



What is the Price of Dysfunction? The San Mateo County Harbor District

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SUMMARY

There is no way to sugar coat the issue. The commission governing the San Mateo County (County) Harbor District (Harbor District or District) is in disarray. It operates the District at significant yearly losses. Its commission meetings sometimes require police presence. YouTube videos mock the commissioners. Tenants' rent checks are lost. Public comments about the commissioners are scathing. Financial reporting is anything but transparent. There are accusations of records destruction and excess benefits paid to commissioners. Lawsuits charging harassment fly between a commissioner and the District's general manager. Video recording of commission meetings is abruptly suspended, and then reinstated. One commissioner loudly complains about the seating arrangement at meetings. Press reports frequently document the dysfunction. Social media is rife with criticism. A reporter for a daily newspaper claims that commissioners don't "want to fix the problems, they just want to be right." Meanwhile the property taxpayers of San Mateo County fund the District to the tune of \$5,000,000 annually.¹

The 2013-2014 San Mateo County Civil Grand Jury (Grand Jury) received numerous complaints from the public about the District, including how the District awards leases, the alleged overcharging of lessees, the election process of commissioners, and a lack of transparency in the District's financial reporting. The District's office is overwhelmed by public records requests. The public's disenchantment with the District has been reported on and documented as far back as 1963. A 2001-2002 County Grand Jury report remarked on the lack of collegiality between District commissioners. And in 2006, a Municipal Service Review (MSR)² by the Local Agency Formation Commission (LAFCo)³ recommended that the District be dissolved.

The District's mission statement mandates "well-managed, financially sound" marinas.⁴ Yet after a lengthy investigation, it is clear to the Grand Jury that the District commissioners are lacking in professional decorum and fiscal oversight, and that a lack of fiscal transparency makes it impossible to determine exactly how taxpayers' money is being used. Numerous press reports, blogs, comments on social media, remarks from constituents at commission meetings, and complaints to the Grand Jury indicate the public's confidence in the responsible governance of the District is suffering as a result.

¹ See Appendix A for citations

² http://www.co.sanmateo.ca.us/Attachments/lafco/pdfs/2006_10_lafco_ms_harbordist.pdf

³ San Mateo LAFCo (LAFCo) is a State-mandated, independent commission with jurisdiction over the boundaries of the 20 cities, 22 independent special districts and many of the 35 County-governed special districts serving San Mateo County. LAFCo has countywide jurisdiction over changes in organization and boundaries of cities and special districts including annexations, detachments, incorporations and formations.

⁴ <http://www.smharbor.com/harbordistrict/index.htm>

In this report the Grand Jury's foremost recommendation is dissolution⁵ of the Harbor District with its functions assumed by the County. The Grand Jury believes that due to a lack of oversight, ineffective and inefficient governance, and the unwieldy sprawl of the services it provides, the Harbor District has lost the public's trust in its management of the public's money.

Concurrently, and until such time as dissolution occurs, the Grand Jury recommends improvement in three general areas:

- Financial Reporting
- Simplification/Divestiture
- Governance

BACKGROUND

The Harbor District was established in 1933 by a resolution of the County's Board of Supervisors. The District's boundaries include all of San Mateo County and the District receives property tax dollars from the entire County. These property taxes make up the majority of the District's revenues with the remainder of its operating budget derived from fees for services, grants, and interest on investments.

The District is an independent special district. Special districts are local governmental agencies created to meet specific needs. A special district is considered "independent" if it is governed by a board of directors or commissioners elected by the district's voters.⁶ A five member Board of Harbor Commissioners, elected by the voters of the County for staggered four-year terms, governs the Harbor District.

The Harbor District's core public service is the operation of two facilities: Pillar Point Harbor at Half Moon Bay, and Oyster Point Marina/Park in the City of South San Francisco. Pillar Point Harbor, owned and operated by the District, is a 369-berth working fishing harbor. Oyster Point is a 600-berth recreational boating marina. The City of South San Francisco owns Oyster Point. The Harbor District manages it for the City under a Joint Powers Agreement.

The District has grown greatly in size and complexity from its 1933 original, focused plan, which was to develop a commercial port in Redwood City. Unlike most special districts, the Harbor District provides multiple and varied services. Today it is a \$10 million⁷ governmental agency primarily funded by both property taxes and commercial activities. Its span of control now includes:

- Breakwater construction
- Dredging operations

⁵ Section 57077.1 of the CKH Act allows for dissolution of a district without an election unless there is a majority voter protest.

