



LOCAL AGENCY FORMATION COMMISSION

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July 8, 2015

To: LAFCo Commissioners
From: Martha Poyatos, Executive Officer
Subject: Municipal Service Review and Sphere of Influence Update for the San Mateo County Harbor District

Summary

Attached please find the municipal service review and sphere of influence update (MSR/SOI Update) for the San Mateo County Harbor District. This is the second municipal service review for the District.¹ LAFCo is required by State law to complete municipal service and sphere of influence reviews for all cities and special districts in the County by taking the following actions: prepare a municipal service review and sphere of influence review report, adopt municipal service review determinations pursuant to Government Code Section 56430; adopt sphere of influence determinations pursuant to Government Code Section 56425; and reaffirm or amend the sphere of influence. Accompanying this cover memo are the MSR/SOI Update, comments from affected agencies and individuals, and a table of LAFCo responses to Harbor District comments on data and recommended determinations. Staff recommends receiving the report, opening the public hearing and receiving comments, adopting recommended determinations with any desired amendments, and reaffirming the District's zero sphere of influence indicating the District should be dissolved and services could be assumed by the County of San Mateo and the City of South San Francisco.

Background

The following report summarizes the attached Draft Municipal Service Review and Sphere of Influence Report, responds to comments, and summarizes recommended action. Key Issues include:

1. The District's countywide boundaries were established in 1933 and since that time many other public and private entities have established and operate recreational and commercial marine facilities and water rescue.

¹ The requirement for municipal service reviews in conjunction with sphere reviews became law in 2000. Prior to that time, LAFCos were only required to adopt and periodically update spheres of influence. The zero sphere of influence for the Harbor District was first adopted in 1977 and has been periodically reviewed and reaffirmed. Zero sphere of influence indicates that the District should be dissolved with the County as successor agency to services, facilities, revenues, assets, and liabilities.

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2. Proposition 13, enacted in 1978, resulted in the District receiving, and becoming reliant upon, a share of countywide property tax that is used to fund enterprise and non-enterprise services at Pillar Point Harbor and Oyster Point Marina/Park.
3. The Harbor District's elected Harbor Commission and administration duplicate governance and administrative functions of the County.
4. The MSR/SOI Report documents significant infrastructure and facility improvement needs as a result of wear and tear from heavy use and a harsh marine environment, and deferred maintenance and capital projects.
5. The District lacks an established capital improvement plan and accounting system, including a five-year Capital Improvement Program and acknowledges in comments to the MSR/SOI report the need to establish a CIP that is reflected in the budget.
6. The District lacks a cost accounting system to track cost for enterprise versus non-enterprise.
7. In the course of the MSR/SOI update and since the Civil Grand Jury report, the District has begun to implement many of the Grand Jury and LAFCo recommendations and should continue to do so regardless of the LAFCo sphere designation.

Agency Comments and LAFCo Responses

The San Mateo County Harbor District comments dated June 26, 2015 include introductory remarks, specific comments contained in a table labeled Exhibit A, general responses regarding efficiencies and cost savings; reliance on property tax; the district in transition; governance; and a section regarding an unanswered question about dissolution, including disposition of property tax, State law issues and the California Environmental Quality Act (CEQA), and a conclusion. The following narrative responds to the general comments contained in the June 26 letter. LAFCo comments to the Harbor District's exhibit have been added to Exhibit A (attached).

Harbor District Comment

Introductory Remarks Section: The Draft Report over-emphasizes governance issues governance issues at the expense of the other statutorily required factors that must be the basis for any sphere of influence finding under the CKH Act, which establishes the LAFCo process....The District understands that the Civil Grand Jury Report cannot be ignored.

LAFCo Response

Regardless of the Grand Jury report, discussion of governance issues is unavoidable due to events and issues that arose leading up to and during preparation of the MSR/SOI update, including the process of data-gathering and observations at Harbor District Board and finance committee meetings. It is well documented in the record of the Harbor District Board and finance meetings that governance issues affecting management efficiencies were highly usual, significant, and negatively impaired the District's day-to-day operation and ability to retain and

recruit interim and permanent management staff. They are therefore material to an MSR, specifically management efficiencies, governance, and accountability. Moreover, Government Code §56430(a)(6) requires that the review address governance issues.

Harbor District Comment

However it also believes that an MSR should not examine issues outside those contemplated by the Act.” In its emphasis of governance issues, and in its lengthy discussion of dissolution options the Draft Report excessively focuses on political concerns that are not relevant to the CKH Act’s standards for an MSR. “Even though there is no pending dissolution application, we cannot ignore the call for dissolution presented in the Draft Report. In Part III below, therefore, we emphasize a number of unknown but critically important legal issues we think require further study.” (Page 1, 3rd Paragraph)

LAFCo Response

Section 56430 does not prohibit the LAFCo from examining “issues outside those contemplated by the CKH Act,” nor does it state that content of the MSR is limited to Determinations 1-7. Nonetheless, Determination 6 below specifically speaks to governance issues and operational efficiencies.

Section 56430 calls for the following:

56430 (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Growth and population projections for the affected area.
- (2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
- (3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
- (4) Financial ability of agencies to provide services.
- (5) Status of, and opportunities for, shared facilities.

(6) Accountability for community service needs, including governmental structure and operational efficiencies.

(7) Any other matter related to effective or efficient service delivery, as required by commission policy.

II. Harbor District General Response

1. Efficiencies and Cost Savings:

The Harbor District states that the report “asks many questions about whether the County can actually accomplish the District’s functions more efficiently. In essence, the ultimate question of whether the County can provide the services of the District more efficiently is not certain. The District cites additional legal costs associated with the transition and the fact that the County would need to assign County Counsel or outside counsel to provide legal service currently provided to the District. The Harbor District cites the County’s lack of experience with liveboard facilities, commercial fishing and water rescue. The Harbor District references the County Operated Coyote Point Marina Budget. The Harbor District cites Section 56000 which requires that “responsibility should be given to the agency or agencies that can best provide government services” and states that the report cannot point to any identifiable cost savings to be incurred by the District’s dissolution.

LAFCo Response

The report does not ask questions about whether the County can actually accomplish the District’s functions more efficiently. The report acknowledges that actual savings in a dissolution would be determined by analysis by the County as successor and in collaboration with the City of South San Francisco, owner of the Oyster Point Marina. The report identifies the District’s practice of balancing the budget by deferring maintenance and capital improvements. Therefore, any analysis of efficiencies and savings would need to take into account that the Harbor District’s budget is artificially deflated due to deferred maintenance and capital improvements. In regard to expertise, the report indicates that dissolution with the County as successor assumes that Harbor District employees with expertise in marine facilities that include commercial fishing, liveboards, and water rescue operations would become employees of the successor agency. The report does not contemplate a dissolution in which the County would propose elimination of service or a lower level of service than that provided by the Harbor District.

In regard to legal fees, they are a function of the hourly rate charged by legal counsel, the amount of time legal counsel spends responding to inquiries of the board, staff, and the public, including public records requests as well as potential and existing litigation. The District itself has expressed concerns about rising legal costs. County counsel rates are significantly lower than private law firms. The report acknowledges the several one-time costs associated with a governmental reorganization including legal fees.

The Harbor District misrepresents the Coyote Point Marina budget and misstates sources of revenues. The following Coyote Point budget information is provided by the County Parks Department. The Coyote Point Marina is an Enterprise Fund and, as such, is self-contained and has no influx of General Fund or sales tax revenues (Measure A).

In Fiscal Year 2013-14, the Coyote Point Marina budget was as follows:

Use of Money and Property	26,121.02
Intergovernmental Revenues	1,359,892.59
Charges for Services	951,417.84
Miscellaneous Revenue	8,265.93
Other Financing Sources	
Total Revenue	2,345,697.38
Fund Balance	<u>869,645.79</u>
TOTAL SOURCES	3,215,343.17
Salaries and Benefits	288,307.93
Services and Supplies	137,328.11
Other Charges	364,616.12
Fixed Assets	262,379.18
Other Financing Uses	1,694,838.32
Gross Appropriations	2,747,469.66
Intrafund Transfers	
Net Appropriations	2,747,469.66
Contingencies/Dept Reserves	
Non-General Fund Reserves	<u>467,873.51</u>
TOTAL REQUIREMENTS	3,215,343.17
NET COUNTY COST	0.00

In regard to elections costs, the report cites savings by eliminating harbor commission costs and potentially reducing other administrative costs. The report will be amended to reflect that the District's election costs, if dissolved, would be redistributed to remaining agencies. However, the argument that Harbor and Marina operations would not experience a savings due to elimination of elections costs is flawed. Currently a countywide harbor district with at-large elected commissioners funded with property tax and user fees is in essence subsidizing the San Mateo County Elections Department because a separate governing body requires a separate election.

In regard to the District's assertion that there is no convincing evidence that another agency, particularly the County, would provide the District's critical services more effectively or efficiently than the District, discussion of "effective" and "efficient" would be clarified in an application and plan for service. Nonetheless it is reasonable to consider duplicated governance and administration of a single purpose agency and economies of scale that could be achieved by larger organization such as the County or a city. In particular, the County and City have administrative capacity including, but not limited to, administration, human resources, finance and accounting, asset management, and grant administration. One cannot deduce that one

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operator is more effective in operating their marina than another simply by comparing berth revenues. There are a number of other factors that would need to be considered in order to arrive at such an opinion, such as size of each berth, fees being charged, location, and how the operator is managing these funds to operate a marina.

Harbor District Response - Reliance on Property Tax

The District indicates that the report's discussion of property tax revenue as it relates to enterprise activities represents a fundamental misunderstanding of the District in particular and of local government finance in general. The District cites the fact that most enterprise districts in California receive a share of the 1 percent property tax.

LAFCo Comment

The Harbor District mischaracterizes the intent of Proposition 13, inappropriately compares the Harbor District to other districts that receive property tax and discounts the absence of nexus between the District's share of countywide property tax with the District's service responsibility that is not countywide. Since implementation of Proposition 13, San Mateo Harbor District, like most other enterprise and non-enterprise districts in the State, has received a share of the 1 percent property tax in addition to enterprise revenues from user fees. This was an unintended consequence of Proposition 13. As illustrated in the District's budget, approximately half of the revenue received by the District is property tax revenue. The District incorrectly compares their case with that of small enterprise districts. While the fact that enterprise districts receive property tax is an unintended consequence, in the case of a small water or sewer district receiving property tax only from within that district's boundaries, there is at least geographic nexus between the property tax received and the service provided. In contrast, the Harbor District uses countywide property tax to fund services at two distinct facilities that are of partial benefit to all taxpayers.

The District's position also suggests that it is appropriate to subsidize enterprise services such as liveaboard berth fees, water, and sewer service with property tax. Proposition 13, enacted in 1978, set the total tax that could be levied on real property at 1 percent of the assessed value. As a result, the share of the countywide 1 percent property tax received by any city, district or school district was based on each agency's proportion to all taxes levied in the County prior to Proposition 13. In essence, Proposition 13 changed special district funding in that enterprise districts lost the ability to raise revenue through property tax. The intent was that enterprise districts would recover the cost of service through user charges and fees other than the limited property tax. Government Code Section 16270 states: *The Legislature finds and declares that many special districts have the ability to raise revenue through user charges and fees and that their ability to raise revenue directly from the property tax for district operations has been eliminated by Article XIII A of the California Constitution. It is the intent of the Legislature that such districts rely on user fees and charges for raising revenue due to the lack of the availability of property tax revenues after the 1978-79 fiscal year. Such districts are encouraged to begin the transition to user fees and charges during the 1978-79 fiscal year.*

The MSR/SOI report also makes a recommendation that the Harbor District convert to a cost accounting system that identifies the cost of enterprise versus non-enterprise activities to be able to assess what the reliance on property tax should be. Additionally the report suggests that some non-enterprise services such as trail maintenance could be transferred to the County Parks Department.

Harbor District Response - The District is in Transition and Governance

The District states that the MSR fails to take into account that the District is implementing many of the recommendations in the Draft report and is in the process of recruiting a General Manager after the retirement of a General Manager after over 15 years of tenure and the report does not taking into account the importance of this change of leadership. The District emphasizes the enormous importance this is to a District with a small staff. The District asserts that Sections 56430 and 56425 are the exclusive list of items LAFCo may include in an MSR/SOI report and that the report inappropriately includes a section on dissolution process.

LAFCo Comment

Transition

The MSR/SOI report acknowledges that the District is in transition and makes recommendations to be implemented by the District regardless of the District's sphere including, but not limited to, governance issues that have demonstrably impaired the ability of the District to recruit a permanent General Manager. LAFCo acknowledges that the District has begun to implement Grand Jury recommendations and LAFCo recommendations and that the District has made progress in this regard. While it is clearly important to have strong management leadership, the municipal service review and sphere update are not based on the individuals in leadership or governance roles at a special district.

Governance

Sections 56430 and 56425 govern the municipal service reviews and sphere of influence reviews and updates and do not restrict LAFCo consideration in the manner suggested by the Harbor District. Section 56430 includes the language: "...and shall prepare a written statement of its determinations with respect to each of the following..." There is no language that state the MSR shall only discuss these areas of determination. Sections 2 through 4 of the report speak to the areas of determination in Section 56430 and Section 5 makes recommended determinations in these areas regarding to the Harbor District. Section 56430 does not prohibit LAFCo from examining "issues outside those contemplated by the CKH Act." Nonetheless, Determination 6 identified on Page 1 above speaks to governance issues that would include discussion of dissolution and the dissolution process.

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Harbor District Response - Dissolution - Unanswered Questions

The District notes that dissolution of special district is rare and there are numerous unprecedented and complex legal issues that will be costly and will require further analysis before assuming dissolution is in the best interest of County taxpayers.

LAFCo Comment

LAFCo agrees that dissolutions are rare. However, as cited in the report there is guidance contained in the CKH Act, Revenue and Tax Code, and by example of past dissolutions that provide guidance in the procedures and process of dissolution with a long-term successor. A municipal service review and sphere of influence update are not intended to serve as detailed fiscal analysis of dissolution. The report identifies transition issues that would be researched and resolved prior to an agency submitting a dissolution application to LAFCo. LAFCo recognizes that the District is unlikely to support the potential for the Board of Supervisors to succeed the Harbor Commission as the governing body of a harbor district sharing the same constituency and property tax base, and therefore the discussion between LAFCo and the District on this topic is contentious. Nonetheless, the report sets forth potential benefits including eliminating duplicated governance and administration and aligning funding of property tax to non-enterprise activities. It is reasonable that a larger organization such as the County or a city would achieve cost efficiencies and effectiveness in areas including, but not limited to, administration, human resources, finance and accounting, asset management, and grant administration.

Harbor District Response - Property Taxes

The District asserts that the report incorrectly cites application of revenue and tax code as it relates to dissolution of a district with a long-term successor.

LAFCo Comment

The District mischaracterizes the distribution of property tax in a district reorganization. Revenue and Tax Code calls for the County to negotiate on behalf of special districts subject to organizational change. For the benefit of continuing harbor and marina operations that currently rely on property tax, a dissolution with the County as successor would be dependent upon the County receiving the same share of property tax to fund services until such time that savings are achieved and rates are adjusted to reduce reliance on property tax. Because other districts and the cities are not subject to the organizational change, they are not party to the property tax negotiation.

Revenue and Tax Code Section 99(b)(5) reads: *“In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues. Prior to entering into negotiation on behalf of a district for the exchange of property tax revenue, the board shall*

consult with the affected district. The consultation shall include, at minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.”

In the case of a district dissolution, the County would negotiate on behalf of the Harbor District and because there is no change in the service responsibility of any city or other special district, other agencies would not be party to the negotiation. If following dissolution, the County and the City of South San Francisco initiate a subsequent organizational change pertaining to Oyster Point Marina, that proposal would be subject to a property tax exchange between the County and the City.

Harbor District Response - Labor Issues

The District cites the in progress bargaining negotiations with two unions and how the outcome of negotiations is unknown and will be important to understand. The District also cites the CalPERS obligations cited in the report.

LAFCo Comment

LAFCo agrees that the outcome of labor negotiations and the requirement to satisfy CalPERS obligations prior to dissolution would need to be assessed by the County prior to initiating a dissolution application. The requirement to satisfy the CalPERS obligations prior to dissolution would be a one-time cost associated with the transition that would need to be considered in the long term and underscores the importance of considering the long-range versus short-term benefits of governance alternatives.

Harbor District Response - State Law Issues

The District cites the District’s State tidelands grant that allowed it to establish Pillar Point Harbor (Chapter 68, Statutes of 1960), which states: “That said lands shall be used by said district...for the establishment, improvement and conduct of a harbor...and for the construction, maintenance and operation thereon structures and facilities for public recreational purposes...” (emphasis added) and questions whether the Cortese-Knox-Hertzberg Act under which LAFCo operates would provide authority under the tidelands grant if the district does not exist. The District also cites the Department of Boating and Waterways (DBW) loans discussed in the report and provisions of Harbors and Navigation Code that attach statutory requirements to recipients of loans and the extent to which DBW must approve assignment of a District asset to a successor agency, or indeed if DBW approval is required as a condition of dissolution.

LAFCo Comment

Government Code Sections 56885 and 56886 (conditions) and 57450 (effect of dissolution) speak to the ability of LAFCo to set conditions, including establishing a long-term successor for continuation of service that would succeed to all rights, assets, debts, and other obligations of

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the dissolved district including, but not limited to, land ownership. Section 57450 contains the following language: “The general provisions of this chapter shall not be construed as limiting in any manner the authority of the commission to impose one or more of the terms and conditions set forth in Section 56886.”

While concurrence or approval may be required of State agencies in regard to the County becoming successor to DBW debt or a State tideland grant, the County of San Mateo has an existing loan with DBW, an AAA bond rating from Moody’s and S&P, and has in the past been granted State tideland grants.

Harbor District Response - CEQA

The District questions whether the alternative of terminating the joint powers agreement (JPA) for Oyster Point Marina with City of South San Francisco or detaching would be exempt from the California Environmental Quality Act (CEQA).

LAFCo Response

The District’s comment is noted, however, because the District’s boundaries are currently countywide and the district operates two distinct facilities, the CEQA exemption that applies to a change where the change does not change the geographic area in which previously existing powers are exercised covers all possible scenarios. This exemption would not apply if there were an expansion of service area, but in any case involving the Harbor District, a change in operator does not change the geographic area in which service is provided.

Harbor District Conclusion- Moving Forward

The District emphasizes the purpose of the MSR as a planning tool and not a retrospective of past mistakes and notes the District’s commitment to implementing improvements and providing essential services to County residents, commercial fishermen, and the thousands of visitors that visit District facilities or that indirectly benefit from District services when they order local seafood.

LAFCo Response

LAFCo acknowledges that MSRs are often perceived as critical documents but disagrees that the MSR constitutes a retrospective document of past mistakes. The report documents deficiencies and makes recommendations for improvements and best practices. LAFCo appreciates the District’s genuine engagement in the municipal service review process and the willingness of the Harbor Commission and staff to provide information crucial to preparation of the report.

City of South San Francisco Comments

The City of South San Francisco concurs with MSR recommendations regarding a five-year Capital Improvement Plan, best practices for budgeting, consideration of outsourcing including property leasing functions, opportunities for shared facilities/services, and implementing an accounting and budgeting process that separates enterprise functions that should be self-

supporting versus those functions that are for the benefit of the general public (trails, open space access, etc.). The City expresses concern that capital improvement expenditures are less than the amount needed to meet priorities and that underfunding capital improvements has significant long-term impacts on the viability of facilities. The City believes that a more focused investment in public amenities at Oyster Point Marina (OPM) would result in higher use by the public. The City notes that a successful lease and rent/concession enterprise at OPM is a priority for the City and that more attention can be placed on actively pursuing revenue opportunities at OPM, including finding a tenant for the bait shop. The City concurs with the suggestion of outsourcing commercial real estate management. The City believes there are more recreational opportunities for the general public at OPM such as trail usage, picnicking, shoreline access, and partnering with the City of South Francisco Parks and Recreation Department. The City defers comment on dissolution until or unless a recommendation is adopted by LAFCo.

County of San Mateo Comments

The County of San Mateo's letter concurs with recommendations in Section 5 of the report and expresses concern about lack of linkage between capital improvements in the District's strategic plan and the capital projects funded in the budget. The County supports engaging an outside public accounting firm to review District Operations and capital budgets and supports separation of enterprise and non-enterprise functions. The County indicates that if the Commission recommends dissolution and the County determines it will follow up on the Grand Jury recommendation that the County initiate dissolution of the District, the County would undertake a comprehensive analysis of all aspects of the district including, but not limited to, deferred maintenance, debt, CalPERS liability, finances, operations, staffing structure, and the Oyster Point Marina Joint Powers Agreement with the City of South San Francisco. The County would include input from the City of South San Francisco and analysis would be discussed at a public meeting prior to the Board of Supervisors considering action to initiate dissolution of the District.

Comments From Other Agencies and Organizations

Coastside Fire Protection District

Assistant Chief Paul Cole expresses the fire district's support for Harbor District's emergency services, including assistance the fire district receives from the Harbor District in rescue operations. The letter indicates the fire district's hope that the outcome of the MSR will continue to support the emergency service capabilities for Pillar Point Harbor.

North American Marine Environment Protection Association (NAMEPA)

NAMEPA Education and Outreach Manager Elise Avallon expresses the NAMEPA support for the Harbor District and describes the organization's working relationship with the Harbor District.

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Half Moon Bay Coastside Chamber of Commerce

The Chamber expresses support for the Harbor District and the Harbor's importance to the economic base of the Coastside.

San Francisco Bay Conservation and Development Commission (BCDC)

BCDC has permitting jurisdiction for all tidal areas of San Francisco Bay as described in their letter. BCDC notes that the Harbor District administers the Oyster Point Marina, which is in BCDC's jurisdiction and subject to several permits. The letter describes BCDC policies that apply to Oyster Point Marina. The letter cites the San Francisco Bay Plan Maps that designate Oyster Point Marina and the adjacent shoreline as "Waterfront Park, Beach" priority use area "Oyster Point Marina Park," and describes other applicable BCDC policies that apply to the marina.

Comments from Residents

Letters or emails received from the following individuals are attached to this report:

- Anthony Basso
- Chris Dunham
- Chris Johnson
- Shawn Mooney
- Robert Riechel
- John Ullom

Recommended Municipal Service Review Determinations

The attached Public Hearing Draft Municipal Service Review for the Harbor District includes applicable corrections and responses to comments on the circulation draft that was widely distributed. In addition, Exhibit A to the Harbor District's comment letter containing specific Harbor District comments and requested corrections, which now includes LAFCo responses and is attached to this staff report, is recommended to be included as an addendum to the Municipal Service Review document. The MSR is based on budgets, audits, and other documents provided by the District; observation of Harbor Commission meetings; and comments from the District, affected agencies, and interested organizations and individuals. The recommended determinations in the MSR are based on data in the report and generally accepted best practices in budgeting, governance, and administration.

1) Growth and population projections for the affected area

As further described in Chapter 2 of the Municipal Service Review, the County's population is forecasted to increase by about 26 percent between 2010 and 2040; this is a slightly greater rate than the growth projected in the 2006 MSR; however, actual growth will depend on future economic conditions, land use policies, and other factors. Although these trends indicate

continued growth in demand, utilization of SMCHD facilities is much more significantly influenced by weather conditions, successful fishing seasons, and outdoor recreation trends.

2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence

In 2006, LAFCO reaffirmed the zero SOI adopted for the SMCHD originally adopted in 1977. Within the current boundaries of the SMCHD, which correspond to San Mateo County boundaries, multiple disadvantaged unincorporated communities (DUCs) exist. However, the intent of evaluating DUCs is to assure that those communities are provided adequate services and infrastructure comparable to other communities within or contiguous to an agency's SOI. This provision is not applicable to the SMCHD, which operates and maintains a harbor and a marina, and provides related maritime services.

3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the SOI.

As detailed in **Chapter 2** of this MSR, the SMCHD has significant infrastructure and facility improvement needs as a result of the wear and tear of heavy use, a harsh marine environment, and deferred maintenance and capital projects. The Draft Strategic Business Plan prepared in 2014 for the SMCHD indicated a need over the next five years for \$17.3 million in repairs and capital improvements. Additional needs not assessed in the Plan include a need to demolish and remove the dilapidated Romeo Pier, and harbor dredging projects. The SMCHD CIP budget addresses several of the recommended items in addition to other needs; however, it defers major construction pending further design and review, and acquisition of adequate funding.

