCO") have in effectuating a change in the governance structure of Triunfo?

**CONCLUSIONS**

1. Triunfo's governing board may change the composition of the board to any one of several models set forth in Health and Safety Code section 4730 or 4730.1. Procedurally, to change the structure of the governing board, the Triunfo board of directors must pass a resolution of intention so providing and hold a public hearing pursuant to Health and Safety Code section 4730.2.

2. LAFCO has no authority to directly change the governance structure of Triunfo. While it is conceivable that Triunfo's governing structure might be a proper subject for LAFCO's consideration and comment if and when a proceeding involving Triunfo comes before LAFCO, no authority exists for LAFCO to initiate a change to Triunfo's governing structure.

## **BACKGROUND**

We are informed that Triunfo was created by the Ventura County Board of Supervisors in 1963 under the County Sanitation District Act ("Act"). (Health & Saf. Code, § 4700 et seq.)<sup>1/</sup> We are further informed that Triunfo includes territory within the City of Thousand Oaks, the VRSD, and the unincorporated area of the County.

Unless a county sanitation district takes the steps necessary to structure its governing body according to certain optional authority set forth in the Act, the structure of its governing board is dictated by section 4730. This section thus operates as a sort of default organizational mechanism. If that section applied to Triunfo, its governing board would be a three-member body consisting of the presiding officers of the County of Ventura, the City of Thousand Oaks and the VRSD.

Section 4730.1, however, permits several other possible governance structures. Although we have not researched the historic files, we assume that Triunfo has elected to establish its governing body under section 4730.1 because the current makeup of the board is inconsistent with the default provisions of section 4730. Under section 4730.1, a county sanitation district may adopt one of several alternative governance structures by passing "a resolution of intention to establish a governing body in accordance with section 4730.1." (§ 4730.2.) Depending on the boundaries of the county sanitation district and its relationship to cities and sanitary districts, the governance options range from having the

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<sup>1/</sup> All further section references are to the Health and Safety Code unless otherwise indicated.

county board of supervisors act as the governing body to the establishment of a board of directors comprised solely of residents of the district elected by registered voters in the district. (§ 4730.1, subds. (a)(1) & (b)(1).)

Our office previously opined that the current structure of Triunfo's governing board is legal under section 4730.1, although we also concluded that the statute is ambiguous and that it could be argued that section 4730.1 does not allow more than one elected resident to sit on a board with members of a board of supervisors, city council and sanitary district. (See attached memorandum dated April 1, 1987.) We are not aware of any authority or statutory amendments that would cause us to change our opinion, however, a detailed examination of this issue is beyond the scope of this memorandum.

## ANALYSIS

### A. Actions Necessary to Change Governance Structure of County Sanitation District

As mentioned above, section 4730 establishes a sort of default organizational structure that becomes operative immediately upon formation of a district. Further, section 4731 provides that when a change occurs in such things as the territory of the district or the incorporation of a city within the district's territory, a corresponding change in the membership of the governing board becomes effective immediately.

The first sentence of section 4730.2, however, provides that "A sanitation district heretofore or hereafter established may elect to be governed by a board of directors constituted as set forth in Section 4730.1 by complying with the provisions of this section."<sup>1/</sup>

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<sup>2/</sup> As set forth fully below, compliance with the provisions of section 4370.2 requires the publication of notice and the holding of a public hearing.

Section 4730.2 made perfect sense in 1961 when it was enacted, because at that time section 4730.1 only set forth one model for board structure, the precise application of which varied with the boundaries of the affected districts and their relationship to cities and other districts. But now that section 4730.1 has been amended to authorize county sanitation districts to choose among two or more organizational models, it is unclear what it means to “elect to be governed by a board of directors constituted as set forth in [s]ection 4370.1 . . . .” (§ 4730.2.)

Having carefully considered the context and purpose of the Act, we believe that the most reasonable interpretation of sections 4730.1 and 4730.2 is that they permit a county sanitation district to change from one organizational model set forth in section 4370.1 to a different organizational model set forth in section 4370.1, so long as the district complies with the procedural requirements of section 4370.2.

Section 4370.2 provides in full as follows:

“A sanitation district heretofore or hereafter established may elect to be governed by a board of directors constituted as set forth in Section 4730.1 by complying with the provisions of this section.

“The **board of directors of the district** may adopt a resolution of intention to establish a governing body in accordance with Section 4730.1. The resolution shall contain:

“1. A statement of intention to establish a board of directors composed of representatives as set forth in Section 4730.1 of the Health and Safety Code.

“2. The time and place where objections to the proposal will be heard.