⁶ Conversely, a "dependent" special district is governed by either a city council or county board of supervisors.

⁷ http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf page 7

- Swimming beaches
- Pier development and maintenance
- Commercial fishing
- Commercial fish buying
- Recreational boating including liveboards
- Launch ramps
- Search and rescue operations
- Public access, including picnic areas, hiking and jogging trails, and education programs
- Commercial enterprises such as restaurants and marine services, water sports, and an RV park
- Ferry services
- Surplus real estate

It is useful to note that about 85% of the special districts in California provide a single, specific service such as mosquito abatement, police or fire protection, or sewer services. Unlike most special districts, the Harbor District-- as shown above--provides multiple and varied services.⁸

METHODOLOGY

In connection with its research regarding this report, the Grand Jury reviewed all of the following documents, attended site tours, and conducted interviews with key personnel as listed below.

Documents

- California State Legal Codes⁹
- California State Controller Reports
- Local Agency Formation Commission (LAFCo) Municipal Service Review (MSR)¹⁰
- Prior Grand Jury reports¹¹

⁸ <http://calafco.org/docs/SpecialDistrictFactSheet2009.pdf>

⁹ Cortese-Knox-Hertzberg Govt. Reorg. Act of 2000 Code §56000-57550, California Harbors & Navigation Code §6000, The Brown Act Code §54950

¹⁰ www.co.sanmateo.ca.us/Attachments/lafco/pdfs/2006_10_lafco_ms_harbordist.pdf

¹¹ Grand Jury reports reviewed: 1979-1980, 1986, 1989, 1990, 1991, 1992, 2001-2002

- Harbor District documents¹²
- Press reports about, and video recordings of, commission meetings
- Reports and publications from organizations supporting local governance¹³

Site Tours

- Pillar Point Harbor
- Oyster Point Marina/Park
- Harbor District Commission Meetings

Interviews

- Harbor District Commissioners and Senior Staff
- County officials
- South San Francisco officials
- Coast Guard official
- Santa Cruz Port District senior staff
- County Sheriff's Department
- Harbor District Lessees
- Local press familiar with issues raised in this report
- San Mateo County LAFCo
- Harbor District Auditor
- Independent Auditor

DISCUSSION

As a result of its investigation, it is abundantly clear to the Grand Jury that the citizens of the County would be best served, both financially and in terms of better service, if the District were dissolved and its operations assumed by the County and other successor agencies. The District's history of dysfunction is well documented and it exceeded its core mission long ago.

¹² For a list of documents reviewed see Appendix B

¹³ www.csda.net, www.ca-ilg.org, www.sdlf.org, www.calafco.org,
http://www.inyocounty.us/Recorder/Documents/Whats_So_Special.pdf

The lengthy and antagonistic relationship between the Harbor District and the citizens of San Mateo County goes back at least 50 years. In 1963 57% of the County's voters agreed that the District should be dissolved. In 1966 it was in fact dissolved. But a court overturned that decision¹⁴ and the District was reinstated. In 1990 the Grand Jury advocated for dissolution, and did so again the very next year, concluding that, "Substantial cost savings would be realized by dissolving the San Mateo County Harbor District and placing control of that district's facilities under the Board of Supervisors."¹⁵

While there is a defined path for dissolution,¹⁶ the primary hurdle is the complexity of determining successor agency(ies) and developing a comprehensive plan and budget, especially when the District itself has always been adamantly opposed to dissolution. If dissolution cannot be accomplished (despite remaining the Grand Jury's top recommendation), many of the existing problems could be mitigated by clearer financial reporting and transparency, a simplified restructuring of the District, and improved governance.

Dissolution

Dissolution of the Harbor District is the best and most obvious solution for its myriad problems. The Grand Jury believes that dissolving the District would not deprive the County's citizens of any related benefits. At least one senior County official indicated to the Grand Jury that the County would be willing to pursue absorbing all or most of the District's duties. The resulting economies of scale would provide taxpayers with cost savings in areas such as human resources, property management, administration and finance. In the operation of Coyote Point Marina, the County has already demonstrated its experience in managing a recreational harbor. Another senior County official interviewed by the Grand Jury indicated interest on the part of the County Parks Department in taking control of the West Trail (also known as Mavericks Trail), currently under District management.¹⁷ The Grand Jury's interviews with County officials, revealed the existence of possible successor agencies for some of the District's operations.