Recommendations

The SMCHD should establish a capital improvement planning and accounting system, including a five-year CIP, to better document and plan for the funding and implementation, as well as to facilitate prioritization, of capital improvements. The CIP should be explicitly linked to improvements currently recommended in the Draft Strategic Business Plan as well as the proposed budget.

4) Financial ability of agency to provide services

As described in Chapter 3 of the MSR, the SMCHD budget consistently exhibits a net operating shortfall due to operating revenues inadequate to cover operating costs. The operating shortfall (before debt service and before the use of property taxes) exceeds \$3.4 million in the projected budget, meaning that fees and charges are insufficient to cover about half of operating expenditures. In addition to the operating shortfalls, the SMCHD must fund approximately \$1.4 million of annual debt service, undertake ongoing maintenance, and construct needed capital improvements.

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In addition to fees and charges, the SMCHD receives over \$5 million annually from its share of countywide property taxes. These total revenues are sufficient to fully fund operations and \$710,000 of planned capital improvements; however, the repair and capital improvement needs are greater than the amount currently shown in the proposed budget.

The SMCHD's labor-related and other operating costs continue to increase, placing more pressure on budget resources. However, numerous actions recently undertaken and/or planned by the SMCHD offer the prospect for improved financial resources and the ability to fund improvements, including:

- Establishment in recent years of a "two-tier" benefit system that reduces the cost of benefits related to new employees.
- Current relocation of administrative offices to new space at a reduced lease cost.
- Streamlining procedures to reduce "bad debt" associated with non-paying berth tenants implemented by the Finance Director.
- Review of fees and charges to assure reasonable and competitive rates for appropriate mix of slip sizes.
- Consideration of charges for services currently provided at no cost, e.g., pump-out services and charges for large parties using picnic areas.
- Contingent on staff capacity, renew efforts to seek grant funding for facilities and improvements, including possible grants related to equipment needs for SMCHD Search and Rescue.
- The recent sale of surplus property, consistent with Civil Grand Jury recommendations, increased SMCHD reserves.
- Over time, Termination Benefit liabilities and payouts will diminish and eventually end.
- Possible retention of a commercial real estate management firm to help maximize lease revenues.
- Refinancing and/or eventual payoff of existing DBAW debt will make additional resources available for capital funding.

Due in part to recent turnover of staff with extra work falling to remaining staff and lack of consensus on the Board, many of the initiatives noted above were not pursued. Conflicts within the Board, and between staff and the Board, as noted by the Civil Grand Jury further exacerbated the difficulty of achieving SMCHD objectives and increased SMCHD costs (e.g., for legal services).

The SMCHD has undertaken steps to reduce Board conflict and establish "Chain of Command" protocols. An Interim General Manager was hired recently and the current General Manager recruitment and hiring offers an opportunity to solidify leadership, organization, and direction assuming it is supported by a majority of the Harbor Commission. In the near term,

improvements in property tax revenues and lease revenues will help to fund staff efforts towards the initiatives noted above, assuming strong management direction. Improvements in accounting and financial policies can strengthen capital improvement planning and programming, and provide for appropriate reserve policies that enable limited use of reserves for capital while maintaining adequate reserve levels.

Recommendations

1. The SMCHD should engage a public accounting firm to review its budget accounts for both operations and capital improvements, and establish a financial accounting system consistent with best practices for California public agencies. The review should include a system to allocate costs and revenues according to enterprise versus other public purposes for each of their facilities and provide immediate access to current lease and tenant information.
2. The SMCHD should assess its personnel needs in order to fill vacated positions as necessary to pursue the initiatives noted above, including seeking grants.
3. The SMCHD should consider administrative functions that can and should be more cost-effectively outsourced, including IT functions and property leasing. This outsourcing should consider collaboration with other public agencies as well as private contractors.

5) Status of, and opportunities for, shared facilities

Limited opportunities for shared facilities have been identified in the course of this MSR process. Recently the District has leased office space from the Granada Community Services District and contracted with Regional Government Services to recruit an interim general manager. Various opportunities may exist by which the SMCHD may take advantage of shared services, e.g., possible IT contracting with or through other public agencies is being explored. Responsibility for certain facilities could be shifted to other agencies, e.g., the West Trail and Surfers Beach dredging, as recommended by the Civil Grand Jury and noted in the following determination.

6) Accountability for community service needs, including governmental structure and operational efficiencies

The Civil Grand Jury described indications of “a systemic flaw in the ability of District commissioners to govern effectively.”

The SMCHD has taken a number of steps towards addressing issues negatively affecting governance and operational efficiencies, including workshops to facilitate collegiality and working relationships, consideration of “norms” of commissioner behavior, improvements in public posting of materials on their website, and multiple workshops on topics such as the budget. A strategic business plan is being prepared; however, it has been delayed and concerns exist about its scope and effectiveness in addressing SMCHD financial issues. As described in this MSR, inappropriate interaction between Commissioners and staff continue to interfere with operational efficiencies.

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The Civil Grand Jury recommended dissolution of the SMCHD and transfer of responsibilities to other agencies, specifically the County of San Mateo. Chapter 4 of the MSR describes governance options with the most potentially viable option a scenario in which the County acts as successor agency, operates PPH, and enters into an agreement with the City of South San Francisco (SSF) to operate OPM. The agreement with SSF would include negotiated funding from the County's property taxes (from the dissolved SMCHD) and other revenues to be transferred to SSF to fund operations and capital improvements, and any other shared financial liabilities (e.g., remaining debt service, CalPERS liabilities, etc.).

The option described above may incur additional costs during the initial years of transition related to CalPERS and other liabilities but could provide for cost and service efficiencies over the longer term. This option would integrate the SMCHD operations into larger entities that have the capacity and expertise to provide a range of needed services, including information technology, purchasing and contracting services, human resources, and absorbing Harbor District employees with needed expertise.

Recommendations

The City of South San Francisco and the County of San Mateo should continue to confer and research issues and options affecting the feasibility of dissolving the SMCHD, transferring responsibilities to the County as successor agency, and transitioning to SSF operation of OPM via a JPA.

7) Any other matter related to effective or efficient service delivery, as required by commission policy.

A primary concern expressed by prior MSRs and by the Civil Grand Jury involved the use of countywide property tax revenues to help subsidize "enterprise" type operations, including berth rentals occupied by a majority of non-County residents. However, the current and prior MSR also documented the range of facilities, services, and benefits provided by SMCHD services and facilities such as Search and Rescue; environmental services; and public use and access to piers, parks, and waterfront open space.

While it is difficult to isolate cost estimates for these broader, non-fee-funded services, the SMCHD could create "cost centers" to document and track these expenditures to support appropriate levels of property tax use and allocation. In the near term, it is expected that property taxes will continue to be necessary to fund deferred maintenance and other necessary improvements. Over the longer term, there is a possibility that revenue enhancements and cost efficiencies from the initiatives described above and/or from reorganization could reduce the current reliance on property tax.

Recommendations

As also noted above under Recommendation 4.1, the SMCHD should establish an accounting system that can allocate costs and revenues according to enterprise versus other public purposes to better assess the need for property tax.

Recommended Sphere of Influence Determinations

LAFCo acknowledges that in the course of the MSR preparation, the District has begun to implement some of the recommendations in the MSR as well as those of the Grand Jury. Many of the comments received urge the Commission to allow the District more time to make improvements and stabilize with a new general manager before reaffirming the longstanding sphere of influence of dissolution. As noted in the response to the Harbor District, LAFCo spheres are not based on the individuals that serve on an elected board or serving as management staff. The Harbor District sphere is based on the duplication of governance and administration with the County of San Mateo, the absence of nexus of the District's countywide boundaries with the location of the two District facilities, one of which is leased, and the agencies best able to provide services in the long range. Pillar Point is located in unincorporated San Mateo County and Oyster Point is located in and owned by the City of South San Francisco. The County of San Mateo and City of South San Francisco have governance and organizational infrastructure to assume the services, and marine-related personnel.

(1) The present and planned land uses in the area, including agricultural and open space lands.

Land uses within District boundaries include a wide range of land use including residential, commercial, industrial, open space, agricultural, rural, and open space land use designations under the jurisdiction of the County of San Mateo, incorporated cities, the California Coastal Commission, the State of California through a tidelands grant, the San Francisco Bay Conservation and Development Commission, as well as other agencies that may have land use review authority.

(2) The present and probable future need for public services.

Services provided by the Harbor District within District boundaries are also provided at varying levels by other public and private entities. The Harbor District provides search-and-rescue security vessels stationed at Pillar Point and Oyster Point Marina and the County of San Mateo Sheriff's Department, other marina operators, and some fire agencies have search-and-rescue capability at other locations throughout the county. Need for these services is expected to continue.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

San Mateo County Harbor District operates two facilities, Pillar Point Harbor and Oyster Point Marina/Park. The MSR/SOI Report documents significant infrastructure and facility improvement needs as a result of wear and tear from heavy use and a harsh marine environment, and deferred maintenance and capital projects. Pillar Point has 95-100 percent berth occupancy rate. Work is in progress on the provision of new berths and the District has an executed agreement with the U.S. Army Corps of Engineers for provision of a new navigation channel in connection with pier replacement. Oyster Point has 60-65 percent occupancy rate and therefore has additional capacity. Both facilities include visitor-serving opportunities. Opportunities exist for the Harbor District to collaborate with the County of San Mateo and City

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of South San Francisco to maximize resources. Services also include search and rescue and the District's Pillar Point Harbor Patrol provides the only search-and-rescue security vessels stationed on the San Mateo County coast.

(4) The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

San Mateo County Harbor District's boundaries are coterminous with San Mateo County, while operations are limited to two locations: Oyster Point in South San Francisco and Pillar Point in Half Moon Bay. These represent distinct communities with common social and economic interest in commercial and recreational fishing and marine, boating, and visitor-serving facilities. While commercial fishing is an industry important to the County, Pillar Point Harbor serves as search and rescue to benefit the County's coast, and Oyster Point offers a venue for a commuter ferry, these issues speak to the value of providing these services whether they are provided by the Harbor District or a successor agency such as the County of San Mateo or the City of South San Francisco.

Inventory of Active Services

Government Code Section 56425 (i) and (j) requires that in conducting MSRs, LAFCoS prepare an inventory of all authorized powers under a district's enabling legislation and identify those powers that are active versus inactive. Government Code Section 56824.12 requires that before a District activates an inactive service or divests of an active service, it must first apply to LAFCo and obtain LAFCo approval. The SMCHD is providing the full set of services authorized by the enabling legislation, including recreational use of District facilities located at Pillar Point Harbor and Oyster Point Marina, under a Joint Powers Agreement with the City of South San Francisco as owner of the marina.

Recommended Sphere of Influence

Based on the forgoing, it is recommended that the Commission reaffirm the zero sphere of influence of the San Mateo County Harbor District indicating that the District should be dissolved and that the County of San Mateo be established as the long-term successor agency. Implementation of the sphere could be initiated by the County of San Mateo in partnership with the City of South San Francisco with the first step being a fiscal feasibility analysis.

Executive Officer's Recommendation

Staff submits that the attached municipal service review and the sphere of influence update provide a framework for the Harbor District, County of San Mateo, and City of South San Francisco to further study improvements in the areas of finance, accountability, and transparency as well as governance alternatives, including dissolution. The attached municipal service review, sphere of influence update, and recommended determinations comply with Government Code Sections 56430 and 56425 and are consistent with Government Code Section 56301 promoting efficient provision of government services and orderly formation of and

development of local agencies based on local conditions. It is therefore respectfully recommended that the Commission take the following actions:

1. Accept the report and public comment;
2. Adopt the municipal service and sphere of influence report;
3. Adopt the municipal service review and sphere of influence determinations and the statement of active services contained in this report; and
4. Reaffirm the zero sphere of influence of the San Mateo County Harbor District indicating that the District should be dissolved and the County of San Mateo should be the long-term successor agency and partner with the City of South San Francisco as owner of the Oyster Point Marina/Park.

The LAFCo MSR is not intended to be a fiscal analysis of dissolution and states that prior to initiating an application, analysis would include, but not be limited to, addressing financial issues such as deferred maintenance and capital improvements, debt, and CalPERS liability.

Respectfully submitted,



Martha M. Poyatos
Executive Officer

Attachments: Attachment A - Municipal Service Review and Sphere of Influence Update
Attachment B - Comments

The Economics of Land Use



Public Hearing Report

Municipal Service Review: San Mateo County Harbor District

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1. INTRODUCTION

This report provides a fiscal analysis, municipal service review (MSR) and sphere of influence (SOI) update for the San Mateo County Harbor District (SMCHD). This Public Hearing Report includes revisions to the Circulation Draft Report (5/29/15). The prior SMCHD MSR, prepared in 2006, encouraged the SMCHD to reduce its operating shortfalls, and to develop policies to constrain debt service. The accompanying 2006 SOI report reaffirmed the SMCHD's zero SOI indicating the District should be dissolved with the County as successor agency to facilities and revenues.

Subsequent to the 2006 MSR, the 2013-14 San Mateo Civil Grand Jury investigated the SMCHD and detailed its findings in the report entitled: "**What is the Price of Dysfunction? The San Mateo County Harbor District.**" Of the many recommendations, the Grand Jury recommended that LAFCo initiate a municipal service review and sphere update. This MSR reviews SMCHD progress addressing issues and recommendations of the Grand Jury, and evaluates other services and governance issues required by an MSR.

San Mateo LAFCo and Municipal Service Reviews

The San Mateo Local Agency Formation Commission (LAFCo)¹ is required to conduct periodic reviews of each city and special district in the County and adopt determinations in areas of service levels, financial ability to provide service, and the ability of each agency to continue to provide adequate services into the future. Specifically, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires that LAFCo review municipal services before updating spheres of influence (SOIs), and to prepare a written determination addressing each of the following (see **Chapter 5** for draft determinations):

1. Growth and population projections for the affected area.
2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the SOI.
3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the SOI.
4. Financial ability of agencies to provide services.

¹ LAFCos were created in 1963 to exist as independent commissions in each county of the state to regulate the boundaries of cities and special districts and promote efficient boundaries and service provision. LAFCos operate pursuant to Government Code Section 56000 and 57000 are required to adopt and periodically review spheres of influence (SOI). San Mateo County has oversight of 20 cities, 23 independent special districts and several of the 32 County-governed districts. LAFCos are composed of 2 county supervisors, 2 city council members, 2 special district members, a public member and an alternate for each type of membership.

5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.

Sphere of Influence Review

Based on the analysis included in the MSR, SOI boundaries were also reviewed for the subject agency (see **Chapter 6** for draft determinations). LAFCo is required to make the following written determinations in accordance with Government Code Sections 56425(i) and (j) when establishing, amending, or updating an SOI for any local agency that address the following:

1. The present and planned land uses in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
4. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
5. For an update of an SOI of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities with the existing SOI.

The longstanding LAFCo-adopted SOI for the Harbor District indicates that it be dissolved and the County of San Mateo be established as successor agency to assume service and be successor to all revenues, assets and liabilities. It is important to note that an SOI is regulatory in that a change of organization of any special district must be consistent with the District's SOI. However, implementation of the SOI requires that an affected agency take action by applying to LAFCo for that change of organization. In the case of the Harbor District the District itself, the County, or any city, district or school district could apply to LAFCo to implement the sphere. In addition, applications can be submitted by 25 percent of the registered voters or landowners in District boundaries.

SMCHD Background

San Mateo County Harbor District is one of 14 harbor or port districts in the State. As described on the SMCHD website,² the SMCHD, which operates Pillar Point Harbor in Princeton and Oyster Point Marina/Park in South San Francisco, was created with County-wide boundaries by a County election in 1933. It was originally formed to build a harbor at Redwood City, but the Great Depression intervened.

² <http://www.smharbor.com/>

A breakwater was built at Pillar Point for a harbor of refuge for the fishing fleet. The Army Corps of Engineers began work on this breakwater after World War II and completed it in 1961. The Johnson Pier, docks and 369 berths, and the inner breakwater were built during the 1970s and 1980s. Pillar Point remains a major commercial and sport fishing harbor on California's central coast, and is host to many public events including the annual Mavericks surfing competition, the July 4th fireworks display, and the Christmas boat decorating contest.

The SMCHD entered into a Joint Powers Agreement (JPA) with the City of South San Francisco and took over operation of Oyster Point Marina/Park from the City of South San Francisco in 1977. It completed construction of docks and 589 berths, a new breakwater, and onshore facilities during the 1980s. Ferryboat service operated independently by the Water Emergency Transit Authority (WETA), which supplanted a number of berths,³ now operates to the East Bay from Oyster Point Marina.

Implementation of Proposition 13 in 1978 resulted in SMCHD receiving a share of the 1 percent property tax countywide, estimated at \$5.5 million in the current fiscal year. Concerns have been expressed about the use of Countywide property tax to fund harbor and marina operations; however, this revenue currently is essential to help maintain SMCHD fiscal viability, and to address a broad range of maintenance and capital improvement needs. In addition, the SMCHD provides a range of non-enterprise services and facilities that benefit a broad public but which are not revenue-generating activities, including parks, waterfront access, public piers, and emergency water rescue.

This study is being conducted at a crucial time for the District, which is in the midst of drastic changes including: implementing Grand Jury recommendations; recruiting for a permanent General Manager after retirement of the longtime General Manager; addressing the vacancy of the Human Resources Director who filled additional administrative needs beyond human resources; moving the District administrative office from South San Francisco to El Granada; preparing for imminent labor negotiations with two unions and experiencing continued discord amongst Harbor Commissioners, resulting in a midyear reorganization of Harbor Commissioner officers. In addition, the District has hired an Interim General Manager (IGM) with the goal of alleviating diminished staffing and focusing the District on the most crucial priorities while a new general manager is recruited. The hiring of the IGM has allowed the former Acting General Manager to focus on managing the harbors in his original capacity as Harbor Master.

In response to the Circulation Draft MSR, the SMCHD identified additional steps that have been taken since the issuance of the Grand Jury report: (1) the District assumed a leadership role in a number of environmental issues critical to the County such as the Sand Replenishment effort at Surfer's Beach, Bay Sand Mining issues before the Bay Conservation and Development Commission, and development of the Coastal Regional Sediment Management Plan; (2) increased public involvement in a number of ways including holding a public tour of Johnson Pier with Commissioners, considered new Wi-Fi and social media programs, and increased public involvement in committee activities; and (3) revised District policy regarding health insurance

³ The SMCHD received compensation from WETA for lost revenues due to the supplanted berths through 2019.

benefits for Commissioners-with cost savings to be achieved in the future as new Commissioners are elected.

In preparing the MSR, it should be noted that the District staff have been very cooperative and helpful in responding to data requests and their efforts are greatly appreciated.

2. SAN MATEO COUNTY HARBOR DISTRICT

Formation and Statutory Authority

The SMCHD is an independent district governed by a five-member Board of Commissioners with countywide boundaries operating pursuant to Section 6000 et seq. of the California Harbor and Navigations Code.

The SMCHD is empowered to acquire, construct, and maintain property related to the operation and development of ports and waterways; supervise seagoing vessels within its harbors; adopt any necessary police regulations for waterways; issue debt; collect charges for use of facilities; and plan for harbor district improvements.⁴ Government Code Section 56425 (i) and (j) require that in conducting MSRs LAFcos prepare an inventory of all authorized powers under a district's enabling legislation and identify those powers which are active versus inactive. Government Code Section 56824.12 requires that before a District activate an inactive service or divest of an active service, it must first apply to LAFco and obtain LAFco approval. The SMCHD is providing the full set of services authorized by the enabling legislation including recreational use of District facilities.

The District receives a share of countywide property tax in addition to fees, rental, and interest income from the operation of Pillar Point Harbor in El Granada and Oyster Point Marina in South San Francisco.

Boundaries and Service Area

As summarized in **TABLE 2.1**, the SMCHD encompasses approximately 449 square miles of land area, 20 cities and unincorporated areas, a population of 745,193 residents⁵ and 353,545 registered voters⁶. **FIGURE 2.1** shows the current boundaries of the District, which correspond to the boundaries of San Mateo County.

In addition to the SMCHD facilities at Pillar Point Harbor and at Oyster Point Marina, the County is served by seven other harbor and marina operations providing an additional 2,100 berths and related facilities. These facilities are described more fully in **APPENDIX H**.

⁴ Harbor and Navigations Code Sec. 6075. Notwithstanding Section 6012: (a) A harbor district may acquire, construct, own, operate, control, or develop any and all harbor works or facilities within the limits of its established boundaries. No interest in lands may be acquired, either by lease, purchase, or the exercise of the power of eminent domain within any port district, chartered port, harbor improvement district, incorporated city, or recreational harbor district without the prior consent to the acquisition by resolution of the governing body of each district, port, or city in which the lands are located.

⁵ E-1: City/County Population Estimates, Jan. 1, 2014

⁶ County of San Mateo, Chief Elections Officer, as of April 13, 2015.

<https://www.shapethefuture.org/voterregistration/registrationstats.asp>

Table 2.1 SMCHD Assessed Value, Housing Units and Population

District Boundaries	San Mateo County
Area	449 Square Miles
Number of Cities	20
Population	745,193
Registered Voters	353,545

The County's population is projected to grow from its 2010 population of 718,450 to 904,430 by 2040, an increase of 26 percent. This rate of growth is approximately 0.78 percent compounded annually.⁷

Services Provided

The SMCHD provides a range of harbor related-facilities and services to residents, visitors, and businesses. As described below, some of these services are revenue-generating enterprises, while others serve a broader public function that is typically not subject to fees and charges. Facilities are generally well-utilized. The high levels of use, combined with the sometimes harsh and corrosive maritime environment, place exceptional demands on the SMCHD for facility and infrastructure maintenance.

Boat Launch and Berth Rentals

Oyster Point Marina (OPM) has 428 public berths⁸ and a launch ramp. Pillar Point Harbor (PPH) has 369 berths and 38 moorings in the Outer Harbor⁹ and a 6 lane launch ramp. **TABLE 2.2** indicates that slightly less than half of tenants report San Mateo County as their place of residence.

⁷ Plan Bay Area, Adopted July 18, 2013, Table 12

⁸ Berth count, including "end ties", per correspondence from Scott Grindy to Martha Poyatos, 4/24/15.

