

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Barry K. Hogan, Deputy City Manager 

DATE: May 30, 2008 (CC Meeting of 7/02/2008)

SUBJECT: Consider an Early Conclusion to the Matrix Consulting Group Contract Associated with the City Becoming the Provider of Sewer Services

BACKGROUND

At the January 16, 2008 City Council meeting, a contract with Matrix Consulting Group was approved to examine the potential for the City to provide sewer services as a municipal function instead of continued provision by Waterworks District Number 1. Phase 1 of the contract has been completed and as a result of the work completed to date, Matrix Consulting Group determined that it was prudent to reassess the potential for the City to successfully provide sewer services based upon the information learned in Phase 1. The consultant's conclusion is that although assumption of sewer services is potentially feasible, it is unlikely that Moorpark would be successful in assuming sewer services in place of Waterworks District 1 due to the requirements of Local Agency Formation Commission (LAFCO) review and required approval. There are simply too many impediments that would restrict the City's successful assumption of wastewater services.

DISCUSSION

The Local Agency Formation Commissions (LAFCOs) were created by state legislation to ensure that changes in governmental organization occur in a manner which provides efficient and quality services while preserving open space land resources. The Legislature charged LAFCOs with carrying out changes in governmental organization to promote specified legislative policies now codified as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This law provides for LAFCOs to be formed as independent agencies in each county in California. LAFCOs implement state law requirements and state and local policies relating to boundary changes for cities and

most special districts, including spheres of influence, incorporations, annexations, reorganizations and other changes of organization.

There are four primary goals that LAFCOs must implement:

- Encourage the orderly growth of governmental agencies,
- Preserve agricultural lands,
- Discourage urban sprawl, and
- Assure efficient local government services.

For the Moorpark Sewer Study we are concerned with LAFCOs authority over annexations to or detachments from cities and districts, formation or dissolution of districts, incorporation of cities, consolidation or reorganization of cities or districts, establishment of a subsidiary district(s), and the development of and amendments to the City's Sphere of Influence (SOI).

As you are aware, the City's SOI is conterminous with the City's boundaries, however the Waterworks District's boundaries far exceed the City's boundaries. Under state law cities and districts cannot provide services outside their sphere of influence or district boundaries except in very limited circumstances. LAFCO recently completed the City's municipal service review without making any change in municipal services or in the City's SOI.

Waterworks District 1 is a multipurpose, dependent special district (governed by the County Board of Supervisors) which provides potable and reclaimed water and wastewater services. Under state law a re-organization (removal of one or more of the District's powers) from what has been established when the district was created *is not allowed*. There are two options which would allow the City to assume wastewater services in place of Waterworks District 1, Option 1 Detach Moorpark from Waterworks District 1 and Option 2 Dissolution of Waterworks District 1.

Option 1, Detachment: Under this option the City would be detached from Waterworks District 1 boundaries. This would require under state law that the City include the provision of *water, reclaimed water and sewer service* and that Waterworks District 1 could not provide any services to the City of Moorpark since it would be outside the District's service boundaries. While this option accomplishes part of the City's goal of assumption of sewer services it goes much further than directed by the City Council and has many more financial consequences to the City. Based upon the 1989 Study there may also be a need for some engineering work to make water assumption feasible.

LAFCO approval is a key pre-requisite to any detachment. LAFCO would be comparing this detachment proposal with the current state of service provided by Waterworks District 1 with the resulting "remainder or restructured Waterworks District" to ensure

that sewer and water services continued to be provided in the most efficient and cost effective manner. Efficiency of service to all current service recipients is a primary criteria used by LAFCO in approval or denial of a restructuring. Even though one of the primary objectives of all LAFCOs within the State is to assure efficient local government services, LAFCOs are predisposed to regional service provision which typically benefits from economies of scale. Consequently, the efficiency of service criteria is given substantial weight in any LAFCO determination. Basically, the City would have the burden of proof that all service recipients in Waterworks District 1 would not be financially disadvantaged as a result of the restructuring. This would be difficult given that water rates for agricultural uses are currently discounted with the discount paid for by the homeowner and business rate payers.