The LAFCo MSR of 2006¹⁸ also recommended dissolution and listed two areas for potential cost savings to be derived from a transfer of service: the cost of administration and Harbor Commission expenditures. In the last fiscal year operating expenses for administration were \$1,160,628. Commission operating expenses were \$529,589.¹⁹ These two areas of expense comprised 23% of the District's FY 2012-2013 annual expenditures.²⁰ A significant line item of the commission's operating expense was the cost of the last biennial election of District commissioners. That cost was \$376,975.²¹

¹⁴ The court overturned the decision due to a procedural error. See: San Mateo County Harbor Dist. vs. Board of Supervisors 273 Cal. App. 2d 165

¹⁵ 1991 GJ report, San Mateo County Jury Commissioner's Office

¹⁶ See Appendix C for a description of the dissolution process.

¹⁷ Grand Jury interview with senior County Park & Recreation staff member

¹⁸ http://www.co.sanmateo.ca.us/Attachments/lafco/pdfs/2006_10_lafco_ms_harbordist.pdf

¹⁹ http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf page 8

²⁰ *ibid*, page 8

²¹ *ibid*, page 28

The County's assumption of most or all of the District's operations could result in a new designation of the District as a "dependent" special district with commissioners appointed by the Board of Supervisors rather than elected by County-wide voters. An additional benefit of dependent status could be the ability to require that appointees hold certain qualifications, such as commercial fishing experience, environmental expertise and so on. Residency requirements (e.g. that at least one commissioner reside on the coastside and another on the bayside) could also be imposed.

In addition to the County, potential successor agencies such as the City of Half Moon Bay and the Midpeninsula Regional Open Space District already exist which might reasonably assume some of the District's operations with resultant cost savings and greater efficiencies. Attempts to dissolve the Harbor District in the past, however, have been thwarted multiple times.²² Consequently, although dissolution of the District was brought before voters and the courts as far back as 1966, the only tangible results were legal costs to the taxpayers. Several subsequent attempts to dissolve the District or to detach other public entities (as explained below) from the District also have failed. As stated above, the 2006 LAFCo municipal service review (MSR) recommended dissolution with the County as the successor agency to assume the District's operations. The response from the District was uncompromising disagreement, and due to the legal intricacies inherent in the process of dissolution,²³ the District remains as-is.

Detachment

Another option considered by the Grand Jury is a procedure called detachment. State law provides an opportunity for any city or other district that falls within a special district's boundaries to petition for withdrawal of their property tax monies from that district. According to LAFCo, since 1973 at least 10 separate cities, towns, and special districts within the County have applied, unsuccessfully, for detachment from the Harbor District.²⁴ However, since every citizen of the County potentially benefits from at least some of the District's operations, it can be argued that exempting only a subset of entities from the tax burden associated with supporting the District would create new inequities.

The desired result of the Grand Jury's recommendations is to preserve, protect and enhance the assets of the Harbor District for the citizens of this County. The Grand Jury's first recommendation remains dissolution. However, due to the past failed efforts, our further recommendations focus on developing three competencies: better fiscal transparency, greater operating efficiencies through simplification and divestiture, and more professional and collegial governance.

FINANCIAL REPORTING

All of the District's activities can be categorized as either enterprise or non-enterprise. An enterprise activity is one where a district charges fees for services provided to its customers.

²² The 1990 Grand Jury reported that at least five attempts to dissolve the District or reduce its tax base through detachment had occurred. At least 3 more attempts have been made since.

²³ The primary deterrents to dissolution are cited as the threat and cost of litigation and the complexities of finding successor agencies with an adequate plan for continued operation.

²⁴ LAFCo email to Grand Jury June 2, 2014

Commercial fishing, for instance, is an enterprise activity. In contrast, managing the West Trail, in which no fees are charged to the public for its use, is a non-enterprise venture.