⁹ *ibid*

Figure 2.1 District Boundaries (San Mateo County) and Facilities

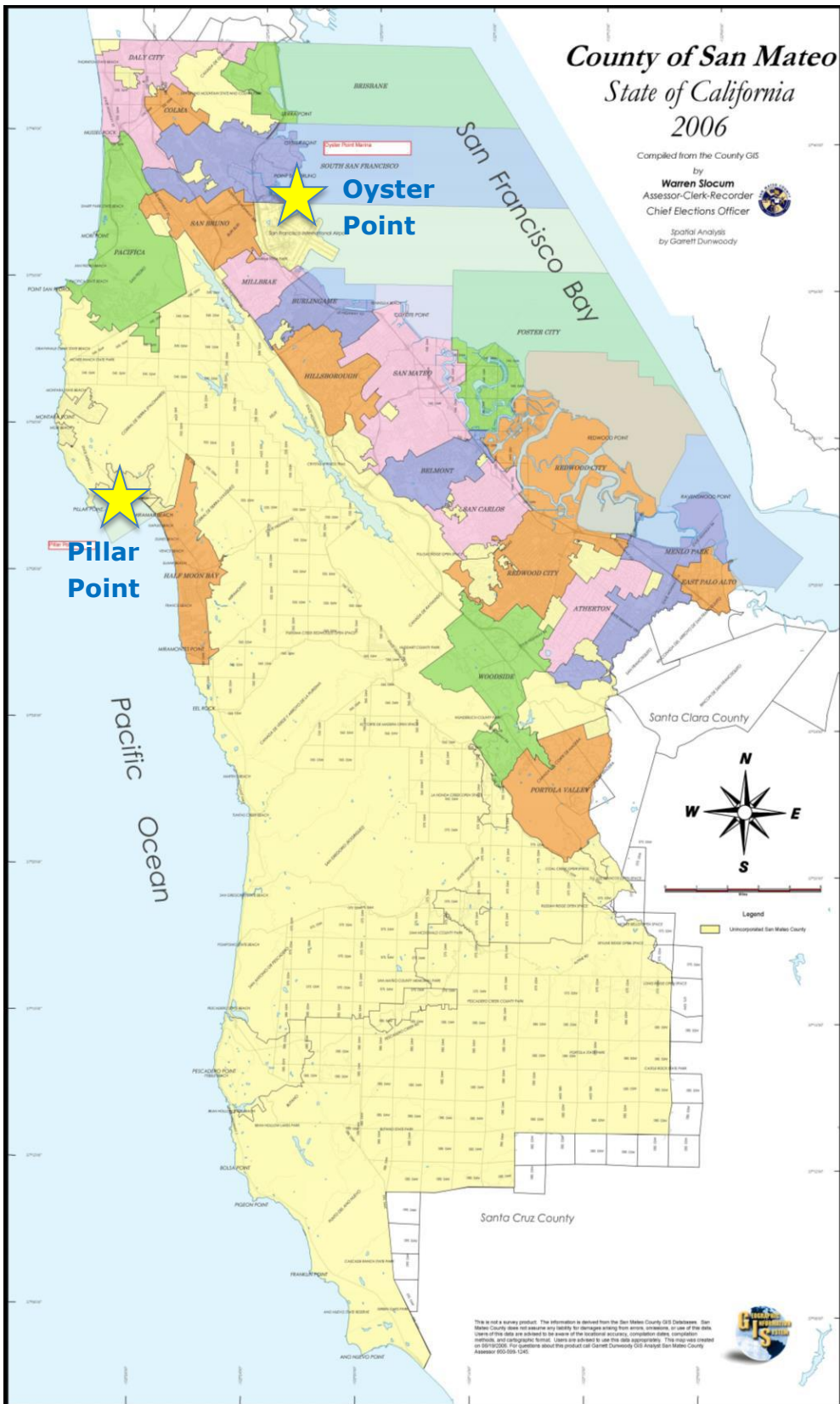


Table 2.2 Berth Rentals – Tenant’s Place of Residence

Place of Residence	Marina		Total
	Oyster Point	Pillar Point	
San Mateo County	45.8%	47.0%	46.6%
Other California	49.8%	47.8%	48.5%
Out of State	<u>4.4%</u>	<u>5.2%</u>	<u>4.9%</u>
Total	100.0%	100.0%	100.0%

Source: SMCHD, 2014 Assessors Report

Table 2.3 indicates that over 80 percent of the “Live Aboards” report San Mateo County as their residence. The Live Aboards account for approximately 8 to 10 percent of berths. SMCHD limits the Live Aboards at OPM to a maximum of 10 percent of berths in compliance with requirements of the Bay Conservation and Development Commission (BCDC).

Table 2.3 Live Aboards – Tenant’s Place of Residence

Place of Residence	Marina				Total	
	Oyster Point ¹		Pillar Point ²			
San Mateo County	34	81%	25	81%	59	81%
Other California	8	19%	6	19%	14	19%
Out of State	<u>0</u>	0%	<u>0</u>	0%	<u>0</u>	0%
Total	42	100%	31	100%	73	100%

[1] Oyster Point data excludes three live aboards (place of residence not specified).

[2] Pillar Point data excludes one live aboard (place of residence not specified).

Source: San Mateo County Harbor District, April 2015

Commercial Fishing Facilities

PPH offers commercial fishing a number of facilities, including a fuel dock, ice-making facility, and commercial fish buying center. The public can purchase fresh fish off the boats from several vendors. As described in the draft SMCHD Strategic Business Plan, Pillar Point Harbor (referred to as Princeton-Half Moon Bay by California Department of Fish and Wildlife) is one of the top commercial fishing ports on the California coast. In 2013, the harbor was sixth in the State in earnings and seventh in landings by weight. Commercial fishing trips out of Pillar Point Harbor, a measure of commercial activity, rose from a low in 2009 of 1,704 to over 3,000 in 2013. The number of Vessel IDs, a measure of the port's ability to support commercial fishing activity and attract visiting vessels, rose from a similar low in 2009 of just under 92 to over 250 in 2013. These data point to a resilient and capable commercial fishing industry, with strong "internal" connections within the industry, 'external' connections in the market, access to a healthy marine resource, knowledge of fish stocks, fishing gear, and weather patterns, and the collective ability to navigate the maze of shifting and often overlapping State and federal regulations".¹⁰

Commercial/Retail/Restaurant Leases

The District leases space to three wholesale fish buying operations on Johnson Pier at Pillar Point Harbor. The wholesalers purchase and unload salmon, halibut, rockfish, shellfish and bait directly from commercial fishermen. The SMCHD also owns buildings leased to restaurants, bait shops, and a surf shop at PPH. Other commercial operations that lease space from the District at Pillar Point include kayak rentals, an RV lot, a yacht club, and sport fishing and whale watching charter boats.

At OPM, leased buildings include the Oyster Point Yacht Club, and a bait/tackle shop (currently vacant). Other buildings owned by the City of South San Francisco, including an inn, are located on OPM property but are not directly related to marine activities; those properties are leased by the City of South San Francisco to private commercial interests and the lease revenue accrues to the SMCHD per its JPA with the City.

Revenues from these leases are described in **Chapter 3**.

Parks and Trails, Open Space and Public Access

PPH offers two public access trails for walking, cycling, and jogging. The harbor also provides a public fishing area, public fishing pier, and fish cleaning area.

OPM provides a public fishing pier with a fish cleaning station, and a 33-acre recreational green space with a picnic area and a swimming beach. The San Francisco Bay Trail runs through the site.

Public parking is available at no charge at both PPH and OPM.

¹⁰ Draft SMCHD Strategic Business Plan, Lisa Wise Consulting, December 2014.

Oyster Point Ferry Access

On June 24, 2009 the District entered into an agreement with the Water Emergency Transit Authority (WETA) and the City of South San Francisco to build a commuter ferry terminal at Oyster Point Marina.¹¹ The San Francisco Bay Ferry provides weekday-only, commuter service between Oakland’s Jack London Square or Alameda Main Street terminals in the East Bay and South San Francisco’s Oyster Point Marina terminal.¹² The ferry serves approximately 10,000 riders per month.¹³

Emergency Services

PPH provides 24 hour search and rescue services. Over the past two decades, its crew “performed an average of 110 rescues annually, saving more than 100 lives, and millions of dollars in boats and equipment”.¹⁴ Equipment includes two patrol vessels(32’ Radon, 40’ Almar) 6 PWC Honda Aquatrax, and two 4x4 patrol trucks. Harbor staff receive training and certifications from the Department Boating and Waterways; courses include the basic maritime officer’s course, rescue water craft, boating under the influence, rescue boat operations, marine firefighter operations, boating accident investigation, and Hazardous Waste Operations and Emergency Response (Hazwoper 24 and 40)¹⁵. Some employees also hold Coast Guard Captains licenses.¹⁶

The District provides similar services at Oyster Point Marina. From 2010 - through June 21, 2015 there were 75 rescues as follows: 2010- 20; 2011- 19, 2012- 7, 2013- 9, 2014- 12, (partial year) 2015- 8.¹⁷

Other Services

PPH provides public parking and parking limited by permit. Lots also accommodate boat trailer parking, and RV and day use parking.

Land, Facilities and Equipment – Pillar Point

Land

As shown in **FIGURE 2.2**, PPM encompasses a total of approximately 1,260 acres, including 28 acres of land area. **Appendix C.2** provides a list of PPH parcels. Consistent with recommendations of the Grand Jury, which observed that the SMCHD held a number of surplus

¹¹ Basic Financial Statements, 2014, pg. 24

¹² San Francisco Bay Ferry Website, , <http://sanfranciscobayferry.com/route/oakland/ssf>

¹³ Interim General Manager, SMCHD presentation, 4/15/15.

¹⁴ “Pillar Point Harbor”, informational brochure.

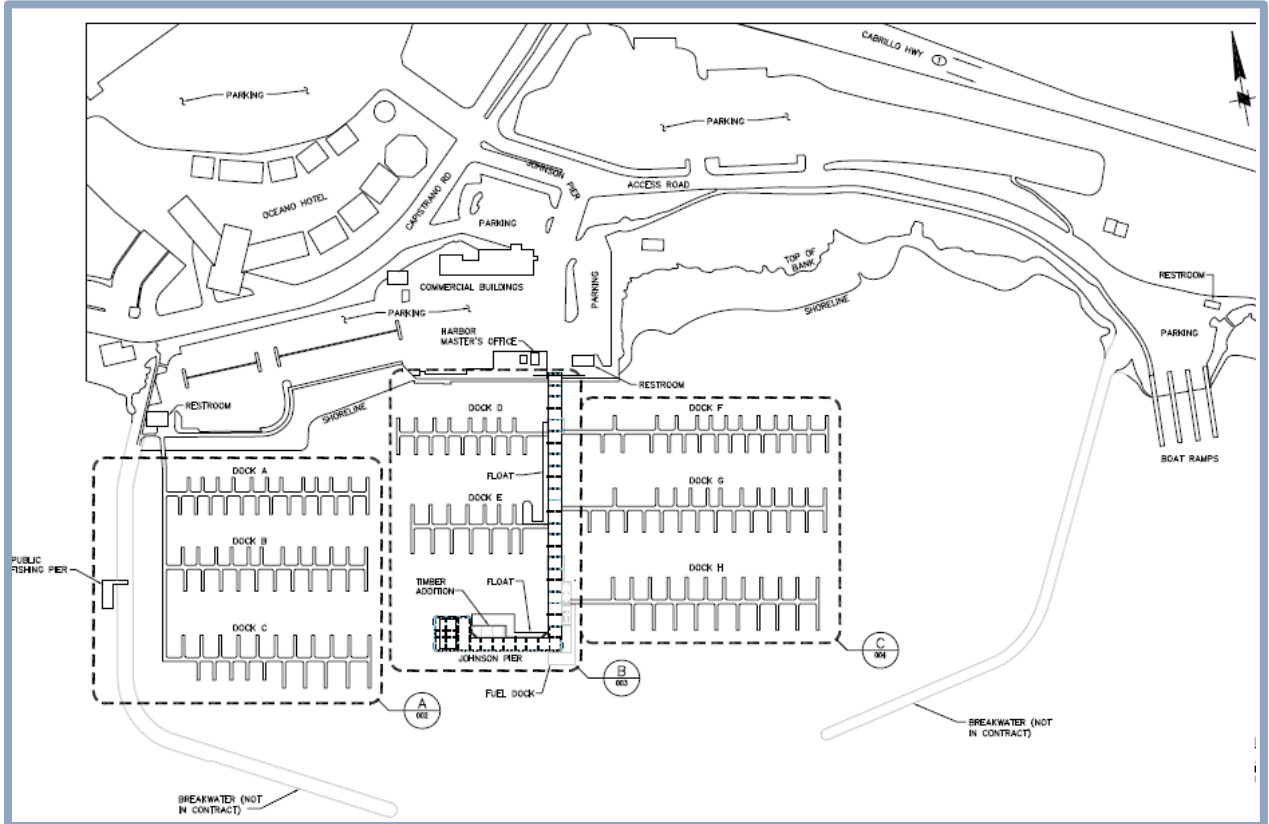
¹⁵ “Hazwoper” refers to training in the handling of hazardous waste materials.

¹⁶ Correspondence from John Draper to Debra Galarza, March 09, 2015

¹⁷ SMCHD response to Circulation Draft MSR, June 26, 2015.

non-revenue producing properties,¹⁸ the SMCHD recently sold for \$794,000 a surplus 2.5 acre parcel.¹⁹ The SMCHD has reported that no other surplus parcels exist.²⁰

Figure 2.2 Pillar Point Harbor



Facilities

Pillar Point Harbor's facilities, include the following:

- **Marine Facilities** – facilities include a boat ramp, docks, fishing pier, fuel dock, Johnson Pier, and a seawall. These facilities have a replacement cost of approximately \$23.9 million.²¹ Johnson Pier and the seawall were constructed in 1961, and are reported as having exceeded their useful life, and have a replacement cost of \$6.9 million. The docks and fishing pier were built in 1985-1989, and the boat ramp added in 1992. The SMCHD is planning demolition of its dilapidated Romeo Pier, which originally supported fish processing but was since vacated and fallen into an unusable and unsafe condition.

¹⁸ Grand Jury Report, 2014, Recommendation 8.

¹⁹ Parcel 047261030, the "El Granada Post Office lot", was sold in March, 2015.

²⁰ SMCHD Budget Workshop, 4/15/2015.

²¹ Strategic Business Plan Appendix A, Dec. 2014, Chapter A-3, Table 1; see Appendix B of this report.

- **Buildings** – The age of buildings varies, ranging from 1961 (the fish buyer building, the Harbor Master’s building, certain restrooms, and “Tenant Row” buildings), the maintenance building was built in 1979, additional restrooms were built in 1982, the ice house was added in 1985, and restroom ramps built in 1992. The total replacement cost for these buildings is \$4.65 million; most have exceeded their useful life.²²
- **Site Improvements** – Improvements include Johnson Pier Road and Pillar Point Boulevard built in 1961 when site utilities were constructed; and parking lots added between 1961 through 1992. The replacement cost is estimated at \$3.81 million.²³ The SMCHD also maintains responsibility for “Surfers Beach”, and for the West Trail, which runs along the coast through its property.

Capital Improvement Program (CIP) at PPH

A number of capital improvements were identified in the Draft Strategic Business Plan over the next five years; these improvements total \$11.5 million for capital projects. The majority of the costs, or \$10 million, are for floats, which are assigned the lowest priority in the report.²⁴ The highest priority projects, which represent a potential safety issue and/or likelihood of failure within 5 years, total about \$1.2 million including \$200,000 for the fuel dock, \$200,000 for launch ramp restrooms, \$110,000 for the gangway, and \$200,000 for lot resurfacing.

The SMCHD FY15-16 Preliminary Operating and Capital budget includes \$595,000 for capital projects at PPH.²⁵ The FY15-16 Final Preliminary Budget defers most capital improvements, including launch ramp restrooms, budgeting approximately \$710,000 largely for design and permitting of various items rather than for major construction.

Planning or construction on the fuel dock and gangway, identified as high priority improvements in the Draft Strategic Business Plan, are not listed in the Preliminary Operating and Capital Budget. According to the SMCHD, a tenant recently completed renovation work that addressed fuel dock issues, although the fuel dock will need to be replaced.²⁶

The \$650,000 budgeted originally for the removal of the Romeo Pier was postponed and replaced by a design and permitting budget in the Preliminary Budget. The Pier removal is in the process of being planned, and further work is required to complete the design and gain necessary approvals from permitting agencies. The SMCHD is uncertain whether the approvals can be obtained within the upcoming fiscal year in time to begin construction. Similarly, the West Trail, which has been planned for erosion control work, has been delayed pending completion of design and permitting work and concerns about the source of funding in the context of the SMCHD’s current budget conditions.

²² Ibid.

²³ Ibid.

²⁴ Ibid, Table 2; see Appendix B-2 of this report.

²⁵ Preliminary Operating and Capital Budget, 5/8/15, pg. 42 of 46.

²⁶ SMCHD Workshop, 4/15/15.

Land, Facilities and Equipment – Oyster Point

Initial construction of the East Harbor at Oyster Point was performed in 1962. The shore facilities are built over a capped landfill. The landfill continued in operation until 1977. The West harbor was constructed in 1978 along with other shoreside improvements. Other improvements were added that include the Fishing Pier, Boat Ramp and additional restrooms and shoreside parking. A figure showing the layout of Oyster Point is provided in **FIGURE 2.3**.

A more detailed parcel map is included in **Appendix C.1**. The OPM parcels owned by the City of South San Francisco (SSF) total 55.61 acres (including roads).²⁷ SSF and the SMCHD entered into a Joint Powers Agreement (JPA) in 1977 that provided for joint construction of certain improvements, and empowered the SMCHD to manage, operate and maintain OPM. Certain parcels have been privately developed and leased, with the revenues accruing to the SMCHD, pursuant to amendments to the JPA.

Figure 2.3 Oyster Point Marina



Land

As shown in **FIGURE 2.3**, OPM encompasses a total of approximately 55.61 acres of land area. As noted above, the property is owned by the City of South San Francisco and operated by the SMCHD under terms of a JPA.

²⁷ MOU (Harbor District – Oyster Point Marina), May 27, 2009, Exh. A, Current Parcel Map

Facilities

Oyster Point Marina's facilities include the following:

- **Marine Facilities** – OPM has a number of floating docks which vary in age; most were built in 1983 and 1988, with additions (Docks 8 and 11) in 2012. OPM also offers a public fishing pier, restrooms, and boat ramp. Breakwaters were installed in 1980 and protect the marina from the San Francisco Bay by multiple concrete sheet piles. The replacement cost for these facilities is \$22.16 million.²⁸ Most of the marine facilities have several years of life remaining, with the exception of Docks 12-14 which have exceeded their useful life and have a replacement cost of about \$4.6 million.
- **Buildings** – The buildings were built largely in the 1980's and include an entrance kiosk, harbor master building, maintenance building, and utility buildings as well as a number of restrooms. The estimated replacement cost for the buildings is \$2.14 million.²⁹ The buildings have a useful life of about 4 years, with the exception of maintenance and utility buildings with no remaining useful life and a replacement cost of \$510,000.

Other facilities at OPM SMCHD include: commuter ferry facilities noted above, Drake Marine building and docks (dock 7), a snack bar modular unit, the Oyster Point Yacht Club building, and other facilities. Property leased to private entities is shown in **FIGURE 2.2**.

- **Site Improvements** – Site improvements include circulation and access roads, parking areas, and a portion of the South Bay Trail. The estimated replacement cost for these site improvements is \$2.2 million.³⁰ The majority of roads have exceeded their useful life, however, it appears that maintenance activity has kept them in reasonable condition. However, due to settlement of the former landfill, the roads and underlying utilities are subject to periodic failure. In addition, OPM facilities including the harbor master office are subject to flooding at high tide, an issue that the SMCHD expects to become more pressing as sea levels rise and king tides already crest existing breakwaters.

Capital Improvement Program (CIP) at OPM

The Draft Strategic Business Plan recommends and prioritizes a number of OPM improvements over a period of 5 years totaling \$5.8 million. The largest costs are \$4.25 million for Docks 12, 13 and 14, which are assigned the lowest priority. The highest priority, which indicates a high probability of failure within 5 years, is for restroom improvements at an estimated cost of \$560,000.³¹ The SMCHD clarified the Draft Strategic Plan, indicating that "All but two of the

²⁸ Strategic Business Plan Appendix A, Dec. 2014, Chapter A-4, Table 1; see Appendix B-1 of this report.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid, Table 2; see Appendix B of this report.

restrooms at OPM have already been remodeled. In addition, a new public restroom facility will be installed in 2015 near the ferry terminal area funded by a grant from Genentech.”³²

According to the SMCHD, responsibility for road and parking lot maintenance at Oyster Point Marina is an issue that needs to be resolved under the JPA between the District and the City of South San Francisco. This issue becomes ever more important both for natural reasons related to the drought, but also for man-made reasons due to increasing use of the roads by the large buses that serve the WETA terminal.³³

The SMCHD preliminary proposed FY15-16 budget includes \$115,000 for capital projects. During the course of the budget preparation process, major work on Dock 12 was postponed, and no funds are allocated for restroom improvements. Funding provides for Dock 12 design and permitting, and to mitigate flooding issues.

Governance and Other Activities

Commonly accepted best practices of public administration and effective governance include the following:

- Provide for the adequate representation of citizens in governing bodies and processes.
- Focus policy leadership and accountability for execution of the law, policy implementation, and service delivery.
- Provide for a professional, highly trained staff that are protected from inappropriate political influence so that employees are able to carry out the work of the agency and will feel free to say what needs to be said without considering political ramifications.

While the SMCHD has addressed a number of issues raised by the Civil Grand Jury with respect to the practices listed above District governance and operations continue to be problematic, as further noted below.

Governing Board

The District is governed by a five-member Board of Harbor Commissioners, who are elected Countywide for staggered four-year terms. **TABLE 2.4** lists current directors.

³² SMCHD response to Circulation Draft MSR, June 26, 2015.

³³ Ibid.

Figure 2.4 SMCHD Board of Directors

Title	Name	Term Expires
President	Tom Mattusch	December 31, 2016
Vice President	Nicole David	December 31, 2018
Secretary	Robert Bernardo	December 31, 2018
Treasurer	Pietro Parravano	December 31, 2016
Commissioner	Sabrina Brennan	December 31, 2016

The Grand Jury further recommended that Harbor Commissioners and the General Manager earn Special District Leadership Foundation certificates. In response to the Circulation Draft MSR, the SMCHD provided a list of courses taken and certificates that had been earned.³⁴ It should be acknowledged that Harbor District staff have been particularly burdened with keeping up with workload since the retirement of the General Manager and subsequent resignation of the Human Resource Director and as a result of numerous public record requests.

On April 1, 2015 the SMCHD directors participated in a Board Dynamics Workshop to improve intra-board working relationships in response to the 2013-14 Civil Grand Jury Report that was critical of the behavior of Harbor Commissioners at Commission meetings. The workshop resulted in the Harbor Commission developing a “List of Norms” adopted on the Consent Calendar at the April 15, 2015 meeting , included as **Appendix D** to this MSR.³⁵

Recent events raise serious concerns about adherence to the “Best Practices” and “List of Norms” described above. A memorandum from the SMCHD Interim General Manager to the SMCHD Commission stated that the Commission President made threatening comments to him when discussing the status of an upcoming meeting agenda in an effort to influence public policy “in a manner inconsistent with the Brown Act, transparency, and good public policy”.³⁶ In response, the Harbor Commission reorganized the Harbor Commission officers midyear.

Committees

The Grand Jury recommended that the Harbor Commission “form standing and appropriate ad hoc committees, which meet regularly”.³⁷ The Harbor Commission subsequently adopted Standing Committee By-Laws establishing the purpose of the committees, process and procedures.³⁸ Established standing committees include:

- Beach Replenishment Committee

³⁴ Ibid.

³⁵ Memo to the SMCHD Board of Harbor Commissioners, March 25, 2015.

³⁶ Memorandum from Glenn Lazof, SMCHD Interim General Manager, to the San Mateo County Harbor Commission, May 19, 2015

³⁷ San Mateo Civil Grand Jury 2013-14, SMCHD Harbor District, Recommendation 10.

³⁸ Item 2 on the Feb. 18, 2015 agenda.

- Communication and Marketing Committee
- Finance Committee
- Water Quality and Public Safety Committee
- Oyster Point Marina Liaison Committee to meet with representatives of the City of South San Francisco to discuss JPA and other OPM-related issues

The SMCHD solicited applications from the public to participate on standing committees, and began to develop Finance Committee responsibilities. Ad Hoc committees are now active in addressing a number of issues, including the search for an interim and permanent General Manager, and a Strategic Planning Committee.

Public Information and Disclosure

A review of the SMCHD website and meeting minutes indicates that agenda and reports are being posted to the SMCHD website, and committees are reporting back to the Harbor Commission.

Public Meetings

The regular schedule and locations for board meetings are as follows: The first Wednesday of each month:

Sea Crest School
Think Tank, Room #19
901 Arnold Way
Half Moon Bay, CA

The third Wednesday of each month:

Municipal Services Building
33 Arroyo Drive
South San Francisco, Ca. 94080

Harbor Commission meetings are recorded and available for viewing on YouTube. Observations about conduct of meetings include incidents in which contents of confidential documents in Commission discussion and reference to the nature of closed session discussion is referenced and the District's legal counsel has provided direction to comply with the Brown Act.

Financial Policies and Procedures

The San Mateo County Harbor District Ordinance Code establishes legal requirements for SMCHD operations.³⁹ Ordinances establish rules and regulations related to administration and personnel, harbor rules and regulations, and commercial activity.

The SMCHD ordinances provide guidance on contracting and purchasing procedures. An SMCHD policy⁴⁰ established procedures for tagging and annually inventorying and valuing assets including equipment; the District has implemented a computerized inventory and tagging

³⁹ <http://www.codepublishing.com/CA/SanMateoCountyHarborDistrict/>

⁴⁰ SMCHD Policy No. 4.7.1 approved 6/7/06.

system, however, apparently there is a need to improve the process for documenting and inventorying equipment purchases as evidenced by recently initiated forensic audit regarding missing computer equipment.⁴¹

The SMCHD adopted a reserve policy in 2010 that establishes restrictions on net assets, but the policy does not define magnitudes, contributions or uses of reserves.⁴² There is no indication that these designations have been reviewed, revised or updated subsequent to 2010. Recent SMCHD meetings and workshops have discussed the availability of cash to fund capital improvements, but as of the writing of this MSR, no decision has been made about whether or to what extent net assets are available for capital improvements.