Option 2, Dissolution: Dissolution is the termination of the Waterworks District. Waterworks District 1 would cease to exist and selected and relevant powers, duties and responsibilities would be transferred to the City of Moorpark. Remaining utility services (e.g. those excluding the desired wastewater services to be provided by Moorpark) would be performed by a newly established special district essentially replacing Waterworks District 1. In addition to limitations imposed on restructuring due to state law, there are important practical considerations during a LAFCO approval/disapproval process that would all but prohibit the City of Moorpark from pursuing wastewater services. LAFCO must adhere to various guidelines and directives when evaluating restructuring options including, but not limited to: the present cost and adequacy of governmental services and controls in the area; the probable effect of the proposed exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas; the effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county; whether the proposal will be for the interest of landowners or present or future inhabitants within the district and within the new territory proposed to be detached from; any resolution objecting to the action which may be filed by an affected agency giving great weight to any resolution objecting to the action which is filed by a district; and lastly, the comments of any affected local agency.

COMMENTARY

Matrix Consulting questioned Ventura County LAFCO Executive Director on the possibility of dissolution as a result of an issue raised by Waterworks District Number 1. He offered the following:

Should Moorpark apply to LAFCO for a change of organization and should the County submit a credible financial impact analysis verifying that a reduction in the WWD#1 sewer service area would require utility rate increases in other County Service areas to cover certain fixed overhead costs; it would certainly be a legitimate factor for LAFCO to consider.

Please note, one of LAFCO's primary objectives is to adopt a regional perspective in determining the most efficient provision of urban services, which is often in direct contrast to the more parochial perspectives of individual cities and special districts.

The County has taken full advantage of the economies of scale in the provision of sewer and water services in the Moorpark area. Based on the efficiencies of this regional approach it is our consultant's opinion that it is extremely unlikely that "a credible financial impact analysis" could be provided that would show that rate payers in the restructured District would not incur a rate increase as a result of restructuring.

Based on research conducted by Matrix Consulting thus far, it is their opinion and the opinion of staff that it is highly likely that the District would object to restructuring. Although objections raised by a current service provider (the District) are not the only factor considered by LAFCO in restructuring, they are relevant and would carry significant weight in the decision-making process. The District only needs to submit a resolution protesting the restructuring in order to require LAFCO to hold hearings. Matrix Consulting and staff are of the opinion that based on comments already received, that the District considers it to be in their best interests to protest any restructuring of services.

It should also be noted that with a dissolution the Courts may become involved to resolve disputes. In a legal opinion rendered by Best, Best & Krieger for CALLAFCO they indicate:

Dissolutions could be subject to court challenge should LAFCO designate another entity to "step into the shoes," either entirely or for certain functions, of the dissolved district.

The City Attorney has also reviewed the consultant's analysis and conclusions and is in general concurrence with the consultant's opinion on the chances of success regarding the City's assumption of sewer services.

CONCLUSION

It is staff's opinion and that of our consultant, based upon the work done so far, that although potentially feasible, assumption of sewer services from Waterworks District Number 1 does not appear pragmatic given the practicalities of LAFCO review and required approval. The Matrix Consulting Group and staff do not believe wastewater service provision by Moorpark in place of Waterworks District Number 1 would be approved by LAFCO. There appear to be too many valid impediments that would severely restrict the likely success of any restructuring application.

FISCAL IMPACT

The total cost of the Study was \$65,000.00. Termination of the contract at the end of Phase 1 will save the City approximately \$55,000.00 in unspent consultant fees. This project was funded with money from the General Fund.

STAFF RECOMMENDATION

Conclude the Study and the consultant contract at this time and direct staff to notify Matrix Consulting Group.