

M E M O

TO: Board of Directors
FROM: Jack Bebee, General Manager
DATE: July 22, 2019
SUBJECT: Request from Community Groups for District to Activate Latent Powers to Support Public Community Facilities

Purpose

For the Board to confirm actions to be taken to support expansion of District latent powers for support of public community facilities.

Summary and Background

Back at the regular Board meeting on May 29, 2018, local community leaders from various community groups requested that the District consider evaluating providing additional funding to support public facilities in the community. These community groups had evaluated various options to accomplish this, including formation of a new district under the County of San Diego. Based on the evaluation the groups determined that utilization of the District latent powers was their recommended option. The groups represented were the non-profit groups that raise money to improve and maintain downtown Fallbrook and the surrounding area and include the following:

- Fallbrook Beautification Alliance, Fallbrook Chamber of Commerce, Fallbrook Land Conservancy, Fallbrook Village Association, Fallbrook Trails Council, Save Our Forests, CSA 81 (“Community Groups”)

At the Board meeting, the Board established an ad hoc committee to study a community benefit program and to direct staff to investigate the Local Agency Formation Committee (“LAFCO”) process and bring back the requirements and costs to the Board for further consideration. The ad hoc committee consisted of President McDougal and Vice-President DeMeo.

The Community Groups held numerous meetings over the past year and a half, at which there were approximately 18-22 in attendance. In addition, four town hall meetings were held (March 17, 2017; Sept. 18, 2018; and two on Sept. 20, 2018), at which there were approximately 35-50 people in attendance. In general, the feedback from those who attended was positive on the concept of using the District’s latent powers to develop a mechanism to provide for local public community facilities.

At the October 22, 2018 Board meeting, LAFCO’s executive officer (Keene Simmonds) identified that LAFCO was scheduled to conduct a review of the District’s services starting in July/August (“Municipal Services Review”) and that the request to activate the District’s

latent powers, could be evaluated as part of this process, which would reduce the cost to the District. Members of the same community groups listed above came to the Board and requested that the District prepare an application to LAFCO for expansion of latent powers to provide public community facilities. The Board voted for staff to begin preparing the application but not to submit it at this time and to wait to coordinate with the review that will be conducted by LAFCO. Since that time, the community groups have been working to identify a potential administrative structure to support the expansion of services. The groups provided the attached letter (Attachment A) requesting the District move forward with finalizing the application and have gotten approval to help fund the application cost to LAFCO.

Expansion of Latent Powers to Provide for Community Benefits Program

In order to activate its latent powers, the District must first apply to San Diego LAFCO. The District's application must include a plan for services, which, among other things, must include:

- (1) the cost to the District of providing the public community facilities
- (2) the expected cost to the District's customers
- (3) identification of existing providers of public community facilities, if any, and the potential fiscal impact to the customers of those existing providers
- (4) a summary of whether the activation of the latent powers will involve the activation or divestiture of other District powers
- (5) a plan for financing the activation of the latent powers, and
- (6) alternatives for the activation of the latent powers.

(Gov. Code, § 56824.12.) The formal application to LAFCO would be made by resolution (a "Resolution of Application"), and this resolution can be adopted only after a public hearing. Notice of the hearing must be published in a newspaper of general circulation in the District once at least twenty-one days before the hearing. (Gov. Code, §§ 56153, 56154.)

LAFCO is in the process of initiating a Municipal Service Review for the District and the activation of the power to provide public community facilities, would be included into this process.

Budget Impact

Currently, the District uses unrestricted property tax revenue to pay for certain costs and services, including portions of the District's capital improvement program, that would otherwise be payable from fees and charges collected for water and/or sewer services. In other words, the District currently uses property tax revenues to offset the costs of water and/or sewer services, and to offset portions of the District's capital improvement program. The concept developed by these groups would be for the District to redirect property tax revenues toward community facilities, in an amount equal to approximately \$5 per meter per month. Since these property taxes previously paid for costs that would otherwise be

payable from fees and charges collected for water and/or sewer services, property related fees, the District would increase its fees accordingly to make up for the shortfall. This would generate approximately \$546,000 annually in additional funding for public community facilities.

Next Steps

Since the Board previously directed staff to begin the LAFCO application process, but to time it so that it would coincide with the LAFCO Municipal Service Review process, the following next steps are recommended if the Board wants to pursue the proposed expansion of latent powers to include public community facilities.

1. Request staff immediately work with the Community Groups and prepare a Resolution of Application and LAFCO application documents for the expansion of its latent powers per the request of the Community Groups.
2. Request the Community Groups take the lead in educating and informing the public about this process. Since the LAFCO application is essentially being submitted by the District on behalf of these groups, request the Community Groups be responsible for seeking wider community support for this effort.
3. The application would be reviewed and approved by these Community Groups before it was brought to the Board for subsequent approval. Based on the revised LAFCO fee schedule and input from the LAFCO Executive Officer, the estimated fee for processing the request is \$23,000.
4. If the Board approved the application then the District would initiate the public hearing process in coordination with the Community Groups.
5. The application would go before LAFCO and LAFCO could still determine to approve or deny the request for the expansion of powers to provide public community facilities.

If the Board determines it is no longer interested in pursuing the expansion of latent powers under the Public Utility District Act, then it would need to direct staff to not pursue development of an application to LAFCO.

Recommended Action

Staff supports Board direction.