The SMCHD does not have a formal, adopted set of financial policies to guide the definition, treatment and prioritization of capital expenditures. While there has been consensus in recent SMCHD meetings and workshops that a 5-year Capital Improvement Plan is needed to guide capital planning, budgeting and implementation, no formal action has been taken.

Independent audits are commissioned annually to prepare financial statements, and these are posted on the SMCHD website along with copies of budget documents. Recent workshops have flagged the need to prepare longer term budget forecasts, but these have not yet been developed given the District's more immediate priorities of hiring a general manager, labor negotiations, moving district offices, etc.

The SMCHD held a series of workshops to publicly present and discuss its proposed budget. At the public hearing May 6, 2015, the SMCHD approved a resolution adopting Preliminary Operating and Capital Budget for Fiscal Year 2015/16; however, the resolution lacked important information disclosing the budget amounts. The Harbor Commission will consider adoption of a Final 2015-16 Budget at the meeting of June 17, 2015.

SMCHD Website

The SMCHD maintains a website with a broad range of information about the SMCHD and its facilities and services, although some of the information is several years out of date.⁴³ The website meets nearly all of the requirements established for a District Transparency Certificate of Excellence, except it lacks the name of the general manager and key staff along with contact information, and does not provide certain other information related to transparency (e.g., board member ethics training certificates, various financial policies, etc.).⁴⁴ The SMCHD has commented that SMCHD "staff has a website RFP as an item for release in the latter half of

⁴¹ In Closed Session at its April 15th meeting, the Board directed Counsel to engage an independent auditor to conduct a forensic audit in the provision of IT services and equipment.

⁴² SMCHD Resolution 17-10 to Approve Establishment of Reserves and Designations for Net Assets as of June 30, 2010.

⁴³ <http://www.smharbor.com/>

Certain information appears out of date, for example, OPM is indicated to have 600 berths, however, 134 of 589 berths were removed to accommodate ferry service, resulting in 455.

⁴⁴ District Transparency Certificate of Excellence checklist, Special District Leadership Foundation, <http://www.sdlf.org/>

2015. District has also hired a Transparency Officer to assist increasing the utilization of the website in the short term.”⁴⁵

Staff

FIGURE 2.5 provides an organization chart showing SMCHD staffing and the organizational hierarchy. The chart illustrates the chain of command, described in SMCHD documentation as follows: “the Board of Harbor Commissioners (not less than a majority) makes its decisions and transmits them to the General Manager, who is the staff director. The General Manager, through the managers (Harbormaster, Human Resource Manager, and Director of Finance) or directly as may be needed from time to time, implements Board decisions as delegated to him/her to and through line staff”.⁴⁶ The memo further states that “Individual Commissioners should pass on their individual suggestions, requests, or recommendations for action to and through the Harbor Commission”. Discussions with SMCHD staff indicate that the memo was prepared in response to concerns about inappropriate and inefficient communications between Commissioners and individual staff that circumvented the public process and organizational hierarchy. During preparation of this MSR, LAFCo staff observed continued Harbor Commission communications with staff that adversely affected the functioning of the organization.

FIGURE 2.5 depicts a total of 26 staff and 5 commissioners in the following categories:

Commission	5 Commissioners
Administration	8 Staff
OPM	7 Staff
PPH	11 Staff

The SMCHD currently has several recently vacated positions, and is in the process of searching for a General Manager. The Human Resource Manager position was recently vacated, however, a decision has not yet been made about whether or how it would be filled. The latter position historically provided a broad range of administrative services and support, in addition to the human resources function. Temporary staff are being utilized pending resolution of staffing decisions.

The SMCHD recently moved its administrative offices from its location near OPM to a newly-leased facility near PPH. The move is complete although some minor configuration issues remain. The move is anticipated to produce rent savings over the current location, not including relocation-related expenses. The new address is 504 Avenue Alhambra, Second Floor, El Granada, CA 94018.

⁴⁵ SMCHD response to Circulation Draft MSR.

⁴⁶ Memo from Peter Grenell, General Manager, August 28, 2013, to the Board of Harbor Commissioners re: District Chain of Command, reaffirmed by the Commission 9/5/2013 (see **Attachment F**).

The SMCHD has utilized consultants for various services. The District is in the process of reviewing its approach to consultant IT services, and is exploring expedient, cost effective approaches to IT assistance required to move its facilities to the new office location, while also obtaining ongoing support. These efforts have consumed significant Board and staff time in debating the correct approach to obtaining services, and determining the appropriate services required. The need to perform an assessment of SMCHD needs has been discussed as a basis for IT decisions, but no further action has been taken.

The recently hired Interim General Manager is in the process of developing priorities for consideration by the Harbor Commission to provide for stability and more efficient administration and operation.

Figure 2.5 Organizational Chart

[insert – 2014-15 chart file: OrgChart [HarborDistrict]packet06232015.pdf]

3. FINANCIAL REVIEW

TABLE 3.1 summarizes SMCHD revenues and expenditures for three years, including the proposed FY15-16 budget. The preliminary FY2015-16 budget indicates relatively flat operating revenues and expenses compared to the prior year. While certain operating expenses, including labor related costs, have grown, the absence of election costs helps to offset those increases.

The SMCHD budget consistently exhibits a net operating shortfall due to operating revenues inadequate to cover operating costs. The operating shortfall (before debt service, and before the use of property taxes) exceeds \$3.5 million in the projected budget, or about half of total operating expenses. Shortfalls are lower in years with successful fishing seasons.

Property taxes collected Countywide cover the operating shortfall and fund debt service and limited capital improvement planning and design, leaving a slight positive balance of \$42,000 in the revised Proposed Operating Budget for 2015-16. As noted in the prior chapter and discussed further below, the current level of capital improvement funding is inadequate to meet needs identified in the recent Strategic Business Plan Condition Assessment. The SMCHD has net assets designated for capital improvements, and unassigned net assets, but has not established policies to determine what level of assets can be utilized or should be reserved. The limited use of net assets, while maintaining prudent reserves, could help the SMCHD make progress towards completing capital improvements.

Budget Practices

During the course of MSR preparation and the current budget process, the SMCHD revised its budgeting practices and brought them more in line with practices common to best practices followed by most public agencies. For example, depreciation has historically been shown in the SMCHD budget, although it is not an actual expenditure and is addressed through capital expenditures; this item has been removed from the budget process, although it remains a required component of financial reports to establish net asset values.

In the past, the SMCHD included only the interest component of its debt service in its budget; however, the principal payment requires an allocation of budget resources, and has now been added back into the budget.

Additional changes will further improve the SMCHD budget process. For example, although "Termination Liabilities" have generally been tracked each year and shown as a budget item, the current budget removes them because they are not a "cash" expenditure. This approach is correct, however, the SMCHD must continue to track these liabilities and make a budget determination each year about whether to transfer cash into reserves to assure these liabilities are funded. Those transfers would be shown as budget line items.

Table 3.1 Summary of SMCHD Revenues and Expenditures

	Actual FY2013-14	Projected FY2014-15	Adopted FY2015-16
Operating Revenue (1)	\$4,022,222	\$4,734,280	\$4,013,833
Operating Expenses (2)	<u>-6,952,462</u>	<u>-7,340,801</u>	<u>-7,535,967</u>
Net Operations (before Debt Service)	-2,930,240	-2,606,521	-3,522,134
(less) Debt Service (3)	-2,786,187	0	-1,393,094
Net after Debt Service	-5,716,427	-2,606,521	-4,915,228
Property Tax and Other Non-Operating Revenue (4)	5,438,059	5,510,000	5,667,029
Net Before Capital Projects and Contributions	-278,368	2,903,479	751,801
Capital Projects (5)	-1,809,454	0	-710,000
Capital Contributions (6)	2,250,000	0	0
NET	\$162,178	\$2,903,479	\$41,801

Sources: Adopted Operating and Capital Budget for FY2015-16, 5/6/15; Financial Statement FY2013-14.

(1) FY2013-14 excludes Fed'lg grant for \$250,000 for guest dock (included in Capital Contributions).

(2) Excludes termination liability.

(3) Includes principal and interest. FY2013-14 includes FY2014-15 debt service paid in advance.

(4) Other revenues include interest earnings on investments.

(5) FY2013-14 capital projects per Statement of Cash Flows.

(6) Includes \$2 million from City of South San Francisco for Oyster Point Marina dock replacement.

Revenues

Operating Revenues

TABLE 3.2 shows annual operating revenues to the SMCHD. Berth fees represent over 70 percent of the Proposed FY15-16 operating budget revenues. Revenues depend on the success of the fishing season, as shown by strong berth fee and other fishing-related revenues in FY13-14. The composition of revenues is consistent between OPM and PPH, although rent and concession revenue at OPM declined to a greater degree with the vacancy of the bait shop. The projected FY15-16 operating revenues are expected to be relatively stable and increase slightly at PPH based on recent trends.

Table 3.2 Summary of SMCHD Operating Revenues

	Actual 2013-14	Projected 2014-15	Adopted 2015-16
Operating Revenue			
Berth Fees	\$2,834,506	\$2,852,835	\$2,846,583
Mooring Fees	42,346	38,344	41,000
Dock Boxes	6,380	6,490	6,500
Launch Ramp Fees	110,073	110,500	116,000
Misc. Fees	95,524	773,529	11,550
Crab Pot Storage Fee	5,050	1,500	55,300
Rents & Concessions	828,309	721,712	685,000
RV Parking (Fishing)	37,311	49,590	50,450
Event Fees	0	12,730	23,250
Commercial Activity Permits	25,722	9,350	10,500
Sales	15,581	7,700	7,700
Operational Grants*	<u>21,420</u>	<u>150,000</u>	<u>160,000</u>
Subtotal, Operating Revenue	\$4,022,222	\$4,734,280	\$4,013,833

*Excludes Reimbursements on Projects, and Fed'l Grants (guest dock) totalling \$2,250,000 in FY13-14.

Rates and Charges

The SMCHD regularly reviews its rates and charges relative to other facilities in the region annually at the time of budget adoption. Review of the current and previous two fiscal year budgets indicates an overall increase in berth fee revenues from FY 2013 to FY 2014 and no change from FY 2014 to FY 2015.

A recent survey of rates and charges show that OPM charges berth rates comparable to Coyote Point Marina, a County owned marina just south of the San Francisco International Airport. By comparison to a broader regional survey, OPM rates were lower than averages for all other facilities, particularly for slips greater than 40 feet in length.⁴⁷ PPH berth rates were generally similar to rates for regional averages for berths up to 35 feet, and lower for larger slips.⁴⁸ PPH has experienced strong demand for its slips, and is at 100 percent occupancy, which the SMCHD believes indicates that rates may be below market.⁴⁹ In 2006, occupancy at OPM was 54 percent; it now averages 65 percent.⁵⁰

⁴⁷ 2014 Bay Area Slip Survey

⁴⁸ *ibid.*

⁴⁹ SMCHD response to Circulation Draft MSR

⁵⁰ *ibid.*

The SMCHD has indicated that it intends to review slip sizes and pricing policies to maximize occupancies and revenue. Changing trends in boat sizes and rates at competing marinas, particularly in the vicinity of OPM where there are two other nearby marinas, require ongoing review and monitoring of rates. SMCHD annually reviews surveys of marina rates and establishes a schedule of rates and charges when it adopts its budget.

Lease Revenues

PPH generates approximately 8 percent of operating revenues from fish buyer leases, which include off loading and buying fees in addition to their base rent. The SMCHD periodically reviews its charges and audits its receipts. The most recent rate review was in 2014; the review indicated that “off-loading prices that Pillar Point lessees charge to fishermen are generally in line or slightly higher with prices at other harbors in Northern California.”⁵¹ The report did not judge the current 5 percent fee on retail sales “to be overly burdensome for lessees, [but] a slight reduction (to 2.5 percent or 3 percent) would put the fee more in line with fees charged at Monterey.”⁵² The report’s overall conclusions recommended “a significant reduction in the fee charged for off-loading wetfish, and a possible reduction in fees on retail fish sales.”⁵³

As described in **Chapter 2**, SMCHD owns a number of buildings that it rents to various commercial operations that support maritime uses, recreation activities and visitors. At PPH it owns buildings leased to restaurants, bait shops, and a surf shop; these revenues accounted for approximately \$220,000 in base lease revenues⁵⁴ in addition to percentage rents and fees attributable to fish sales and offloading described above, for total PPH lease revenues of about \$430,000 annually.

At OPM, lease revenues from maritime related uses are minimal from the Oyster Point Yacht Club and the currently vacant bait shop. Nearly all of OPM’s \$205,000 annual lease revenues are paid by the lease of parcels to non-maritime uses, including offices and a motel.

There are 10 leased properties at PPH and 6 at OPM for which the status of each are detailed in Appendix G. The Bait and Tackle Shop at OPM is vacant. The San Mateo County Grand Jury’s 2014 report advocated more timely analyses of lease revenue sources to ensure that revenues “reflect current market rates” and that the SMCHD “explore the outsourcing of management of all commercial real properties to a real estate management firm by December 31, 2014”.⁵⁵ As of the date of this report, no action has been taken by SMCHD to engage a management firm.

Non-Operating Revenues

The most significant non-operating revenue is property tax that is received from all properties Countywide. Other non-operating revenues, which typically account for three percent or less of

⁵¹ Analysis of Fees for Fish Off-Loading, Wholesale Purchase, & Retail Sales, Dec. 2014

⁵² *ibid.*

⁵³ *ibid.*

⁵⁴ SMCHD, 2014 listing

⁵⁵ 2013-2014 San Mateo County Civil Grand Jury, San Mateo County Harbor District, Recommendation #9.

total non-operating revenues, include capital grants, investment earnings, and reimbursements. For purposes of this report, federal funds and contributions are categorized as "Capital Contributions" rather than as non-operating revenues.

Property Taxes

Over the past three years, including the draft preliminary FY15-16 budget, property taxes represent 55 percent to 60 percent of SMCHD revenues. As previously noted in **Chapter 3**, property tax revenues are necessary to fully fund operating costs and to cover debt service and capital improvements. The Preliminary FY15-16 budget projects property tax revenues to grow 10 percent over the prior year. Assessed values Countywide grew 5.6 percent in FY 2014-15 compared to the prior year; values have continued to improve, however, the FY 2015-16 values have not yet been finalized.

The SMCHD receives a share of all property tax growth from all properties in San Mateo County. The incremental share varies within the County, but the share of the \$1.00 of property tax collected per \$100 of assessed valuation typically ranges from about 0.36 to 0.39 in South San Francisco (just above one-third of one cent of the tax dollar) compared to 0.33 to 0.36 in certain unincorporated areas of the County.

Capital Contributions

The SMCHD received \$2,250,000 in capital contributions in FY13-14, including a \$2 million dollar capital contribution from the City of South San Francisco for Dock 11 replacement at Oyster Point Marina. In addition, the District received \$2,124,194 for a Federal capital contribution for the Wave Attenuators on the Breakwater at Oyster Point Marina.⁵⁶ The SMCHD has indicated the need to pursue grants, however, the loss of staff has reduced its ability to seek these sources of funding.

Operating Expenditures

TABLE 3.3 summarizes SMCHD operating expenditures. Operating expenditures have generally increased over time as labor related costs have grown. Other periodic expenditures overshadow the cost increases. For example, two debt service payments were made in FY 2013-14, then no debt service payments occurred in FY 2014-15. Election costs were significant in FY 2014-15, but will not be incurred in FY 2015-16. In addition, legal fees increase significantly from the previous fiscal years.

⁵⁶ Basic Financial Statements, 2014, pg. 10 (pg. 13 of 37 in pdf file).

Table 3.3 Summary of SMCHD Expenditures

	Actual FY2013-14	Projected FY2014-15	Adopted FY2015-16
<u>Commission</u>			
Salary and Benefits	84,313	81,350	74,447
Elections	188,487	513,378	0
Insurance Costs of Retirees	19,656	20,300	29,515
Legal Services	137,951	130,000	270,361
Other	<u>62,817</u>	<u>59,951</u>	<u>67,335</u>
Subtotal	493,224	804,979	441,658
<u>Administration</u>			
Salary and Benefits	1,529,721	930,779	1,136,206
Office Space and Equipment	95,063	97,500	85,800
Property Tax Admin. Fee	45,131	28,322	29,000
Other	<u>203,535</u>	<u>341,353</u>	<u>316,585</u>
Subtotal	1,873,450	1,397,954	1,567,591
<u>Pillar Point Harbor</u>			
Salary and Benefits	1,525,380	1,675,481	1,827,510
Other Operating Expenses (1)	<u>1,284,791</u>	<u>1,441,599</u>	<u>1,555,140</u>
Subtotal	2,810,171	3,117,080	3,382,650
<u>Oyster Point Marina</u>			
Salary and Benefits	1,100,497	1,161,388	1,205,188
Other Operating Expenses (1)	<u>675,120</u>	<u>859,400</u>	<u>938,880</u>
Subtotal	1,775,617	2,020,788	2,144,068
Total Operating Expenses	6,952,462	7,340,801	7,535,967
Debt Service	2,786,187	0	1,393,093
Capital Improvements	1,809,454	0	710,000
TOTAL EXPENDITURES (2)	11,548,103	7,340,801	9,639,060

(1) Other Operating Expenses include legal.

(2) Note: Additional allocations to unfunded PERS and to future termination liability not included.

The following sections describe SMCHD expenditures in greater detail.

Salaries and Benefits

Salary and benefits account for nearly 60 percent of operating expenditures. The SMCHD's salary ranges are included in **Appendix E**. Taxes and benefits add approximately 48 percent to salary costs.⁵⁷

Other Post-Employment Benefits (OPEB)

The SMCHD's obligations include a "Termination Benefits" plan. The Plan provides continuing health, dental, life insurance and vision benefits upon leaving District employment benefits. The benefits only apply to employees hired prior to July 1, 2009 that were employed with the District after January 1, 1981, if they were not terminated for good cause and had a minimum of twelve years of service to the District at time of termination. These benefits may only be collected for a period of time that is equal to half of the time the employee was employed with the District. Currently there are benefits being paid to the family of one former employee. The current balance in termination benefits payable as of June 30, 2014 was \$2,973,074.⁵⁸

Pension Liability

The SMCHD contracts with CalPERS for retirement benefits for qualifying SMCHD employees and is in good standing with respect to funding current retirement accounts. Pension expenditures for FY15-16 are projected to be \$565,270.

Harbor and Marina Operations

The PPH and OPM operations expenditures account for approximately 75 percent of the total SMCHD proposed FY15-16 budget (before capital and debt service). PPH is about 45 percent of the budget, and OPM 30 percent. The remainder of the SMCHD budget is allocated to administrative and commission expenditures. The budget does not distinguish enterprise vs. non-enterprise costs associated with PPH and OPM.

Major harbor and marina operating expenditures include the following (note that the percentages are based on operations only, and do not include other commission and administration categories shown on Table 3.3):

Salaries and Benefits – staff-related expenditures account for approximately 60 percent of PPH and OPM operations budget and 60 percent of the overall proposed FY15-16 SMCHD budget

Repairs and Maintenance – repairs and maintenance vary year-to-year, and represent about 10 percent of harbor and marina operations in the proposed FY15-16 SMCHD budget.

Utilities – garbage collections, water and electrical utility expenses are incurred by the harbor and marina operations and account for about 8 percent of harbor and marina operations in the proposed FY15-16 total budget.⁵⁹

⁵⁷ Staff Report, Debra Galarza, Board Meeting April 1, 2015, Agenda Item 7.

⁵⁸ Basic Financial Statements, 2014, note 8 to financial statements, pg. 26 (pg. 29 of 37 in pdf file).

⁵⁹ According to the SMCHD, garbage collection costs at PPH are more than twice the amount at OPM due to PPH's distance from the landfill, and its waste stream from commercial fishing.

Legal and Other Contractual Services – these contractual services represent about 8 percent of harbor and marina operations in the proposed FY15-16 SMCHD budget.

The balance of harbor and marina operations expenditures are composed of fuel and operating supplies, property and casualty insurance, and other costs associated with operations and facilities specific to PPH and OPM.

Administration

The SMCHD budget separately allocates administration expenses attributable to staff and operations at the SMCHD administrative offices. This category equals nearly 20 percent of the proposed FY15-16 SMCHD budget.

Salaries and benefits represent about 70 percent of proposed administration expenditures, including the Harbormaster, finance and human resources personnel, and other administrative and clerical support staff.

The remaining administration expenditures are budgeted for contractual services, including over \$100,000 for legal services. The balance includes \$100,000 for office space and equipment, and miscellaneous other office and administrative expenses.

Harbor Commission

The proposed FY15-16 SMCHD budget allocates nearly \$400,000 for Harbor Commission expenditures.

About half of the Harbor Commission budget, or over \$200,000, is budgeted for legal services.

Election expenses are the largest Harbor Commission expenditure, although the amount varies year-to-year depending on number of candidates on the ballot. For example, no election expenses will be incurred in FY15-16, however, the prior two years required \$200,000 to \$500,000 for FY13-14 and FY14-15 respectively.

Debt Service

The FY15-16 SMCHD preliminary budget included only the interest portion of debt service payments for loan repayment due to the California Division of Boating and Waterways (DBAW), although the Adopted Budget was revised to include both interest and principal. The budget shows the total payment including principal and interest. No payment was required in FY14-15 due to a prior year early payment.

Subsequent payments include the following:

<u>FY Year</u>	<u>Payment</u>
FY15-16	\$1,393,093
FY16-17	\$1,393,094
<u>FY Year</u>	<u>Payment</u>
FY17-18	\$1,393,094
FY18-19	\$1,393,093
FY19-20	<u>\$1,353,487</u>
Total	\$6,925,861

The current loan represents a consolidation of prior loans for a range of capital improvements to PPH and OPM. The remaining debt principal is attributable to loans originally taken for improvements to PPH.⁶⁰ The SMCHD maintains a reserve of \$1.7 million as required by DBAW; this reserve could be used to make the final payment, and a portion of the FY18-19 payment due. Early payment would reduce the total interest due.

Capital Improvement Plan (CIP) Expenditures

Capital expenditures vary significantly from year-to-year, depending on needs and funding available. The FY15-16 SMCHD budget funds \$710,000 in projects. The prior year allocated no funds to capital expenditures, and the current budgeted capital expenditures are reduced from \$3.6 million considered in earlier draft FY15-16 budgets. Most recently, the newly hired Interim General Manager has recommended to the Harbor Commission that their priorities include specific capital projects.

As described in **Chapter 2**, the Draft Strategic Business Plan identified and prioritized a number of repair and improvements recommended over the next five years, totaling \$11.5 million for PPH and \$5.8 million for OPM, or \$17.3 million total; the totals include \$1.8 million for capital improvements determined to pose a safety risk and/or present a risk of failure within 5 years (priorities 1 and 2). Although the amount required in any given year will vary depending on projects and priorities, if the \$17.3 million total is spread over five years, these recommended capital expenditures would equal about \$2.3 million annually for PPH, and \$1.2 million annually for OPM, or a combined total of \$3.5 million annually.

The final preliminary FY15-16 budget includes additional items not evaluated in the Draft Strategic Business Plan. The CIP generally allocates funds for design and permitting for most projects and postpones major expenditures, including the demolition and removal of the dilapidated Romeo Pier, erosion improvements to the West Trail, and other capital improvements. The SMCHD indicates that it intends to identify priority projects and revise the CIP budget accordingly.

In the short term, the planned expenditures for FY15-16 are significantly less than the average amount needed to meet the priorities of the Draft Strategic Business Plan condition assessments. In addition, because there is no direct link between the capital projects in the budget and the capital projects and repairs listed in the Draft Strategic Plan, it is difficult to determine whether or not the Business Plan's recommendations have been considered in the SMCHD's CIP.