“The time fixed for hearing said objections shall be not less than 30 days after the adoption of the resolution. The resolution of intention shall be published at length twice in at least one newspaper of general circulation in the district. At

the time provided in the resolution of intention for the hearing, or at any time to which the hearing is continued, the district board shall hear any objections to the proposal. At the conclusion of the hearing, the board of directors may order that the governing body of the district be constituted as set forth in Section 4730.1. A copy of said order shall be furnished to the board of supervisors and to the governing body of each city, sanitation district and public district to be represented on the new board of directors.” (Emphasis added.)

As the section itself makes clear, it is a district’s board of directors that determines whether to create a new form of governing body, and initiates that process by adopting a resolution. We are aware of no requirement that any other person or entity approve the changes to the structure of a county sanitation district’s governing board under the Act. Thus, Triunfo may change the structure of its governing board without the consent of the County, the City of Thousand Oaks, VRSD, or any other entity.

**B. LAFCO’s Role in Effectuating Change in Structure of Triunfo’s Governing Board**

LAFCO has the power to initiate proposals for (1) consolidation of districts; (2) dissolution; (3) merger; or (4) establishment of a subsidiary district, or a reorganization that includes any of the above (Gov. Code, § 56375, subd. (a)), but LAFCO does not have the authority to directly initiate a proceeding for a change in the governance structure of a district.

LAFCO may indirectly influence the governance structure of districts. For example, where there is a proceeding for a consolidation, or a reorganization providing for a consolidation or formation of a new district, and the principal act provides for alternative methods of governance, LAFCO may condition its approval on “[t]he designation of (1) the method for the selection of members of the legislative body of a district or (2) the number of those members, or (3) both, . . .” (Gov. Code, § 56886, ¶ (n).)

In other contexts, LAFCO may properly consider the governance structure of

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districts and comment thereon. For example, when conducting municipal service reviews, LAFCO is required to make written determinations concerning “Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.” (Gov. Code, § 56430, subd. (a)(7).) The power wielded in such situations, however, is the power of persuasion, and not the power to initiate or compel changes in governance structure.

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I hope that the foregoing analysis has fully answered your questions. If you wish to discuss the matter further, please feel free to call me at 654-2697.

LS:csb

Attachment

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**MEMORANDUM**  
COUNTY OF VENTURA  
COUNTY COUNSEL'S OFFICE

April 1, 1987

TO: Arthur E. Goulet, Director  
Public Works Agency

FROM: William A. Waters, Assistant County Counsel *WAW*

RE: TRIUNFO COUNTY SANITATION DISTRICT -  
BOARD MEMBERSHIP

In your March 24, 1987, memorandum, you questioned the propriety of the two elected resident members sitting on the board of the Triunfo County Sanitation District, in light of the January 1, 1987, change to Health and Safety Code section 4730.1. The current board membership consists of the two elected resident members, together with one representative each of the City of Thousand Oaks, the Ventura Regional County Sanitation District and the County of Ventura. While the matter is not free from doubt, in my judgment, the current board membership is probably proper.

Health and Safety Code section 4730.1 attached hereto, previously read in part as follows:

"[If the designated board members] constitute an even number . . . in the alternate as determined by the board of directors, a resident of the district elected by the registered voters of the district for a four-year term, shall be a member of the board of directors of the district. In any event, so long as the board of directors is composed of an odd number of directors, residents of the district, elected by the registered voters of the district for four-year terms, may be members of the board of directors, in a number as determined by the board of directors."

Health and Safety Code section 4730.1, attached hereto, currently incorporates (in subd. (a)(2)) the first sentence but deletes the second sentence quoted above.

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Nevertheless, it does provide (in subd. (b)(1)) as follows:

"The board of directors may be composed of directors who are residents of the district elected by the registered voters of the district for four-year terms."

An argument can thus be made in the situation now existing on the board of the Triunfo County Sanitation District. The argument is that if all of the board members can be elected residents, two of the five members can be elected residents, as long as the overall board membership is "composed of an odd number of not less than three members" pursuant to current section 4730.1, subdivision (d).

Significantly, the statutory language enacting this change is provided in Statutes 1986, chapter 982, section 35, page 73:

"[T]he revision of Section 4730.1 of the Health and Safety Code by Section 25 of this Act is for purposes of clarity only and makes no substantive change in the law." (Emphasis added.)

While the current version is not precisely the same as the previous one, it was intended to make "no substantive change in the law."

In conclusion, in light of the stated purpose of the current version, I cannot conclude that the current membership of the board is not authorized by section 4730.1; nor can I conclude that the county auditor-controller should cease making payments to the elected resident board members or payments caused by action of the board.

If you wish to discuss this matter, please feel free to contact me at extension 2583.

WAW:mb  
Attachments

cc: Norman R. Hawkes, Auditor-Controller  
Robert L. Braitman, Executive Officer  
Local Agency Formation Commission