Assets

Current Assets

According to the most recent SMCHD financial statements available, SMCHD had approximately \$14.3 million at the end of Fiscal Year 2013-14, consisting largely of \$12.2 million in unrestricted

⁶⁰ State of California, Invoice to SMCHD, 6/2/2014. In comments on the Circulation Draft, the Harbor District disputes the allocation of the remaining debt to PPH.

cash and investments.⁶¹ As of May 6, 2015, current assets were estimated to be \$16,369,225;⁶² the change was largely due to deferral of capital improvement expenditures in the FY14-15 and FY15-16 budgets.

These assets represent a “fund balance” that provides for reserves for various purposes including current and non-current liabilities and capital expenditures.

Reserves

The SMCHD FY15-16 budget allocates its cash balance to the following reserves:

Debt Service-DBW Loan Collateral (restricted)	\$1,787,961
Emergency Reserve	1,619,464
Reserve for District Office	1,526,217
Capital Improvements Reserves	586,500
Payable Liability	300,000
Encumbrances	500,000
Customer Deposits and Prepayments	500,000
Termination Benefit Liability	<u>3,795,197</u>
Subtotal	10,615,339
Unassigned	5,781,463
TOTAL	\$16,396,802

The projected \$5.8 million, an increase over the unassigned amount of \$4.6 million reported by the SMCHD as of March 31, 2015,⁶³ potentially is available for capital improvements and/or other unanticipated needs. These decisions will need to be made in the context of reserve policies to be determined. In addition, the May 20 agenda includes an item to add the proceeds from the Post Office lot sale in the amount of \$794,008.05 to either the District Office Reserve or the Unrestricted Reserve.

The Draft Strategic Business Plan Existing Infrastructure and Facilities Assessment identified a need for \$2.4 million for capital improvements and repair of items determined to pose a safety risk and/or present a risk of failure within 5 years (priorities 1 and 2). Additional funding needs are further described above in the “Capital Expenditures” section of this chapter.

⁶¹ San Mateo County Harbor District Basic Financial Statements for the Year Ended June 30, 2014 (“Financial Statements FY14”), pg. 12.

⁶² SMCHD Final Preliminary Budget for May 6, 2015.

⁶³ SMCHD Quarterly Investment Balances Report, SMCHD Board Meeting Agenda, May 6, 2015, Item 9

Non-Current Assets

Land, buildings and equipment, described in greater detail in **Chapter 2**, comprise the majority of non-current assets and total \$53.9 million in cost basis.⁶⁴ Approximately 50 percent of the value of assets other than land has been depreciated.

Liabilities

Current Liabilities

Current liabilities totaling \$4.1 million include \$3.5 million in pre-paid rents, or "Unearned Revenue"; the balance consists of accounts payable, accrued payroll, and customer deposits. These liabilities effectively represent a claim against assets.

Non-Current Liabilities

As of June 30, 2014, \$5.9 million in debt obligation to the DBAW remained due. As the result of an early payment, the SMCHD had no payment due in FY14-15; however, a payment of approximately \$1.4 million will be due in FY15-16. The final payment will be due in FY20, although \$1.7 million of assets restricted to debt repayment would be sufficient to make the final payment as well as a portion of the FY19 payment.

The SMCHD has a liability of approximately \$3.9 million for its program of termination benefits. These benefits are applicable only to employees hired prior to July 1, 2009 with at least 12 years of service who were not terminated for cause.

Accrued vacation and sick leave comprises the balance of non-current liabilities.

Gann Appropriations Limit

The SMCHD has not established a Gann Appropriations Limit applicable to its annual expenditures. The SMCHD is not required to calculate a Gann Limit, according to Gov. Code 7901(e), which states that "The term "special district" shall not include any district which (1) existed on January 1, 1978, and did not possess the power to levy a property tax at that time or did not levy or have levied on its behalf, an ad valorem property tax rate on all taxable property in the district on the secured roll in excess of 12 1/2 cents per one hundred dollars (\$100) of assessed value for the 1977-78 fiscal year...". The SMCHD's tax rate is less than one cent per \$100 of assessed value, therefore the Gann requirement does not apply.

⁶⁴ Financial Statements FY14, pg. 22. The "Cost Basis" is the original (or estimated) cost of the asset, as adjusted for subsequent capital improvements that add to the value of the asset or materially extend its life.

4. GOVERNANCE OPTIONS

This chapter describes governance options to the status quo that can be considered. The discussion assumes that operations will largely continue, although future costs and revenues will vary from the proposed budget amounts as a result of capital planning, eventual elimination of debt service (by 2015), ongoing review and revision to rates and charges, and other planning and management activities. Potential cost savings are described in this chapter.

Dissolution with Long-Term Successor

County of San Mateo as Long-Term Successor to PPH, and City of South San Francisco as Long-Term Successor to OPM as Subsidiary District of the City

This option was considered; however, SMCHD property tax revenues currently generated within the City of South San Francisco would be inadequate to fund OPM operations, overhead and an allocation of debt service. Property taxes generated within SSF that currently accrue to the SMCHD represent only about 10 percent of SMCHD's current property tax revenues.⁶⁵

Increasing the allocation of property taxes to the City to cover OPM expenditures would require a shift of County property taxes collected within the City's boundaries, assuming the County collects enough to cover the shift. The County, in turn, would need to be compensated through SMCHD property taxes collected outside of the City. While the shift in property tax may be sufficient for the first year of operations, it may not be the correct amount in future years as OPM costs adjust during transition, revenues change, and debt service is paid off. This model could be considered as a second phase to the following alternative after operations by the two entities have created efficiencies, established better cost recovery, and better established the costs associated with enterprise versus non-enterprise activities through cost accounting.

County of San Mateo as Long-Term Successor/JPA with City of South San Francisco

The County of San Mateo (the "County") could assume all of the assets, liabilities and operational responsibilities of the Oyster Point Marina and Pillar Point Harbor. All revenues would accrue to the County to fund expenditures. The County's Board of Supervisors ultimately would have authority over the facilities to which it is the successor. The Board could create an appointed body to advise it on operational and policy issues.

The County would assume responsibility for PPH, and could utilize existing PPH staff for operations. The County of San Mateo's Parks Department currently operates Coyote Point Marina and consequently has experience managing these types of facilities, as well as administrative staff that could be augmented as necessary to handle additional workload.

⁶⁵ SSF assessed value represents about 10 percent of the Countywide total assessed value, which generates SMCHD property tax revenues.

The County would assign responsibility for OPM to the City of South San Francisco through a JPA, and allocate property tax sufficient to pay for OPM operations, capital improvements and applicable share of debt service. This amount could be adjusted annually as costs adjust during transition, efficiencies are achieved, revenues are change, and debt service is paid off.

The City of South San Francisco ("SSF") would be responsible for maintaining parks and open space at OPM as they currently do in other areas of the City and utilize existing OPM staff to manage and operate the marina facilities. Current City administrative staff could be augmented as necessary to handle administrative tasks including financial accounting.

Alternative Boundaries

The current boundaries of the SMCHD could be reduced if it is determined that the SMCHD primarily serves an area that is less than Countywide. However, depending on the extent of the boundary reduction, property taxes would correspondingly be reduced. Unless there are equal reductions in current SMCHD expenditures and liabilities, the reduced property tax may be inadequate to fund operations and provide for needed capital improvements. The elimination of current debt obligations by 2020 will provide some additional capacity for property tax reductions, as paying off the debt will reduce expenditures by about \$1.4 million annually.

Successor Agency Obligations

The successor agency (or agencies) will be responsible for all assets, liabilities (including existing debt obligations) and operational responsibilities of the SMCHD. Prior chapters described these obligations in greater detail.

Allocation of Assets and Liabilities

Depending on the governance option, it may be necessary to allocate assets and liabilities, as well as revenues and expenditures, between the two agencies. It is assumed that allocations will generally "follow the facility". Remaining debt principal is entirely attributable to PPH.⁶⁶

Potential Cost Savings

The assumption of SMCHD operations by a successor agency (or agencies) offers the opportunity to achieve certain service efficiencies and cost savings due to economies of scale and eliminating duplicated elected offices and administrative functions. Elimination of existing Harbor Commission expenses, including election costs which vary from \$300,000 to \$500,000 alternating years, represent the greatest potential savings to a successor agency, although the majority of these election costs will be redistributed to all other County entities sharing in election costs. The exact magnitude of other administrative savings, if any, will depend upon the ability of the successor agency to manage increased workload before adding staff. Additional savings include legal fees once the transition to the County and City are complete. In some

⁶⁶ State of California, Invoice to SMCHD, 6/2/2014, provided by the SMCHD; the SMCHD in response to the Circulation Draft MSR indicated that it has additional information that supports a different conclusion.

cases, it may be possible for the successor agency to achieve management cost savings through the use of existing management staff; however, certain administrative and clerical functions may require additional staff to the successor agency reducing the potential cost savings.

Transition Issues and Costs

Although it may be possible to achieve longer-term efficiencies, stability and cost savings, in the short-term there will be transition costs associated with reorganization. It is anticipated that overall benefit to County tax payers and users of the two facilities would not be measurable for several years due to the need for successor(s) to invest significantly in both facilities to correct the Harbor District's deferred maintenance and to implement needed capital projects. In addition, following are key nearterm transition items that must be considered further:

Termination Benefits – Responsibility for termination benefits, currently funded at \$3.7 million by the SMCHD, needs to be independently verified, as well as future potential increases or decreases.

CalPERS Unfunded Liabilities – If the SMCHD is dissolved and SMCHD employees become employees of the County of San Mateo, the SMCHD will be unavailable to meet future obligations to retirees or to provide future benefits to those currently vested in the CalPERS plan. CalPERS has responded to other proposed dissolutions by demanding that future retirement liabilities be fully funded prior to dissolution.⁶⁷ CalPERS' estimate of the funding obligation was \$3,554,940 as of June 30, 2013.⁶⁸ However, actuarial reports, which are not expected to be available until the Fall of 2015, may establish a different cost. CalPERS should be contacted to provide a more current estimate.

Service Responsibility – Certain functions, particularly at PPH, could be done by other departments and/or agencies, such as Sheriff's Office (SAR, ocean rescue assistance and enforcement), or the Department of Public Works to manage facilities, in addition to the County Parks Department. Further analysis is needed to explore these options.

Staff Transition – It is assumed that current SMCHD operations personnel would be transitioned to the successor entity; however, further investigation is needed to clarify differences in salaries and benefits that will need to be addressed and the potential benefit of transfer certain administrative staff who would bring institutional knowledge.

Capital Improvement Costs – The SMCHD Draft Strategic Business Plan identifies needed capital improvements and priorities, however, there are additional items considered in the SMCHD Budget. Further clarification will be important to better define the design, entitlement and cost/funding status of needed improvements and related liabilities. It should be noted that comparing current and past SMCHD budget and operational costs that have included deferring maintenance and capital improvement to balance the budget with a proposed plan for service

⁶⁷ For example, see the Application by San Diego Rural Fire Protection District Requesting Local Agency Formation Commission to Take Proceedings for Dissolution of the District, letter from the District's attorney to San Diego LAFCO, June 26, 2014.

⁶⁸ Annual Valuation Report as of June 30, 2013, CalPERS Actuarial Office, October 2014, Sec. 1 pg. 8.

and budget by successor agencies may not be an “apples to apples” comparison if successor agencies include the cost of implementing deferred projects.

Legal Costs – It is likely there will be legal costs incurred by the District and successor agencies for a variety of tasks including the establishing a proposal and plan for service, LAFCO application, staff transition and addressing existing labor agreements, revising existing JPA documents and lease agreements and creating new agreements as necessary, and other items that should be further delineated where possible. Other district reorganizations can provide examples of the legal tasks and potential legal costs that may be incurred.

Debt and Other Assets and Liabilities – The successor agency would be empowered by LAFCO and state law to assume responsibility for all assets, debts and liabilities of the SMCHD. However, the transition of ownership and liability may require revision to existing documents.

5. DRAFT MSR DETERMINATIONS

As required by Government Code Section 56430, this MSR provides determinations for consideration by LAFCo. Following are preliminary determinations; it is anticipated that these determinations will be reviewed and revised during the course of public review, prior to action by LAFCo.

1) Growth and population projections for the affected area.

As further described in **Chapter 2**, the County's population is forecasted to increase by about 26 percent between 2010 and 2040; this is a slightly greater rate than the growth projected in the 2006 MSR, however, actual growth will depend on future economic conditions, land use policies and other factors. Although these trends indicate continued growth in demand, utilization of SMCHD facilities is much more significantly influenced by weather conditions, successful fishing seasons, and outdoor recreation trends.

2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

In 2006, LAFCO reaffirmed the zero SOI adopted for the SMCHD originally adopted in 1977. Within the current boundaries of the SMCHD, which correspond to San Mateo County boundaries, multiple disadvantaged unincorporated communities (DUCs) exist. However, the intent of evaluating DUCs is to assure that those communities are provided adequate services and infrastructure comparable to other communities within or contiguous to an agency's SOI. This provision is not applicable to the SMCHD, which operates and maintains a harbor and a marina, and provides related maritime services.

3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the SOI.

As detailed in **Chapter 2** of this MSR, the SMCHD has significant infrastructure and facility improvement needs as a result of the wear and tear of heavy use, a harsh marine environment, and deferred maintenance and capital projects. The Draft Strategic Business Plan prepared in 2014 for the SMCHD indicated a need over the next five years for \$17.3 million in repairs and capital improvements. Additional needs not assessed in the Plan include a need to demolish and remove the dilapidated Romeo Pier, and harbor dredging projects. The SMCHD CIP budget addresses several of the recommended items, in addition to other needs, however it defers major construction pending further design and review, and acquisition of adequate funding.

Recommendations:

1. The SMCHD should establish a capital improvement planning and accounting system, including a 5 year CIP, to better document and plan for the funding and implementation, as well as to facilitate prioritization, of capital improvements. The CIP should be explicitly linked to improvements currently recommended in the Draft Strategic Business Plan, as well as the proposed budget.

4) Financial ability of agency to provide services.

As described in **Chapter 3**, the SMCHD budget consistently exhibits a net operating shortfall due to operating revenues inadequate to cover operating costs. The operating shortfall (before debt service, and before the use of property taxes) exceeds \$3.4 million in the projected budget, meaning that fees and charges are insufficient to cover about half of operating expenditures. In addition to the operating shortfalls, the SMCHD must fund approximately \$1.4 million of annual debt service and undertake ongoing maintenance and construct needed capital improvements.

In addition to fees and charges, the SMCHD receives over \$5 million annually from its share of countywide property taxes. These total revenues are sufficient to fully fund operations and \$710,000 of planned capital improvements; however, the repair and capital improvement needs are greater than the amount currently shown in the proposed budget.

The SMCHD's labor-related and other operating costs continue to increase, placing more pressure on budget resources. However, numerous actions recently undertaken and/or planned by the SMCHD offer the prospect for improved financial resources and ability to fund improvements, including:

- Establishment in recent years of a "two-tier" benefit system that reduces the cost of benefits related to new employees.
- Current relocation of administrative offices to new space at a reduced lease cost.
- Streamlining procedures to reduce "bad debt" associated with non-paying berth tenants implemented by the Finance Director.
- Review of fees and charges to assure reasonable and competitive rates for appropriate mix of slip sizes.
- Consideration of charges for services currently provided at no cost, for example, pump-out services, and charges for large parties utilizing picnic areas.
- Contingent on staff capacity, renew efforts to seek grant funding for facilities and improvements, including possible grants related to equipment needs for SMCHD Search and Rescue.
- The recent sale of surplus property, consistent with Civil Grand Jury recommendations, increased SMCHD reserves.
- Over time, Termination Benefit liabilities and payouts will diminish and eventually end.
- Possible retention of a commercial real estate management firm to help maximize lease revenues.
- Refinancing and/or eventual payoff of existing DBAW debt will make additional resources available for capital funding.

Due in part to recent turnover of staff with extra work falling to remaining staff and lack of consensus on the Board, many of the initiatives noted above were not pursued. Conflicts within the Board, and between staff and the Board, as noted by the Civil Grand Jury, further

exacerbated the difficulty of achieving SMCHD objectives and increased SMCHD costs (e.g., for legal services).

The SMCHD has undertaken steps to reduce Board conflict and establish "Chain of Command" protocols. An Interim General Manager was hired recently, and the current General Manager recruitment and hiring offers an opportunity to solidify leadership, organization and direction assuming it is supported by majority of the Harbor Commission. In the near term, improvements in property tax revenues and lease revenues will help to fund staff efforts towards the initiatives noted above, assuming strong management direction. Improvements in accounting and financial policies can strengthen capital improvement planning and programming, and provide for appropriate reserve policies which enable limited use of reserves for capital while maintaining adequate reserve levels.

Recommendations:

1. The SMCHD should engage a public accounting firm to review its budget accounts for both operations and capital improvements, and establish a financial accounting system consistent with best practices for California public agencies. The review should include a system to allocate costs and revenues according to enterprise vs. other public purposes for each of their facilities, and to provide immediate access to current lease and tenant information.
2. The SMCHD should assess its personnel needs in order to fill vacated positions as necessary to pursue the initiatives noted above, including seeking grants.
3. The SMCHD should consider administrative functions that can and should be more cost-effectively outsourced, including IT functions and property leasing. This outsourcing should consider collaboration with other public agencies as well as private contractors.

5) Status of, and opportunities for, shared facilities.

Limited opportunities for shared facilities have been identified in the course of this MSR process. Recently the District has leased office space from the Granada Community Services District and contracted with Regional Government Services to recruit an interim General manager. Various opportunities may exist by which the SMCHD may take advantage of shared services, for example possible IT contracting with or through other public agencies, which is being explored. Responsibility for certain facilities could be shifted to other agencies, for example the West Trail and Surfers Beach dredging, as recommended by the Civil Grand Jury and noted in the following determination.

6) Accountability for community service needs, including governmental structure and operational efficiencies.

The Civil Grand Jury described indications of "a systemic flaw in the ability of District commissioners to govern effectively".

The SMCHD has taken a number of steps towards addressing issues that plagued it in the past, including workshops to facilitate collegiality and working relationships, consideration of "Norms" of commissioner behavior, improvements in public posting of materials on their website and multiple workshops on topics such as the budget. A strategic business plan is being prepared, however, it has been delayed and concerns exist about its scope and effectiveness in addressing

SMCHD financial issues. As described in this MSR, inappropriate interaction between Commissioners and staff continue to interfere with operational efficiencies.

The Civil Grand Jury recommended dissolution of the SMCHD and transfer of responsibilities to other agencies, specifically, the County of San Mateo. **Chapter 4** described governance options, with the most potentially viable option a scenario in which the County acts as successor agency, operates PPH, and enters into an agreement with the City of South San Francisco (SSF) to operate OPM. The agreement with SSF would include negotiated funding from the County's property taxes (from the dissolved SMCHD) and other revenues to be transferred to SSF to fund operations and capital improvements, and any other shared financial liabilities (e.g., remaining debt service, CalPERS liabilities, etc.).

The option described above may incur additional costs during the initial years of transition related to CalPERS and other liabilities, but could provide for cost and service efficiencies over the longer term. This option would integrate the SMCHD operations into larger entities that have the capacity and expertise to provide a range of needed services, including Information Technology, purchasing and contracting services, human resources, etc.

Recommendations:

1. The City of South San Francisco and the County of San Mateo should continue to confer and research issues and options affecting the feasibility of dissolving the SMCHD, transferring responsibilities to the County as successor agency, and transitioning to SSF operation of OPM via a JPA.

7) Any other matter related to effective or efficient service delivery, as required by commission policy.

A primary concern expressed by prior MSRs and by the Civil Grand Jury involved the use of Countywide property tax revenues to help subsidize "enterprise" type operations, including berth rentals occupied by a majority of non-County residents. However, the current and prior MSR also documented the range of facilities, services and benefits provided by SMCHD services and facilities such as Search and Rescue, environmental services, and public use and access to piers, parks and waterfront open space.

While it is difficult to isolate cost estimates for these broader, non-fee funded services, the SMCHD could create "cost centers" to document and track these expenditures to support appropriate levels of property tax use and allocation. In the near-term it is expected that property taxes will continue to be necessary to fund deferred maintenance and other necessary improvements. Over the longer term there is a possibility that revenue enhancements and cost efficiencies from initiatives described above and/or from reorganization could reduce the current reliance on property tax.

Recommendations

1. As also noted above under Recommendation 4.1, the SMCHD should establish an accounting system that can allocate costs and revenues according to enterprise vs. other public purposes to better assess the need for property tax.

6. DRAFT SOI DETERMINATIONS

Government Code Section 56425 requires that LAFCo review spheres of influence every five years as needed and specifies that in determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

The present and planned land uses in the area, including agricultural and open-space lands.

The present and probable need for public facilities and services in the area.

The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

This sphere of influence update incorporates information and determinations in the San Mateo LAFCo Municipal Service Review of the San Mateo County Harbor District.

San Mateo County Harbor District Sphere of Influence

The San Mateo County Harbor District (SMCHD) is an independent special district formed in 1933 to construct, maintain and administer harbor facilities. Enabling legislation for the district is State Harbors and Navigation Code, Section 6000 et seq. The District's original plan was to develop a commercial port in Redwood City. The District remained inactive from 1935 to 1948, at which time the District was resurrected to obtain federal funds to construct a harbor of refuge at Pillar Point Harbor at Half Moon Bay. A breakwater was completed in 1962 and additional work to protect the harbor was completed in 1967.

In 1977, San Mateo LAFCo adopted a zero sphere of influence for the District indicating that it should be dissolved and service could be assumed by the County. Subsequently several efforts to either detach portions of the county from the District or dissolve it ended with court challenge, denial at protest hearing, failure at election and most recently in 1991, withdrawal of the application. LAFCo has periodically reviewed and reaffirmed the sphere of influence, most recently in 2006.

SMCHD operates according to State Harbors and Navigation Code Sections 6000 et seq. and is authorized to: control and operate all harbor works and facilities within its boundaries, supervise pilotage of seagoing vessels within the harbor and the docking of vessels and pass all necessary ordinances for the protection and safety of persons or property using district facilities and waters subject to the jurisdiction of the district.

While District boundaries are countywide, the District operates at two locations: Pillar Point on Half Moon Bay and Oyster Point Marina/Park on the bayside in South San Francisco. The District controls Pillar Point Harbor under a State Tidelands Grant and has operated Oyster Point

Marina/Park via a Joint Power Agreement (JPA) with the City of South San Francisco since 1977. The JPA expires in 2026.

Recommended Sphere of Influence and Determinations

As a countywide, single-purpose special district, San Mateo County Harbor District is unique in that its boundaries are coterminous with the County of San Mateo but services are limited for the most part to two distinct facilities. The Community of Interest of the District in regard to electing board members and funding is county-wide in that board members are elected at large and property tax is collected countywide. Yet, activities of the district and resources are dedicated to two facilities and surrounding marine environs that involve enterprise marine activities and non-enterprise recreation and beach access. The County of San Mateo operates regional parks and the Coyote Point Marina and as a multipurpose government governed by the Board of Supervisors. The County of San Mateo and the City of South San Francisco have the organizational and management capacity to operate Pillar Point and Oyster Point facilities. South San Francisco in particular has a vested interest as owner of Oyster Point that offers viable economic development opportunities for the City.

Based on the foregoing municipal service review, services could be provided cost effectively by a successor agency, eliminating costs associated with a separate administration and governing board. It is therefore recommended that upon considering the accompanying municipal service review and adopting service review determinations, the Commission reaffirm the dissolution sphere of influence of the San Mateo County Harbor District and adopt sphere determinations as required by Government Code Section 56425.

The following summarizes sphere determinations that could be adopted by the Commission in reaffirming the sphere of influence.

(1) The present and planned land uses in the area, including agricultural and open space lands.

Land uses within District boundaries include a wide range of land use including residential, commercial, industrial, open space, agricultural, rural and open space land use designations under the jurisdiction of the County of San Mateo, incorporated cities, California Coastal Commission, State of California through tidelands grant, the San Francisco Bay Conservation and Development Commission as well as other agencies that may have land use review authority.

(2) The present and probable future need for public services.

Services provided by the Harbor District within District boundaries are also provided at varying levels by other public and private entities. While the County of San Mateo Sheriff's Department, other marina operators and some fire agencies have search and rescue capability, the Harbor District provides search and rescue security vessels stationed at Pillar Point and Oyster Point Marina. Continued need for these services is expected to continue.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

San Mateo County Harbor District operates two facilities, Pillar Point Harbor and Oyster Point Marina/Park. Pillar Point has 95-100% berth occupancy rate. Work is in progress on provision of new berths and the District has an executed agreement with U.S. Army Corps of Engineers for provision of a new navigation channel in connection with pier replacement. Oyster Point has 60-65% occupancy rate and therefore has additional capacity. Both facilities include visitor-serving opportunities. Services also include search and rescue and the District's Pillar Point Harbor Patrol provides the only search and rescue security vessels stationed on the San Mateo County coast.

(4) The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

San Mateo County Harbor District's boundaries are coterminous with San Mateo County, while operations are limited to two locations: Oyster Point in South San Francisco and Pillar Point in Half Moon Bay. These represent distinct communities with common social and economic interest in commercial and recreational fishing and marine, boating and visitor serving facilities. While commercial fishing is an industry important to the County and the Pillar Point Harbor serves as search and rescue to benefit the County's coast, and Oyster Point offers a venue for a commuter ferry, these issues speak to the value of providing these services whether they are provided by the Harbor District or a successor agency such as the County of San Mateo or the City of South San Francisco.

7. DISSOLUTION PROCESS

Dissolution may be initiated in several ways. These include:

- LAFCo initiated dissolution
- Harbor District initiated dissolution (This would eliminate a protest procedure or election)
- Resolution of application to the dissolve the District initiated by the Board of Supervisors or any city, district or school district sharing territory in the County. (This would result in a protest process that would require 25% of countywide voters to submit protest to cause an election)
- Petition of 10% of the eligible voters in the County. (This would result in a protest process that would require 25% of countywide voters to submit protest to cause an election)

1. Resolution of Application to LAFCo

Once a sphere of influence is adopted or reaffirmed, whether it is for dissolution, consolidation, etc., implementation requires that a public agency initiate an application to LAFCo by resolution. (Applications can also be submitted by landowner or voter petition but is unlikely.) In this case, either the Harbor District, the County, any city, or school district or LAFCo could initiate an application. If the Harbor District initiates, there would be no protest or election. If LAFCo initiates, once approved there would be a protest hearing and 10% registered voter protest could cause an election.⁶⁹ If any other agency applies, and LAFCo approves the application, a protest hearing is held and an election would only be called if 25% of the over 300,000 registered voters in the county submit written protest.

Before application the County and/or the County and the City would prepare a plan for providing service, a five year budget, and come to agreement on property tax distribution between facilities, mindful of weaning enterprise activities from property tax over time. Application would be submitted including above items, requested conditions (see 3 below), indemnification agreement, and fees.

- ### 2. LAFCo receives application which triggers adoption of a property tax resolution by Board of Supervisors as required by Revenue and Tax Code.⁷⁰ The purpose of this action would

⁶⁹ LAFCo is unlikely to initiate dissolution due to a number of considerations not relevant to this discussion.

⁷⁰ In comments on the Circulation Draft, the Harbor District asserts that all cities in the County would be party to a property tax negotiation. However, the Revenue and Tax Code pertaining to reorganization of special districts directs that the property tax negotiation, in cases where the service area or responsibility of a special district is affected, shall be negotiated by the Board of Supervisors on behalf of the special district. In this case the affected agencies would be the San Mateo County Harbor District and the County of San Mateo as successor to District service responsibilities. There is no proposed service responsibility transfer to cities, and therefore requires negotiation with any other agencies.

be to transfer the current base and increment to the County in the event an application is approved. Application is referred to affected and interested agencies for comment. Once resolution of tax exchange is adopted and Executive Officer certifies application as complete, application is scheduled for noticed public hearing.

3. Executive Officer prepares report and recommendation including factors to be considered per Section 56668 and recommended conditions of approval per sections 56885 and 56886.
4. LAFCo holds noticed public hearing and may approve as submitted, approve with modifications or conditions, deny, or continue for up to 70 days.

If approved, LAFCo Executive Officer schedules a noticed public protest hearing no sooner than 30 days and no later than 60 days from LAFCo approval.

6. If at the conclusion of the protest hearing, if less than 25% of the registered voters submit written protest, LAFCo Executive Officer orders dissolution. If more than 25% submit protest an election is called and dissolution would require simple majority approval.
7. If less than 25% registered voters submit protest, LAFCo records certificate of completion and dissolution is effective date of recordation, unless a specific date such as beginning of fiscal year or quarter are established as a condition of approval.



APPENDIX A: References

APPENDIX A: REFERENCES

LAFCO Documents

Municipal Service Review San Mateo County Harbor District, San Mateo LAFCO, October 11, 2006

Sphere of Influence Review San Mateo County Harbor District, San Mateo LAFCO, October 11, 2006

Demographics

Plan Bay Area, Adopted July 18, 2013, Association of Bay Area Governments and the Metropolitan Transportation Commission

Financial Reports

SAN MATEO COUNTY HARBOR DISTRICT BASIC FINANCIAL STATEMENTS

FOR THE YEAR ENDED JUNE 30, 2014, JJACPA Inc., November 24, 2014, file: "financial_statements_june2014.pdf".

Services

Rates and Charges

Bay Area Marina Rates 2014, file: "Bay Area Rates 2014.xlsx". Summarizes rates by slip size for OPM, Coyote Point Marina, Oyster Cove Marina, Brisbane Marina, Alameda Marina, and Pier 39 Marina.

2014 Bay Area Slip Survey, Doug Furman, files: "2014 Bay Area Slip Survey Summary.doc", "Summary_2014_final (2).xlsx".

This survey was conducted in cooperation with the Marina Recreation Association, the Bay Area Harbormaster Group and California Association of Harbormaster's and Port Captains.... Responses were received from 49 marinas. These marinas represent over 15,300 wet slips in the Bay Area.

Oyster Point Marina Park Rates and Fees Schedule (Effective: July 1, 2014 – June 30, 2015), file: "FY 14-15 OPM RATES & FEES.pdf".

Pillar Point Harbor Park Rates and Fees Schedule (Effective: July 1, 2014 – June 30, 2015), file: "FY 14-15 PPH RATES & FEES.pdf".

Facilities

SAN MATEO COUNTY HARBOR DISTRICT, STRATEGIC BUSINESS PLAN Appendix A: EXISTING INFRASTRUCTURE & FACILITIES ASSESSMENT, DRAFT, DECEMBER 2014, file: "LWC_SMCHD_Appendix_A_122614.pdf".

- A.1. SEA LEVEL RISE BEST PRACTICES
- A.2. CIRCULATION & PARKING ASSESSMENT, WETA & EMERGENCY PREPAREDNESS
- A.3. MARINE INFRASTRUCTURE & HARBOR FACILITIES ASSESSMENT –PILLAR POINT HARBOR
- A.4. MARINE INFRASTRUCTURE & HARBOR FACILITIES ASSESSMENT – OYSTER POINT MARINA PARK
- A.5. MARINE SPECIES AND WATER QUALITY ASSESSMENT

Leased Property

2014 SMCHD LEASE SPACE RENTED (confidential), file: "SMCHD Lease Lisitng.pdf" (sic).

SAN MATEO COUNTY HARBOR DISTRICT FISH BUYER LEASE REVENUE VERIFICATION FOR THE PERIOD OF APRIL 2013 THROUGH MARCH 2014, JJACPA, Inc., December 17, 2014, file: "Fish Buyer Report Final.pdf".

To assist in evaluating the monthly fish purchase and off-loading fees for the period April 2013 through March 2014... Performed a desk audit of three fish buyer leases, which include off loading and buying fees in addition to their base rent. Verification procedures included tracing fish off-loaded and purchased by Tenant to supporting invoices and recalculating fees due to the District.

ANALYSIS OF FEES FOR FISH OFF-LOADING, WHOLESALE PURCHASE, & RETAIL SALES, PILLAR POINT HARBOR: PILLAR POINT SEAFOOD, MORNING STAR FISHERIES, AND THREE CAPTAINS SEA PRODUCTS LEASES, Dornbusch Associates, December, 2014, file: "Pillar Point Lease Fees Report 12-11-14.pdf".

The San Mateo County Harbor District (SMCHD) engaged Dornbusch Associates (Dornbusch) to analyze fees that SMCHD levies on lessees who engage in fish off-loading, wholesale purchase, and retail sales at Pillar Point Harbor. The three lessees are Pillar Point Seafood, Morning Star Fisheries, and Three Captains Sea Products. Dornbusch compared fees at Pillar Point to fees in place at other harbors in Northern California, including Monterey, Moss Landing, Santa Cruz, San Francisco, Spud Point (Bodega Bay), and Noyo (Fort Bragg).

Staff

CalPERS

Annual Valuation Report as of June 30, 2013, CalPERS Actuarial Office, October 2014.

Application by San Diego Rural Fire Protection District Requesting Local Agency Formation Commission to Take Proceedings for Dissolution of the District, letter from the District's attorney to San Diego LAFCO, June 26, 2014.

<http://www.sdlafco.org/document/Rural%20FPD%20Documents/Rural%20FPD%20Dissolution%20Documents/01%20-%20Letter%20of%20Submittal%20to%20LAFCO%20%28062614%29.pdf>

Informational Materials Published by SMCHD

Pillar Point Harbor, Informational Brochure. Provides overview of PPH facilities, activities, and nearby amenities (undated)

City of South San Francisco Documents

Joint Powers Agreement San Mateo County Harbor District and City of South San Francisco, October 21, 1977. Agreement to jointly construct improvements, and to empower the SMCHD to manage, operate and maintain the Oyster Point Marina/Park. The Agreement is effective for 49 years, which would be October 21, 2026. File: "harbor district JPA (2).pdf"

MOU (Harbor District – Oyster Point Marina), May 27, 2009. Establishes an understanding between the City and the SMCHD re: private development of certain parcels at OPM.

Other Documents

What is the Price of Dysfunction? The San Mateo County Harbor District, 2013-2014 San Mateo County Civil Grand Jury.



APPENDIX B: Facilities

[insert B-1 "Pillar Point Assets" pdf extract table – see data/facilities]



[insert B-2 "Pillar Point Estimated Repair Costs and Priority" pdf extract table – see data/facilities]



[insert B-2 "Pillar Point Estimated Repair Costs and Priority" pdf extract table – see data/facilities]

pg. 2



[insert B-3 "Oyster Point Assets" pdf extract table – see data/facilities]



[insert B-4 "Oyster Point Estimated Repair Costs and Priority" pdf extract table – see data/facilities]





APPENDIX C:
Parcel Maps

APPENDIX C: PARCEL MAPS

Appendix C.1 Oyster Point Business Park and Marina Village

Source: MOU (Harbor District – Oyster Point Marina), May 27, 2009, Exh. A,
Current Parcel Map

[insert file: ParcelMap from Oyster Point - Harbor District MOU_2009update.pdf]

Appendix C.2 Pillar Point Harbor Parcels

[insert PPH table from: P:\141000s\141173HarborDistMSR\Data\Data Request\Response\RecdViaEmail\Parcels\Parcel Acreage.xlsx

APPENDIX D:
SMCHD List of Norms

Insert "Norms"



APPENDIX E:
SMCHD Salary Ranges



Insert salary schedule





APPENDIX F:
SMCHD "Chain of Command"

[insert "Chain of Command memo]



APPENDIX G: Leases

[insert app G]



APPENDIX H:

Other Marina and Harbor Facilities in San Mateo County



[insert app H – 2 pages]



Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment																
3	Ferryboat service operated independently by the Water Emergency Transit Authority (WETA), which supplanted a number of berths, now operates to the East Bay from Oyster Point Marina.	<p>Even with a reduced number of slips, the Harbor District operates OPM efficiently. A comparison of Oyster Point Marina Berth-only revenues to <u>all</u> Coyote Point Marina revenues from business type activities demonstrates the Districts effective and efficient operation of Oyster Point Marina. The comparison with Coyote Point Marina is even more striking at Pillar Point Harbor. Data from FY 13/14 is as follows</p> <table border="1"> <thead> <tr> <th>Facility</th> <th># of Berths</th> <th>Gross Annual Berth Revenues</th> <th>Berth Revenues Per Berth</th> </tr> </thead> <tbody> <tr> <td>PPH</td> <td>369</td> <td>\$1,644,761</td> <td>\$4,457/berth per year</td> </tr> <tr> <td>OPM</td> <td>455</td> <td>\$1,196,126</td> <td>\$2,628/berth per year</td> </tr> <tr> <td>CPM</td> <td>496</td> <td>\$ 977,000</td> <td>\$1,970/berth per year</td> </tr> </tbody> </table> <p>(CPM = Coyote Point Marina *Note - the \$977,000 in gross marina revenues for CPM includes all revenues for the Marina (e.g., berths, rents and concessions), while PPH and OPM are strictly berth revenues and exclude other items.</p> <p>Response: A direct comparison of “per berth” revenues provides limited information about “efficiency” as the mix and size of berths differs between the two facilities, and OPM is limited in number of “live aboards”. In addition, revenue is not a direct indicator of efficiency, but rather, it reflects what the market can bear (assuming maximum rates are charged).</p>	Facility	# of Berths	Gross Annual Berth Revenues	Berth Revenues Per Berth	PPH	369	\$1,644,761	\$4,457/berth per year	OPM	455	\$1,196,126	\$2,628/berth per year	CPM	496	\$ 977,000	\$1,970/berth per year
Facility	# of Berths	Gross Annual Berth Revenues	Berth Revenues Per Berth															
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CPM	496	\$ 977,000	\$1,970/berth per year															
3	Ferryboat service operated independently by the Water Emergency Transit Authority (WETA), which supplanted a number of berths, now operates to the East Bay from Oyster Point Marina.	<p>Usage of WETA service to OPM is growing by leaps and bounds. The District is now an important part of the critically important regional public transportation system. The District gave up revenue-generating boat slips in order to provide this valuable service to those County residents who use the WETA ferry The Growth of Average daily passengers has gone from 161 boardings a day in the first year of service, to 333 the second year, to 405 in year three. (See Appendix A)</p> <p>Response: Comment noted. The MSR recognizes the benefit of the ferry system and acknowledges levels of annual ridership.</p>																

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
3	...has hired an Interim General Manager with the goal of alleviating diminished staffing...	<p>The hire of the Interim General Manager has allowed the former Acting General Manager to focus on managing the harbors in his capacity as Harbor Master.</p> <p>Response: The Circulation Draft MSR has been revised to indicate this change and its benefit.</p>
8	Commercial Fishing Facilities	<p>That Pillar Point Harbor is the sixth highest earning harbor in the State is of course due in part to the dedicated efforts of local commercial fisherman. But this data point also speaks to the District's operational skills and efficiencies.</p> <p>Response: Comment noted. The Harbor's venue as in relationship to San Francisco and Monterey also contributes to this status.</p>
9	Emergency Services	<p>The Report acknowledges the District's crucial search and rescue services at Pillar Point Harbor. But the District provides similar services at Oyster Point Marina. From 2010 – through June 21, 2015 there were 75 rescues as follows: 2010- 20; 2011- 19, 2012- 7, 2013- 9, 2014- 12, 2015 (partial year) 8</p> <p>Response: The Circulation Draft MSR has been revised accordingly.</p>
13	Buildings—Site improvements	<p>Sea level rise issues cannot be over emphasized, even at OPM where king tides already crest existing breakwaters.</p> <p>Response: Comment noted.</p>
13	Capital Improvement Program (CIP) at OPM	<p>Responsibility for road and parking lot maintenance at Oyster Point Marina is an issue that needs to be resolved under the JPA between the District and the City of South San Francisco. This issue becomes ever more important both for natural reasons related to the drought, but also for man-made reasons due to increasing use of the roads by the large buses that serve the WETA terminal.</p> <p>Response: The Circulation Draft MSR has been revised accordingly.</p>

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
13	Capital Improvement Program (CIP) at OPM "..restroom improvements at an estimated cost of \$560,000."	All but two of the restrooms at OPM have already been remodeled. In addition, a new public restroom facility will be installed in 2015 near the ferry terminal area funded by a grant from Genentech. Response: The Circulation Draft MSR has been revised accordingly.

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
14	Earn Special District Leadership Certificates	<p>Commissioner Training/ Education History--*this may not reflect all trainings</p> <p><u>Roberto Bernardo</u></p> <ul style="list-style-type: none"> • Public Ethics Education AB1234 (2014 and 2015). Commissioner Bernardo is scheduled to take his sexual harassment training July 7. <p><u>Sabrina Brennan</u></p> <ul style="list-style-type: none"> • Open Ethical Leadership –AB1234: 2012, 2013 & 2014 • How to be an Effective Board Member: 2013 • Board’s Role in Human Resources: 2013 and 2015 (Module 4) • Setting Direction/ Community Leadership: (Module 1) 2013, (Module 2) 2015 • Public Service Ethics AB1234: 2014 • California Special Districts Association Special District Leadership Conference: 2014 • Board’s Role in Finance and Fiscal Accountability (Module 3): 2015 • Understanding Board & District Liability: 2015 • Special Legislative Days: 2015 • Anti Harassment/ Anti Bullying: 2015 • Spot the Fraud! Fraud Detection/Prevention: 2015 • Introduction to Special District Finances: 2015 • Governance Foundations (Module 1): 2015 • Special Districts Legislative Days:2015 <p><u>Nicole David</u></p> <ul style="list-style-type: none"> • Harassment Prevention and Training for California Supervisors: 2014 • Public Service Ethics: 2014 • California Special Districts Association Special District Leadership Conference: 2014 • Introduction to Special Districts: 2015 • Sexual Harassment 2015 <p><u>Tom Mattusch</u></p> <ul style="list-style-type: none"> • Public Ethics Education AB1234: 2014 • Special Districts Association Special District Leadership Conference: 2014 • Introduction to Special District Finances: 2015 • Best Practices in Strategic Planning: 2015 • Special Legislative Days 2015 • Sexual Harassment: 2015 <p><u>Pietro Parravano:</u></p> <ul style="list-style-type: none"> • Harassment Policy and Harassment Prevention Training: 2008 • Ethics Training –AB1234: 2008 • Public Ethics Education AB1234: 2011 • Public Ethics Education AB1234: 2012 • Public Ethics Education AB1234: 2014 <p>Response: The Circulation Draft MSR has been revised accordingly. Response: The Circulation Draft MSR has been revised accordingly. Response: The Circulation Draft MSR has been revised accordingly.</p>

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
15	Committees	<p>The Oyster Point Marina Liaison Committee is a standing committee, not an advisory committee. In addition, as a result of Board action in 2015, the Board either established or reinvigorated, the following committees: Finance Committee; Beach Replenishment Committee; Water Quality and Public Safety Committee; Communications and Marketing Committee; Executive Search Committee; Strategic Planning Committee. These Committees have all been active for the first time in 2015.</p> <p>Response: The Circulation Draft MSR has been revised accordingly.</p>
16	"No SMCHD reserve policies exist"...	<p>The District has a reserve policy adopted through Resolution 17-10 on June 30, 2010. The Policy could be improved and setting a more comprehensive reserve policy is on the District's list of priorities.</p> <p>Response: Comment noted. As indicated in the Circulation Draft MSR, the policy does not address specific reserve levels, allocations, or policies for use.</p>
16	"CIP is needed to guide capital planning, budgeting and implementation, no formal action has been taken"	<p>The District agrees that it should commit to a CIP for all the reasons mentioned in the Draft Report.</p> <p>Response: Comment noted.</p>
17	SMCHD Website	<p>Staff has a website RFP as an item for release in the latter half of 2015. District has also hired a Transparency Officer to assist increasing the utilization of the website in the short term.</p> <p>Response: The Circulation Draft MSR has been revised accordingly.</p>
18	"The new address is 504 Avenue Alhambra, Third Floor, El Granada, CA 94018."	<p>Correct floor to "2nd floor" from "3rd floor"</p> <p>Response: The Circulation Draft MSR has been revised accordingly.</p>

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
18	"The SMCHD is in the process of moving..."	The move is complete, although some minor configuration issues remain.. Response: The Circulation Draft MSR has been revised accordingly.
19 (orga nizati onal chart)	Org chart	The Organizational Chart is outdated in many respects as numerous individuals have left the District or retired. As continued staff positions continue to be filled on an interim basis, the District does not expect to update the Org Chart at least until a permanent General Manager is appointed, which is expected within the next three months. The District believes that the permanent General Manager should have the ability to organize District Staff in a manner that is most efficient and effective. Response: The Circulation Draft MSR has been revised accordingly.
21-23	Revenues	The District is planning on examining rates to ensure that they are in line with other facilities. Rate increases are pending at both facilities for FY 2015/16. PPH is at 100% occupancy, indicating rates may be below market. That is not the case for OPM. Also important to note is that the District's berth occupancy rate at OPM would be higher if the District did not adhere to the legally prescribed cap on liveboards of 10%. Also with regard to OPM, there has been a loss in the number of available berths in order to accommodate the WETA ferry terminal. Monies received from WETA were for loss of slip rentals through 2019. Response: Comment noted.
22	"OPM occupancies typically range from 60 to 65 percent"	In 2006 occupancy at OPM was 54%. It now averages 65%. Response: The Circulation Draft MSR has been revised accordingly.
26	In the FY15-16 Preliminary Budget, the SMCHD allocated approx. \$3.7 M towards termination benefits	Nine employees are vested with these benefits, seven more are vested and drawing benefits, and seven current employees are not vested. Response: The Circulation Draft MSR has been revised accordingly.

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
27	" . . . and other costs associated with operations and facilities specific to PPH and OPM."	Garbage collection costs at Pillar Point Harbor are more than twice the amount at OPM due to the location of the landfill costs and the waste stream from commercial fishing. Response: The Circulation Draft MSR has been revised accordingly.
27	Debt Service " The FY15-16 SMCHD budget includes only the interest portion of debt service payments The budget shows the total payment including principal and interest."	These two sentences contradict each other. Only the second of these two sentences is correct. Response: The Circulation Draft MSR has been revised accordingly.
29	"The projected \$5.9 million,..."	The projected "\$5.9 million" should be \$6.193 as stated just above the Total Response: The Circulation Draft MSR has been revised accordingly; the amounts have been updated to reflect the adopted budget.
32	Allocation of Assets and Liabilities "Remaining debt principal is entirely attributable to PPH"	It is by no means accurate to state that "remaining debt principal is entirely attributable to PPH." While District information conflicts with DBW documentation, it would be too time consuming to validate in time for this submission. Response: The Circulation Draft MSR has been revised to indicate that the SMCHD believes the information in the MSR, which was provided by DBAW to the District, does not reflect the allocation of remaining debt service.
35	3) Present and planned capacity of public facilities...	This section focuses exclusively on the District's marina facilities and does not mention the District's open-space/parks/trail facilities that it maintains at both locations. In particular, the District maintains the West Shoreline Access Trail near Pillar Point Marsh, which provides the only land based access to Pillar Point Beach (Mavericks Beach) and is an important access point for emergency responders. This non-enterprise activity is of high value to the public and to emergency responders. Response: Chapter 2 and other sections of the MSR address non-marina facilities and other non-enterprise activities.

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
37	“The SMCD has taken a number of steps....”	<p>We are pleased that the Draft Report acknowledges District efforts. These efforts have accelerated since the issuance of the Grand Jury Report. Actions taken by the Board that are not referenced in the Draft Report include: (1) the District assumed a leadership role in a number of environmental issues critical to the County such as the Sand Replenishment effort at Surfer’s Beach, Bay Sand Mining issues before the Bay Conservation and Development Commission, and development of the Coastal Regional Sediment Management Plan; (2) Increased public involvement in a number of ways including holding a public tour of Johnson Pier with Commissioners, considered new wifi and social media programs, and increased public involvement in committee activities; and (3) Revised District policy regarding health insurance benefits for Commissioners—with cost savings to be achieved in the future as new Commissioners are elected.</p> <p>Response: The Circulation Draft MSR has been revised accordingly.</p>
37	2. The SMCHD should engage a public accounting firm to review its budget accounts for both operations and capital improvements, and establish a financial accounting system consistent with best practices for California public agencies.	<p>The District has independent auditors issue financial statements annually. A Comprehensive Annual Financial Report (CAFR) has recently been added to the scope of the FY 14/15 Audit. Typically a CAFR will include Statements of net position, revenue and expenses for enterprise functions, although this will be difficult without the cost accounting which is being implemented for 15/16.</p> <p>Response: Comment noted.</p>
37	The SMCHD should assess its personnel needs...	<p>The Commission approved contracted augmentations on an interim basis to address staff resources at June 17 meeting. A high priority must be placed burdens of state mandated activities, such as compliance with Public Record Act requests, which has been a significant district administrative activity in the recent past. The commission also approved changes to the job description and title of one management position on that date. It is expected that a new GM to bring recommendations to the Board to improve staff organization.</p> <p>Response: Comment noted.</p>

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

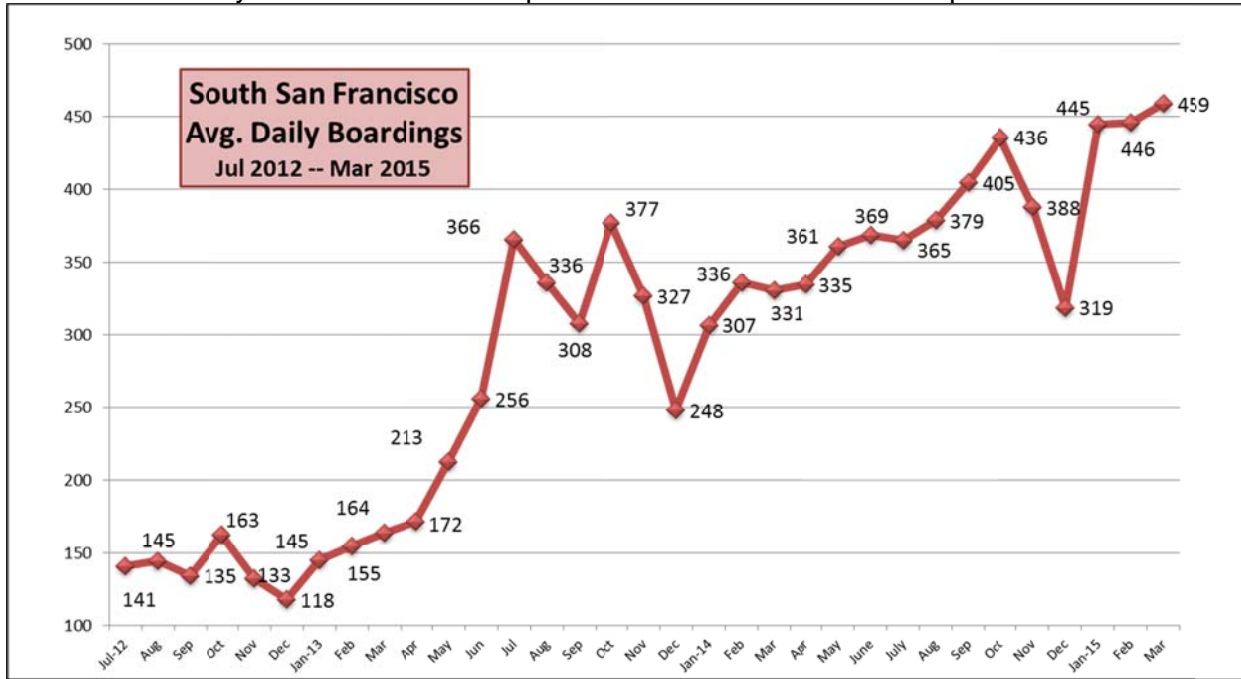
Page	Quote from Draft Report	Comment
37	3. The SMCHD should consider administrative functions...	<p>The District agrees with this recommendation. Indeed, at the June 17, 2015 meeting, the District approved an expansion of the services provided the District by the JPA, Regional Government Services, for flexible professional administrative services on an “as needed” basis.</p> <p>Response: Comment noted.</p>
37	5) Status of, and opportunities for, shared facilities	<p>Outsourcing is under consideration for all IT Functions. This must be done with care as frequently costs are not reduced when outsourced.</p> <p>Response: Comment noted.</p>
38	Recommendation: 2.	<p>City of “San Francisco” should be “South San Francisco”</p> <p>Response: The Circulation Draft MSR has been revised accordingly.</p>
38	7) Any other matter related to effective or efficient service delivery, as required by commission policy.	<p>The Response letter addresses the recommendation regarding allocating revenues to particular cost centers. The District will begin have cost accounting in place to track enterprise and non-enterprise activities in Fiscal Year 2015 2016.</p> <p>Response: Comment noted.</p>

Appendix A

Average growth daily passengers

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update





San Mateo County Harbor District

Board of Harbor Commissioners

Tom Mattusch, President
Nicole David, Vice President
Robert Bernardo, Secretary
Pietro Parravano, Treasurer
Sabrina Brennan, Commissioner

Glenn Lazof, Interim General Manager

Martha Poyatos, Executive Director
San Mateo LAFCo
455 County Center
Redwood City, CA 94063

June 26, 2015

Re: May 29, 2015 Circulation Draft Municipal Service Review and Sphere Update for the
San Mateo County Harbor District

Dear Ms. Poyatos,

The San Mateo County Harbor District (District) Board of Harbor Commissioners met on June 23, 2015 to consider the above referenced Circulation Draft Report (Draft Report). This letter comprises the District's formal response to the Draft Report, although we reserve the right to make additional comments once you issue your Executive Officer's Report and the report is finalized. After a few brief introductory remarks, this response is organized in three main parts. First, we offer some reactions and corrections to specific statements made in the Draft Report. Second, we offer some more general reactions to the Draft Report. Third, we respond in particular to the Draft Report's discussion of dissolution of the District.

As a preliminary matter, we express appreciation to the Local Agency Formation Commission (LAFCo) for preparing the Draft Report. While it is naturally difficult to read a report that targets one's own agency for dissolution, the District is always looking to improve the delivery of services to the public. Prior to the issuance of the report, the District has embarked on a number of initiatives designed to improve efficiency and resolve longstanding issues identified in the Draft Report. We therefore consider the recommendations contained in the Draft Report to be helpful tools for guiding the District forward. We are grateful that the Draft Report acknowledges positive efforts that the District has made in recent months and appreciate the good suggestions as to how to build on progress already made. In particular, we think that additional progress has been made in 2015 that is not completely described in the Draft Report and have included some additional examples in Exhibit A to this Report. The District expects further progress in the coming months. The District believes it will continue to improve and because it believes that it is now on the right path, the District should be given the opportunity to complete improvements it has already begun, and to implement other improvements that are planned.

Notwithstanding the helpful parts of the report, and as discussed in Part II below, the Draft Report over-emphasizes governance issues at the expense of the other statutorily required factors that must be the basis for any sphere of influence finding under the Cortese-Knox-Hertzberg Act (the CKH Act), which establishes the LAFCo process. This over-emphasis is perhaps understandable given that the Draft Report was expressly written in response to a request from the San Mateo County Grand Jury (as acknowledged in the Introduction to the Draft Report). The District understands that the Civil Grand Jury Report cannot be ignored. However it also believes that a Municipal Services Review (MSR) should not examine issues outside those contemplated by the CKH Act. In its emphasis on governance issues, and in its

lengthy discussion of dissolution options, the Draft Report excessively focuses on political concerns that are not relevant to the CKH Act's standards for an MSR.

Finally, we point out that dissolution of a special district is quite rare. As a result, the Draft Report acknowledges that there are many legal issues for which there is no clear guidance, either through the courts or the experiences of LAFCo's in other counties. Even though there is no pending dissolution application, we cannot ignore the call for dissolution presented in the Draft Report. In Part III below, therefore, we emphasize a number of unknown but critically important legal issues we think require further study. We imagine that any agency seeking to initiate dissolution proceedings would want resolution of these issues.

With the above prefatory remarks, we now provide our more detailed response.

I. Specific Comments to Draft Report

Attached as Exhibit A to this letter is a table that lists specific statements from the Draft Report, followed by comments from the District. Many of these comments are simply to correct minor factual inaccuracies. But some of them are substantive in nature. We hope that the final Report will reflect these specific corrections and comments. In particular, the District adopted a final FY 2015/2016 budget at a public hearing on June 17, 2015, as well as amended the FY 14/15 budget. While we do not make corrections to financial statements in the Draft Report, we request that LAFCo update the Draft Report's financial statements accordingly.

II. General Response

1. Efficiencies and Cost Savings. The CKH Act states that governmental "responsibility should be given to the agency or agencies that can best provide government services." (Government Code §56000.) The Draft Report concludes that the District services are duplicated by, and therefore could be provided in a more cost effective manner by, the County. But the Draft Report itself asks many questions about whether the County can actually accomplish the District's functions more efficiently. In essence, the ultimate question of whether the County can provide the services of the District more efficiently is not certain.

The Draft Report acknowledges that the County's only experience with the operating and maintenance of a marina is at Coyote Point, run by the County Parks Department. Coyote Point Marina does not allow live-aboards (the District's provision of live-aboard opportunities is a positive addition to the County's affordable housing stock), nor does it provide commercial fishing services or indeed any of the types of services fundamental to the operation of an ocean-side marina. Some of these ocean-side services can quickly become matters of life and death when there are storm surges and resulting flooding. The importance of the search and rescue function performed by the District's harbor patrol can not be over emphasized in this regard. Especially at Pillar Point Harbor (but as indicated in Exhibit A, also at Oyster Point Marina) the District provides a life saving search and rescue function that not even the Coast Guard can provide. As indicated below, these are not "enterprise" activities and there is no indication that the County could provide them as effectively and efficiently—if at all.

Moreover, the most recent budget of the County Parks Department indicates that it generates \$3,151,472 in user fees resulting from "enterprise" operations, while applying \$7,320,109 from

County General Fund and sales tax sources.¹ Finally, as discussed in the detailed response in Part I, revenues per berth at District facilities exceed those at Coyote Point Marina, indicating that the District is more effective in operations than the County Marina at Coyote Point. Is the County really in a position to provide services more effectively and efficiently than the District?

The Draft Report states that “the assumption of SMCHD operations by a successor agency (or agencies) offers the opportunity to achieve certain service efficiencies and cost savings.” (p.32) Yet the Draft Report is equivocal as to what those savings might be. The Draft Report mentions the potential savings of legal fees, although the Draft Report also lists a host of additional legal costs to be incurred as a result of dissolution. Moreover, regardless of whether the County assumes operations of the District, the County will have to assign County Counsel or other outside counsel to provide advice and representation as to those services that the District currently provides. The Draft Report asserts that there may be administrative savings “depend[ing] on the ability of the successor agency to manage increased workload,” although the Draft Report lists a host of employment-related costs that may increase and that the Draft Report cautions must be considered further. We echo this concern and hope that further detailed analysis on this issue will be conducted prior to any steps being taken to dissolve the District.

In fact, the only specifically identified cost savings is election costs. But here too, the Draft Report is unrealistically optimistic. It identifies \$300,000--\$500,000 as “the greatest potential savings” (implicitly concluding that all the other identified savings are not only speculative, as discussed in the previous paragraph, but are also smaller). If the Harbor District were to be dissolved, obviously it would not have any further election costs. But that does not mean that the County’s total election costs would decrease by the same amount. The County might realize some savings as a result of eliminating the District’s small position on the ballot as well as slight reductions in printing costs. But, a net gain of \$300,000 to \$500,000 is illusive. Election costs are divided among all other agencies, including the County. If the District were dissolved, most of these costs would still exist and would have to be assumed by the remaining agencies.

In sum, the Draft Report cannot point to any identifiable cost savings to be incurred by the District’s dissolution. If the District is providing services in a manner more cost effective than any alternative, does that not meet the Government Code’s requirement that “responsibility should be given to the agency or agencies that can best provide government services” ? (Government Code §56000.) While the District does not expect LAFCo to do anything other than reaffirm the District’s existing Sphere of Influence, there is no convincing evidence that another agency, particularly the County, could provide the District’s critical services more effectively or efficiently than the District.

Notwithstanding this conclusion, the District will continue to implement its initiatives to improve its efficiency and address outstanding issues. Indeed, the Draft Report at p. 36 even acknowledges the improvements the District has made towards greater fiscal ability and health. The District should be given the time to fully implement and complete these initiatives in light of the fact that there is no evidence that the County can provide the services more effectively and efficiently.

¹https://parks.smcgov.org/sites/parks.smcgov.org/files/documents/files/SMCoParksAnnualReport2013-2014.FINAL_web_.pdf

2. Reliance on Property Tax.

A repeated theme of the Draft Report is that the District relies excessively on property tax revenues to subsidize operating shortfalls because the fees and charges the District imposes on the public are insufficient to cover all of the District's operating expenses. We think this thematic insistence represents a fundamental misunderstanding of both the District in particular and of local government finance in general.

The District has statutorily authorized powers under the Harbors and Navigation Code. It makes expenditures only on projects consistent with those powers. As the Draft Report expressly acknowledges, the District is not a traditional "enterprise" district. Rather the District "provides a range of non-enterprise services and facilities that benefit a broad public but which are not revenue-generating activities, including parks, waterfront access, public piers, and emergency water rescue." (p. 3)

The District receives revenues from a number of sources, including its share of property taxes distributed by the County under the State's complex distribution scheme embodied in Assembly Bill 8. Revenues and expenditures together make up the District's budget, but the District does not attribute a specific revenue source to a specific expenditure. Because it conducts activities that are both traditional enterprise activities (for instance the collection of slip rental fees) and not (for instance search and rescue operations), it is not always practical, and is certainly not legally required, to attribute specific revenue sources to specific expenditures. In addition, it is important to understand that, in large part because of increased harbor patrol activities, there are more non-enterprise-related expenses at Pillar Point Harbor than at Oyster Point Marina. It is largely because of these expenses, and not because of an over-reliance on property taxes, that the District has an operating deficit at Pillar Point Harbor.

Under the Revenue and Taxation Code, and pursuant to the complex property tax distribution scheme resulting from Proposition 13, the District receives from the County its share of property taxes. There are no restrictions on the use to which the District puts those tax revenues, so long as it is spending money consistent with its authorized purposes as discussed above.

Local Government throughout California and San Mateo County is in the same situation as the District. Three examples: The San Mateo County Transit District uses sales tax revenue to subsidize bus service throughout the County. The Westborough Water District had a \$417,600 operating loss in fiscal year 2013-14 that was offset by \$335,000 in property tax revenues. The Granada Sanitary District (now Granada Community Services District) in fiscal year 2013-14 received over \$1.2 million in revenue from its "enterprise" activity of sanitation charges. Its operating budget was over \$1.68 million, so this district would have had an operating loss had it not also received \$490,000 in property tax revenues.

The Harbor District is always looking for ways to increase revenues and reduce expenses, all without relying on increased taxes. In particular, better management and use of the District's real property interests is a top priority of the present Board and it expects the District's new management team to better manage District leases so that they become more profitable cost centers in the near future. The District also acknowledges that it must complete its Strategic Business Plan. A key component of that Strategic Business Plan that needs to be implemented is to identify new and alternative sources of revenue to augment and diversify the District's economic and financial base. It may be true that the District could do better in maximizing

enterprise revenues—and the District will do better. But it is misleading to focus on the use of property tax revenue as a negative factor indicating inefficiencies that requiring dissolution of the District. Moreover, as discussed in Part III below, it would be a mistake to assume that any successor agency would inevitably receive the District's property tax revenues.

3. The District is in Transition. The Draft Report acknowledges that the District has embarked on a search for a General Manager after the retirement on December 31, 2014 of its prior General Manager, who had served the District for over 15 years. Many of the recommendations made in the Draft Report will be implemented by a new General Manager. It is premature not to allow a new General Manager to set a new tone, and to implement District policies in a manner consistent with the Draft Report's recommendations. The Draft Report fails to take into account this important change in District leadership. This issue is particularly important given that the District has a small staff and the General Manager has enormous importance to the District.

4. Governance.

The CKH Act defines the factors to be included in a Municipal Services Review.

- (1) Growth and population projections for the affected area.
 - (2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
 - (3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
 - (4) Financial ability of agencies to provide services.
 - (5) Status of, and opportunities for, shared facilities.
 - (6) Accountability for community service needs, including governmental structure and operational efficiencies.
 - (7) Any other matter related to effective or efficient service delivery, as required by commission policy.
- (Government Code 56430)

The CKH Act further requires that LAFCo consider the following in determining a Sphere of Influence:

- (1) The present and planned land uses in the area, including agricultural and open-space lands.
 - (2) The present and probable need for public facilities and services in the area.
 - (3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
 - (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
- (Government Code 56425).

The above two code sections contain the exclusive list of items LAFCo may consider in an MSR and a Sphere of Influence determination. The Draft Report goes beyond the above list. The MSR includes a 3-page section called Governance Options that “describes governance options to the status quo that can be considered” without considering the seven factors required by Section 56430. At the conclusion of the Sphere of Influence Determination there is a 2 page

section titled “Dissolution process” that describes in some detail various dissolution options without reference to any of the factors required by Section 56425.

These sections are out of place in a document like the Draft Report. An MSR may properly discuss governance issues as they relate to the efficient provision of services. But even here, the message is a mixed one in that the Draft Report explicitly states that the District “has taken a number of steps towards addressing issues that plagued it in the past” and acknowledges that the District is addressing its staffing and planning issues. The Report further describes the District’s considerable success in providing services and even assumes that any successor agency would need to rely on existing District staff in order to continue to meet existing service levels. As discussed above, it is unlikely that any agency, in particular the County, could provide the District’s services as effectively and efficiently as the District.

The section on dissolution at the end of the Draft Report is also out of place in a Sphere of Influence determination as it does not address any of the four statutory factors but just provides a roadmap towards dissolution. As these two sections are not statutorily required or permitted in an MSR, the District believes that the Draft Report’s inclusion of these two sections is likely because of the accusations of dysfunctional governance presented in the Civil Grand Jury Report.

The District acknowledges the reality of the Civil Grand Jury Report and imagines that it will color the way LAFCo commissioners will receive any Final Report. It is therefore perfectly understandable that LAFCo’s consultants could not ignore the issues presented in the Civil Grand Jury Report. The District further understands that discord among its Commissioners, and relationships between Commissioners and staff, have placed it unfortunately in the public eye. But as the Draft Report acknowledges, the District is confronting many of these issues head on—for instance with the increased partnership with Regional Government Services that has already made progress in the efficient provision of services to the public.

The District does not agree that dissolution is the remedy for the past dysfunctions identified in the Civil Grand Jury Report. At the appropriate time, and if necessary, the District will present an argument as to the profoundly undemocratic implications if LAFCo proceeds to promote dissolution as a result of dissatisfaction with the conduct of an agency led by elected officials. But whether or not one agrees with the Civil Grand Jury Report, the emphasis on these issues is out of place in an MSR or a Sphere of Influence Determination. The District respectfully requests that that Section 4 titled Governance Options on pages 31-35 and Section 7 titled Dissolution Process on pages 42-43 be deleted from the Draft Report. LAFCo should conduct its business, by accepting a MSR and determining the District’s Sphere of Influence, solely on the legally permissible statutory factors identified in the CKH Act.

III. Dissolution—Unanswered Questions

Dissolution of a special district is rare. As a result, there are numerous unprecedented and complex legal issues for which there is no guidance, either through the courts or the experiences of LAFCo in San Mateo or other counties. The Draft Report acknowledges what it describes on page 33 as “Transition Issues” that will be costly. While the legal complexities of dissolution are considerable, resulting in numerous legal challenges, we identify four particularly important legal questions underpinning these “Transition Issues.” All four of these legal issues require further analysis before assuming that dissolution of the District is in the best interest of the County’s taxpayers.

1. Property Taxes. A fundamental assumption of the Report is that LAFCo will be able to dictate that all of the District's property tax revenues would be "shifted" to a successor agency. It is true that Government Code Section 56886 allows LAFCo to set conditions that LAFCo may impose upon a "change of organization" (including a dissolution). Subsection 56886(t) permits LAFCo to condition a dissolution on "the extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency or a successor local agency in the affected territory."

But this process is far more complicated than a simple condition of LAFCo to require continuation of tax revenues to "shift" to a successor agency. That LAFCo may place a condition upon a dissolution does not mean that LAFCo has the power to force the condition to actually occur. Any condition must be implemented in compliance with applicable law. Applicable law regarding reallocation of ad valorem property tax revenues in the event of a dissolution is governed by Revenue and Taxation Code Section 99. As it is not part of the CKH Act, it cannot be overridden by LAFCo's powers, however great they may be. Section 99 establishes a complicated process before any tax revenues can be re-allocated. We call to LAFCo's attention, as well as to the attention of any potential successor agency assuming that it will be eligible to receive the property tax that presently flows to the Harbor District, the following requirement of Section 99(b)(6):

Notwithstanding any other provision of law, the [LAFCo] executive officer shall not issue a certificate of filing [the document needed to initiate a dissolution proceeding] . . . until the local agencies included in the property tax revenue exchange negotiation . . . present resolutions adopted by each county and city whereby each county and city agrees to accept the exchange of property tax revenues.

Seemingly, the refusal of any city in San Mateo County (and potentially other special districts) to adopt a property tax resolution could block any dissolution. In other words, if LAFCo conditions dissolution on the "shifting" of property taxes and the "shifting" methodology is ultimately not approved, the dissolution will not occur. Given the percentage of property tax revenues compared to all District revenues, any successor agency would presumably need to have a guarantee that it will receive such revenue before beginning a dissolution process. Indeed, a successor agency could not provide the District's critical services in any way close to the current standard without access to such revenues.

Thus, while LAFCo certainly has the power to set a condition that the property tax revenues be "shifted" to a successor agency for the continuation of the District's critical services, there is no authority that would enforce such a designation and there is some reason to question whether a successor agency would be free to spend those funds as it saw fit. This is hardly the simple "shifting" process suggested by the Report.

2. Labor Issues. The District is presently beginning bargaining with its two unions, both of whose MOUs expires on July 1, 2015. The outcome of those negotiations are unknown at this time, but will surely be important to understand before any further steps are taken down the unprecedented dissolution path. Of particular importance, and regardless of the outcome of the pending negotiations, are the CalPERS obligations referenced in the Draft Report at page 33.

3. State Law Issues. Two State law issues merit further attention prior to any initiation of dissolution proceedings. First, the District operates not only under authority of its enabling legislation, but also under the State tidelands grant that allowed it to establish Pillar Point Harbor (Chapter 68, Statutes of 1960). The tidelands grant states: “That said lands shall be used by said district.....for the establishment, improvement and conduct of a harbor.....and for the construction, maintenance and operation thereon of structures and facilities for public recreational purposes...”. (emphasis added) It is not clear the extent to which the CKH Act can be implemented in accordance with this grant—if there is no District in existence, the CKH Act may not provide authority under the tidelands grant absent additional action by the legislature. Second, the Draft Report acknowledges the positive steps the District has taken to reduce the principal of its loan from the Department of Boating and Waterways (DBW). But this remains a liability of the District that will become the liability of any successor agency. In addition, the terms of the loan, as well as provisions of the Harbors and Navigation Code that attach statutory requirements to recipients of loans from the DBW, require further analysis to determine the extent to which DBW must approve the assignment of District assets to a successor agency, or indeed whether DBW approval is required as a condition of dissolution in the first instance.

4. CEQA. Reorganization under the CKH Act is often subject to a categorical exemption under CEQA. But that exemption is for reorganizations “where the changes do not change the geographical area in which previously existing powers are exercised.” (CEQA Guidelines Section 15320) The Draft Report suggests as a possible option for dissolution a disaggregation of the District’s duties with regard to Oyster Point Marina and Pillar Point Harbor. Terminating the Joint Powers Agreement with the City of South San Francisco and focusing the District’s activities at Pillar Point Harbor may be an idea worthy of further study (contrary to the Draft Report, it is not a foregone conclusion that the District would forego the property tax collected in the City under such a detachment). But before applying for dissolution, or any less drastic reorganization that detaches Oyster Point Marina from the District, the CEQA implications need further study given that the District is a party to a Joint Powers Agreement with the City of South San Francisco for the operation of Oyster Point Marina.

IV. Conclusion. Moving Forward.

In closing, we would like to emphasize that a fundamental purpose of an MSR is as a planning document for the future, not a retrospective examination of past mistakes. The District is dedicated to providing excellent service to the public it serves and will take seriously all of the recommendations for improvement identified in the Draft Report. But at the same time, the District is committed to looking forward not backward.

The timing of the Draft Report, and the Grand Jury Report triggering its development, have spurred the District to enter into a transition period. Such transitions may sometimes come with painful lessons learned and progress is not always as smooth or as quick as one would like. In the coming months, the District will engage a permanent General Manager under whose leadership the District will improve its administrative and accounting procedures, implement a new MOU with its valued employees, resolve legal issues arising from past actions, and improve the District’s financial condition with an increased focus on revenue generating activities. It will do all this with a small staff dedicated to providing essential services to County residents, to the commercial fisherman who rely on the District’s facilities, and to the many thousands of visitors from outside the County that visit the Harbor District’s facilities each year,

June 26, 2015 letter to Martha Poyatos
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or that indirectly receive the benefit of the District's services every time they order local seafood from their favorite restaurant.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Mattusch". The signature is fluid and cursive, with the first name "Tom" being more prominent than the last name "Mattusch".

Tom Mattusch, President, Board of Harbor Commissioners of the San Mateo County Harbor District

Exhibit A
San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment																
3	<p>Ferryboat service operated independently by the Water Emergency Transit Authority (WETA), which supplanted a number of berths, now operates to the East Bay from Oyster Point Marina.</p>	<p>Even with a reduced number of slips, the Harbor District operates OPM efficiently. A comparison of Oyster Point Marina Berth-only revenues to <u>all</u> Coyote Point Marina revenues from business type activities demonstrates the Districts effective and efficient operation of Oyster Point Marina. The comparison with Coyote Point Marina is even more striking at Pillar Point Harbor. Data from FY 13/14 is as follows</p> <table border="1" data-bbox="544 241 722 1396"> <thead> <tr> <th>Facility</th> <th># of Berths</th> <th>Gross Annual Berth Revenues</th> <th>Berth Revenues Per Berth</th> </tr> </thead> <tbody> <tr> <td>PPH</td> <td>369</td> <td>\$1,644,761</td> <td>\$4,457/berth per year</td> </tr> <tr> <td>OPM</td> <td>455</td> <td>\$1,196,126</td> <td>\$2,628/berth per year</td> </tr> <tr> <td>CPM</td> <td>496</td> <td>\$ 977,000</td> <td>\$1,970/berth per year</td> </tr> </tbody> </table> <p>(CPM = Coyote Point Marina) *Note - the \$977,000 in gross marina revenues for CPM includes all revenues for the Marina (e.g., berths, rents and concessions), while PPH and OPM are strictly berth revenues and exclude other items.</p>	Facility	# of Berths	Gross Annual Berth Revenues	Berth Revenues Per Berth	PPH	369	\$1,644,761	\$4,457/berth per year	OPM	455	\$1,196,126	\$2,628/berth per year	CPM	496	\$ 977,000	\$1,970/berth per year
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3	<p>Ferryboat service operated independently by the Water Emergency Transit Authority (WETA), which supplanted a number of berths, now operates to the East Bay from Oyster Point Marina.</p>	<p>Usage of WETA service to OPM is growing by leaps and bounds. The District is now an important part of the critically important regional public transportation system. The District gave up revenue-generating boat slips in order to provide this valuable service to those County residents who use the WETA ferry. The Growth of Average daily passengers has gone from 161 boardings a day in the first year of service, to 333 the second year, to 405 in year three. (See Appendix A)</p>																
3	<p>...has hired an Interim General Manager with the goal of alleviating diminished staffing...</p>	<p>The hire of the Interim General Manager has allowed the former Acting General Manager to focus on managing the harbors in his capacity as Harbor Master.</p>																

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Page	Quote from Draft Report	Comment
8	Commercial Fishing Facilities	That Pillar Point Harbor is the sixth highest earning harbor in the State is of course due in part to the dedicated efforts of local commercial fisherman. But this data point also speaks to the District's operational skills and efficiencies.
9	Emergency Services	The Report acknowledges the District's crucial search and rescue services at Pillar Point Harbor. But the District provides similar services at Oyster Point Marina. From 2010 – through June 21, 2015 there were 75 rescues as follows: 2010- 20: 2011- 19, 2012- 7, 2013- 9, 2014- 12, 2015 (partial year) 8
13	Buildings—Site improvements	Sea level rise issues cannot be over emphasized, even at OPM where king tides already crest existing breakwaters.
13	Capital Improvement Program (CIP) at OPM	Responsibility for road and parking lot maintenance at Oyster Point Marina is an issue that needs to be resolved under the JPA between the District and the City of South San Francisco. This issue becomes ever more important both for natural reasons related to the drought, but also for man-made reasons due to increasing use of the roads by the large buses that serve the WETA terminal.
13	Capital Improvement Program (CIP) at OPM "…restroom improvements at an estimated cost of \$560,000."	All but two of the restrooms at OPM have already been remodeled. In addition, a new public restroom facility will be installed in 2015 near the ferry terminal area funded by a grant from Genentech.

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14	<p>Earn Special District Leadership Certificates</p>	<p>Commissioner Training/ Education History--*this may not reflect all trainings <u>Roberto Bernardo</u> <ul style="list-style-type: none"> • Public Ethics Education AB1234 (2014 and 2015) <u>Sabrina Brennan</u> <ul style="list-style-type: none"> • Open Ethical Leadership –AB1234: 2012, 2013 & 2014 • How to be an Effective Board Member: 2013 • Board's Role in Human Resources: 2013 and 2015 (Module 4) • Setting Direction/ Community Leadership: (Module 1) 2013, (Module 2) 2015 • Public Service Ethics AB1234: 2014 • California Special Districts Association Special District Leadership Conference: 2014 • Board's Role in Finance and Fiscal Accountability (Module 3): 2015 • Understanding Board & District Liability: 2015 • Special Legislative Days: 2015 • Anti Harassment/ Anti Bullying: 2015 • Spot the Fraud! Fraud Detection/Prevention: 2015 • Introduction to Special District Finances: 2015 • Governance Foundations (Module 1): 2015 • Special Districts Legislative Days:2015 <u>Nicole David</u> <ul style="list-style-type: none"> • Harassment Prevention and Training for California Supervisors: 2014 • Public Service Ethics: 2014 • California Special Districts Association Special District Leadership Conference: 2014 • Introduction to Special Districts: 2015 • Sexual Harassment 2015 <u>Tom Mattusch</u> <ul style="list-style-type: none"> • Public Ethics Education AB1234: 2014 • Special Districts Association Special District Leadership Conference: 2014 • Introduction to Special District Finances: 2015 • Best Practices in Strategic Planning: 2015 • Special Legislative Days 2015 • Sexual Harassment: 2015 <u>Pietro Parravano:</u> <ul style="list-style-type: none"> • Harassment Policy and Harassment Prevention Training: 2008 • Ethics Training –AB1234: 2008 • Public Ethics Education AB1234: 2011 • Public Ethics Education AB1234: 2012 • Public Ethics Education AB1234: 2014 </p>

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Page	Quote from Draft Report	Comment
15	Committees	The Oyster Point Marina Liaison Committee is a standing committee, not an advisory committee. In addition, as a result of Board action in 2015, the Board either established or reinvigorated, the following committees: Finance Committee; Beach Replenishment Committee; Water Quality and Public Safety Committee; Communications and Marketing Committee; Executive Search Committee; Strategic Planning Committee. These Committees have all been active for the first time in 2015.
16	"No SMCHD reserve policies exist"...	The District has a reserve policy adopted through Resolution 17-10 on June 30, 2010. The Policy could be improved and setting a more comprehensive reserve policy is on the District's list of priorities.
16	"CIP is needed to guide capital planning, budgeting and implementation, no formal action has been taken"	The District agrees that it should commit to a CIP for all the reasons mentioned in the Draft Report.
17	SMCHD Website	Staff has a website RFP as an item for release in the latter half of 2015. District has also hired a Transparency Officer to assist increasing the utilization of the website in the short term.
18	"The new address is 504 Avenue Alhambra, Third Floor, El Granada, CA 94018."	Correct floor to "2nd floor" from "3rd floor"
18	"The SMCHD is in the process of moving..."	The move is complete, although some minor configuration issues remain..

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Page	Quote from Draft Report	Comment
19 (organizational chart)	Org chart	The Organizational Chart is outdated in many respects as numerous individuals have left the District or retired. As continued staff positions continue to be filled on an interim basis, the District does not expect to update the Org Chart at least until a permanent General Manager is appointed, which is expected within the next three months. The District believes that the permanent General Manager should have the ability to organize District Staff in a manner that is most efficient and effective.
21-23	Revenues	The District is planning on examining rates to ensure that they are in line with other facilities. Rate increases are pending at both facilities for FY 2015/16. PPH is at 100% occupancy, indicating rates may be below market. That is not the case for OPM. Also important to note is that the District's berth occupancy rate at OPM would be higher if the District did not adhere to the legally prescribed cap on liveboards of 10%. Also with regard to OPM, there has been a loss in the number of available berths in order to accommodate the WETA ferry terminal. Monies received from WETA were for loss of slip rentals through 2019.
22	"OPM occupancies typically range from 60 to 65 percent"	In 2006 occupancy at OPM was 54%. It now <u>averages</u> 65%.
26	In the FY15-16 Preliminary Budget, the SMCHE allocated approx. \$3.7 M towards termination benefits	Nine employees are vested with these benefits, seven more are vested and drawing benefits, and seven current employees are not vested.
27	"... and other costs associated with operations and facilities specific to PPH and OPM."	Garbage collection costs at Pillar Point Harbor are more than twice the amount at OPM due to the location of the landfill costs and the waste stream from commercial fishing."

Exhibit A
 San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
27	Debt Service " The FY15-16 SMCHD budget includes only the interest portion of debt service payments The budget shows the total payment including principal and interest."	These two sentences contradict each other. Only the second of these two sentences is correct.
29	"The projected \$5.9 million, . . ."	The projected "\$5.9 million" should be \$6.193 as stated just above the Total
32	Allocation of Assets and Liabilities "Remaining debt principal is entirely attributable to PPH"	It is by no means accurate to state that "remaining debt principal is entirely attributable to PPH." While District information conflicts with DBW documentation, it would be too time consuming to validate in time for this submission.
35	3) Present and planned capacity of public facilities. . . .	This section focuses exclusively on the District's marina facilities and does not mention the District's open-space/parks/trail facilities that it maintains at both locations. In particular, the District maintains the West Shoreline Access Trail near Pillar Point Marsh, which provides the only land based access to Pillar Point Beach (Mavericks Beach) and is an important access point for emergency responders. This non-enterprise activity is of high value to the public and to emergency responders.

Exhibit A

San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
37	<p>"The SMCD has taken a number of steps...."</p>	<p>We are pleased that the Draft Report acknowledges District efforts. These efforts have accelerated since the issuance of the Grand Jury Report. Actions taken by the Board that are not referenced in the Draft Report include: (1) the District assumed a leadership role in a number of environmental issues critical to the County such as the Sand Replenishment effort at Surfer's Beach, Bay Sand Mining issues before the Bay Conservation and Development Commission, and development of the Coastal Regional Sediment Management Plan; (2) Increased public involvement in a number of ways including holding a public tour of Johnson Pier with Commissioners, considered new wifi and social media programs, and increased public involvement in committee activities; and (3) Revised District policy regarding health insurance benefits for Commissioners—with cost savings to be achieved in the future as new Commissioners are elected.</p>
37	<p>2. The SMCHD should engage a public accounting firm to review its budget accounts for both operations and capital improvements, and establish a financial accounting system consistent with best practices for California public agencies.</p>	<p>The District has independent auditors issue financial statements annually. A Comprehensive Annual Financial Report (CAFR) has recently been added to the scope of the FY 14/15 Audit. Typically a CAFR will include Statements of net position, revenue and expenses for enterprise functions, although this will be difficult without the cost accounting which is being implemented for 15/16.</p>
37	<p>The SMCHD should assess its personnel needs...</p>	<p>The Commission approved contracted augmentations on an interim basis to address staff resources at June 17 meeting. A high priority must be placed on burdens of state mandated activities, such as compliance with Public Record Act requests, which has been a significant district administrative activity in the recent past. The commission also approved changes to the job description and title of one management position on that date. It is expected that a new GM to bring recommendations to the Board to improve staff organization.</p>

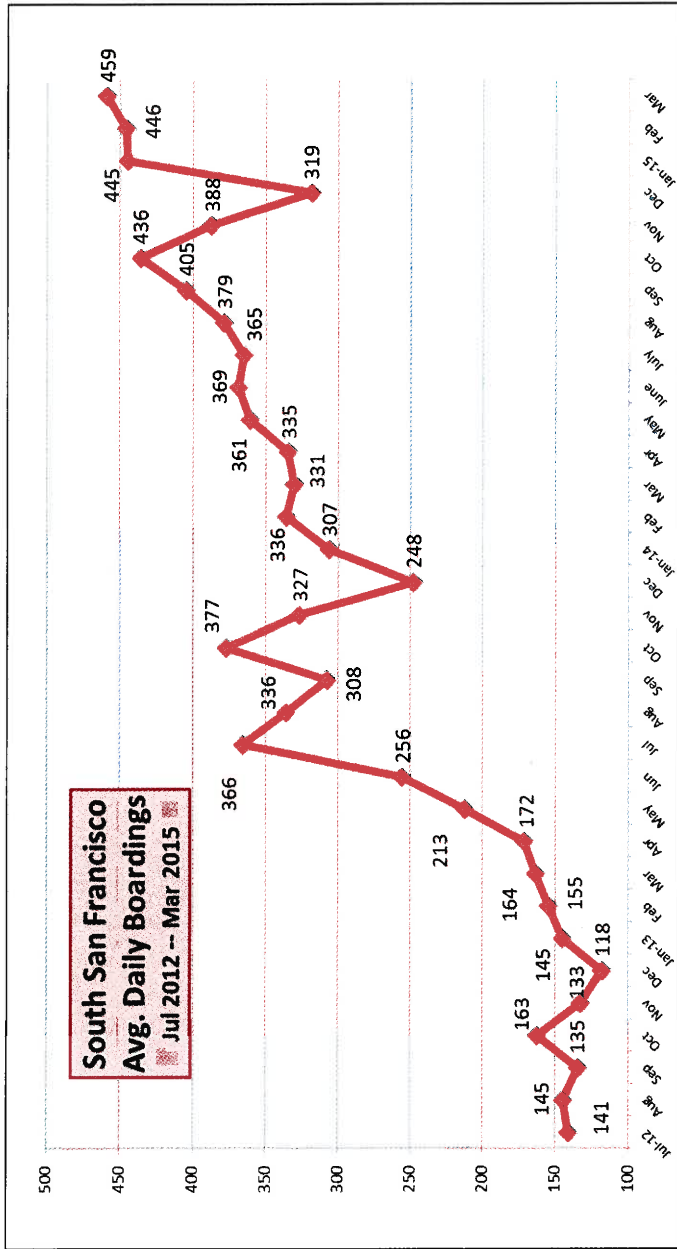
Exhibit A
 San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update

Page	Quote from Draft Report	Comment
37	3. The SMCCHD should consider administrative functions...	The District agrees with this recommendation. Indeed, at the June 17, 2015 meeting, the District approved an expansion of the services provided the District by the JPA, Regional Government Services, for flexible professional administrative services on an "as needed" basis.
37	5) Status of, and opportunities for, shared facilities	Outsourcing is under consideration for all IT Functions. This must be done with care as frequently costs are not reduced when outsourced.
38	Recommendation: 2.	City of "San Francisco" should be "South San Francisco"
38	7) Any other matter related to effective or efficient service delivery, as required by commission policy.	The Response letter addresses the recommendation regarding allocating revenues to particular cost centers. The District will begin have cost accounting in place to track enterprise and non-enterprise activities in Fiscal Year 2015 2016.

Appendix A

Average growth daily passengers

Exhibit A
 San Mateo County Harbor District's Response to Circulation Draft Municipal Service Review and Sphere Update





CITY COUNCIL 2015

RICHARD A. GARBARINO, MAYOR
MARK ADDIEGO, VICE MAYOR
PRADEEP GUPTA, PH.D., COUNCILMEMBER
KARYL MATSUMOTO, COUNCILMEMBER
LIZA NORMANDY, COUNCILMEMBER

MIKE FUTRELL, CITY MANAGER

OFFICE OF THE CITY MANAGER

Martha Poyatos
Executive Officer
San Mateo County Local Agency Formation Commission (LAFCo)
455 County Center
Redwood City, CA 94063
Via email to mpoyatos@smcgov.org

June 25, 2015

Dear Ms. Poyatos:

This letter contains the City's responses to the circulation draft of the Municipal Services Review (MSR) and Sphere of Influence Update on the San Mateo County Harbor District (the District) dated May 29, 2015. The City will not be making comments on the dissolution discussion itself unless or until a recommendation is formally adopted by LAFCo. Our comments are organized below as follows:

- Comments specifically related to Municipal Service Review (MSR) recommendations;
- Harbor District investment in capital improvements;
- Fees for services/ revenues;
- Underutilization of the Oyster Point Marina, which, as your report points out, is owned by the City of South San Francisco but operated by the Harbor District under a Joint Powers Authority (JPA) agreement.

MSR Recommendations:

The City concurs with observations and recommendations from Section 5 of the report. Highlights of those recommendations that are of high priority to the City are (using the numbering in the report itself):

- 3.1 (Page 35) Recommendations on a five year Capital Improvement Plan (CIP);
- 4.1 (Page 37) Recommendations on best practices for budgeting;
- 4.3 (Page 37) Consideration of outsourcing, especially for areas of high

- specialization such as property leasing functions;
- 5.0 (Page 37) Opportunities for shared facilities/services;
- 7.1 (Page 38) Institution of an accounting and budgeting process that separates enterprise functions that should be self-supporting vs. those functions that are for the benefit of the general public (trails, open space access, etc.).

Capital Improvements:

As the circulation draft points out on page 28, the planned expenditures on capital improvements are “significantly less than the amount needed to meet the priorities of the Draft Strategic Business Plan condition assessment”. Underfunding capital improvements has significant long term impacts on the viability of public facilities. In addition to the marina facilities themselves, the City of South San Francisco is concerned that the general public’s recreational amenities (trails, picnic areas, public beach, public fishing facility, boat ramp, etc.) at Oyster Point are underutilized compared with their potential at that location. The City believes that a more focused investment in public amenities would result in higher use of those facilities by the public.

Revenues:

A successful lease and rent/concession enterprise at Oyster Point Marina (OPM) is a priority for the City. Charging market rates for berth space rentals is one way to ensure that the general public is not subsidizing the services of private boat owners. Of concern, therefore, is the statement in the report that OPM berth rates are low for slips greater than 40 feet in length is of concern. Also of concern is that occupancy rates are low: from 60-65% at OPM (pages 22-33). This suggests the amount of berth space or the composition/size of those berths do not match the market.

While a detailed discussion is not provided in the draft, of concern to the City is a statement on page 23 that “lease revenues from maritime related users are minimal from the Oyster Point Yacht Club and the currently vacant bait shop.” The City believes that more attention can be placed on actively pursuing revenue opportunities at OPM, including finding a tenant for the bait shop. The City believes the suggestion that management of the commercial real properties could be outsourced to a private firm is worth exploring, consistent with the MSR recommendation 4.3.

Operation of the Oyster Point Marina

The City believes there are more opportunities for recreational amenities for the general public at OPM in such areas as trail usage, picnicking, shoreline access, and partnering with the City’s

Parks and Recreation Department for recreational and special events. Presumably, if more revenues were generated (from discussion above), then more dollars could be invested in improvements that benefit the general public.

Thank you for the opportunity to comment on this report.

Sincerely,



Mike Futrell
City Manager

Cc: City Council
Jim Steele, Assistant City Manager

July 7, 2015

Martha Poyatos, Executive Director
San Mateo County Local Agency Formation Commission
455 County Center, 2nd Floor
Redwood City, CA 94063

Dear Ms. Poyatos,

The County of San Mateo has received and reviewed the Circulation Draft Municipal Service Review for the San Mateo County Harbor District dated May 29, 2015. This letter includes our general comments on the report. Please note that the County will not be commenting on the dissolution of the District unless LAFCo formally adopts a recommendation to that effect.

The County concurs with the recommendations in Section 5 of the report. We have specific concerns about the lack of linkage between the capital improvements recommended in the strategic plan and the capital projects funded in the District budget. We also support engaging an outside public accounting firm to review the District operations and capital budgets and support separation of the enterprise and non-enterprise budget functions.

After LAFCo completes the Municipal Service Review and Sphere update for the District, the Commission could recommend that the District be dissolved. If that happens, and the County decides to follow-up on the Grand Jury recommendation that the County initiate an application to dissolve the District, the County would undertake a comprehensive analysis of all aspects of the District. Our analysis would include, but not be limited to, deferred maintenance, debts, Calpers liability, finances, operations and staffing structure, and the Oyster Point marina joint powers agreement with the City of South San Francisco. The analysis would include input from the City of South San Francisco. The analysis would need to be completed and discussed at a public meeting prior to the Board of Supervisors considering action to initiate proceedings to dissolve the District.

Sincerely,



JOHN L. MALTBIE
County Manager / Clerk of the Board



RESOLUTION NO. 1194

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF SAN MATEO
MAKING DETERMINATIONS PURSUANT TO GOVERNMENT CODE
SECTIONS 56425 AND 56430
FOR THE SAN MATEO COUNTY HARBOR DISTRICT
AND REAFFIRMING THE SPHERE OF INFLUENCE**

RESOLVED, by the Local Agency Formation Commission of the County of San Mateo, State of California, that

WHEREAS, Government Code §56425 requires LAFCo to review and update spheres of influence; and

WHEREAS, in conjunction with reviewing the Sphere of Influence, the Commission conducted a Municipal Service Review pursuant to Government Code §56430; and

WHEREAS, the Executive Officer prepared a written report of the Municipal Service Review that was provided to the Commission and affected agencies; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a hearing held on July 15, 2015; and

WHEREAS, the Commission heard and considered all oral and written testimony and the report of the Executive Officer, and all persons were given an opportunity to be heard with respect to the Sphere of Influence Update; and

WHEREAS, the Commission has the authority and responsibility, pursuant to Government Code §56425, to determine and periodically review and update the Sphere of Influence of each local governmental agency within its jurisdiction in the County.

WHEREAS, as part of this service review, the Commission is required pursuant to Government Code §56430 to make a statement of written determinations with regards to certain factors.

WHEREAS, the Municipal Service Review and Sphere of Influence Update qualifies for a General Exemption from further California Environmental Quality Act (CEQA) review based on CEQA Regulation §15061(b)(3) because they are activities covered by the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment, and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

NOW, THEREFORE, the Local Agency Formation Commission of the County of San Mateo DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

- 1) By Motion the Municipal Service Review and Sphere of Influence Update, reaffirming the Sphere of Influence of the San Mateo County Harbor District is Exempt from CEQA based on CEQA Regulation §15061(b)(3).
- 2) By Motion, the Commission accepts Executive Officer's Report dated July 8, 2015, the Municipal Service Review and Sphere of Influence Report, and all written comments and attachments incorporated herein and contained in attached "Exhibit A."
- 3) By Motion, the Commission adopts the Municipal Service Review determinations set forth in "Exhibit B" which is attached and hereby incorporated by reference.
- 4) By Resolution, the Commission adopts the Sphere Of Influence determinations set forth in the in "Exhibit C" and reaffirms the existing zero Sphere Of Influence for San Mateo County Harbor District.

Regularly passed and adopted this 15th day of July, 2015.

Ayes and in favor of said resolution:

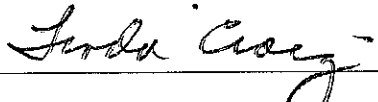
Commissioners: Joshua Cosgrove
Don Horsley
Ric Lohman
Mike O'Neill
Adrienne Tissier
Linda Craig, Chair

Noes and against said resolution:

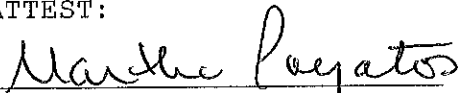
Commissioner(s): None

Commissioners Absent ~~and/or Excused~~

Commissioner(s): Rich Garbarino


 Chair
 Local Agency Formation Commission
 County of San Mateo
 State of California

ATTEST:


 Martha Poyatos
 Executive Officer
 Local Agency Formation Commission

Date: 7-16-15

I certify that this is a true and correct copy of the resolution above set forth.

 Jean Brook
 Clerk to the Commission
 Local Agency Formation Commission

Date: _____