State law gives special districts wide latitude in how they can spend public tax monies. Therefore the Harbor District, like every other special district, has the discretion to use property tax monies to benefit private enterprise (like commercial fishing) if it so decides. But despite this latitude allowed under state law, the California Legislature expressed clear intent with respect to the allocation of a special district's share of its property tax revenues: enterprise districts are encouraged to recover the cost of providing services through the fees they charge.²⁵ Districts should dedicate their property tax revenues to the funding of non-enterprise services (such as search and rescue).²⁶

The use of property tax monies to fund enterprise services is at the core of this Grand Jury's concern. At least one commissioner recently stated his confidence that property values in the County are increasing and that the District can expect to receive even more tax revenue in the coming years.²⁷ This comment makes it appear likely that the use of public property tax monies to subsidize enterprise activities will not only continue, but increase.

Ultimately, the Grand Jury feels that the District should clearly inform County taxpayers how much of their property tax money is being spent to subsidize private, commercial activities. The District's financial reporting, though compliant with governmental reporting requirements,²⁸ lacks sufficient transparency for taxpayers to make that determination. The Grand Jury's review of the District's finances revealed that the District has received over \$20 million in property taxes in the last five years and that these monies are used, at least in part, to bridge the gap between what the District earns and what it spends.²⁹

The Harbor District holds significant assets that produce revenue. It owns buildings leased to restaurants, bait shops, and a surf shop. 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. 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. The Grand Jury investigation revealed that lease analyses and benchmarking of pricing are infrequently performed.³⁰ The Grand Jury is not advocating for an ad hoc increase in rents charged and rates enforced, but more timely analyses of these revenue sources would be considered a best practice to ensure that revenues reflect current market rates. In fact, this same finding was noted in a 1990 Grand Jury report.³¹

²⁵ http://www.inyocounty.us/Recorder/Documents/Whats_So_Special.pdf page 10

²⁶ http://www.co.sanmateo.ca.us/Attachments/lafco/pdfs/2006_10_lafco_ms_harbordist.pdf page 13

²⁷ <http://www.smdailyjournal.com/articles/news/2014-06-06/harbor-district-dips-into-reserves-budget-reveals-need-to-draw-on-2m-to-cover-expenses/1776425124495.html>

²⁸ www.gasb.org

²⁹ District audited financial statements for fiscal years 2009-2013

³⁰ Per Grand Jury interview with senior Harbor management

³¹ 1990 Grand Jury report, San Mateo County Jury Commissioner's Office

Additionally, the District holds assets that are not producing revenue. These assets include a vacant commercial building at Oyster Point, unused and surplus land east of Highway 1 south of Pillar Point Harbor, and an abandoned, rotting pier at Pillar Point. The surplus properties are discussed later in this report.

Because the District reports, in its audited financial statement,³² a net income of over \$2 million for its fiscal year ending June 30, 2013 the Grand Jury believes that it is easy for the public to be misled into thinking the District's enterprise activities are profitable. Without the use of property taxes however, the District would be unable to show the positive net income it currently reports.

The Grand Jury's investigation revealed that, for at least the last five fiscal years, the District's operating expenses have exceeded its operating revenue (defined as revenues earned from fees for the services it provides) by more than \$18 million. In the last fiscal year, the cost of salaries and benefits to the Harbor District was 103% of its operating revenue. In other words, without using non-operating revenues like property tax monies, the District would not be able to make its payroll.³³ This structural deficit has led to an annual depletion of reserves, and is in direct contradiction to the District's own statements to the 1979-1980 Grand Jury that, "The definite statement of the District's management is to get the District off the tax roles (sic) - to budget the marinas commensurate with the operating revenues so as to be self-supporting."³⁴

It is clear from a recent public Harbor District meeting that the District's own commissioners struggle with the lack of easily understandable financial information regarding the District's enterprise activities.³⁵ The Grand Jury believes that a clear and separate accounting of all enterprise and non-enterprise revenues and expenses is vital to the taxpayers' and the commissioners' understanding of the District's financial condition and operation.

A Comparison: The Santa Cruz Port District

The Santa Cruz Port District (Port District or Port), an independent special district in Santa Cruz County that operates the Santa Cruz Harbor, functions without a penny of property taxes. In 1991, the Port began to wean itself from Santa Cruz County property tax revenues. Over a five year period, the Port surrendered its dependence on those taxes, transforming itself into a purely enterprise operation. The Port controls berths for recreational boating, the leases on restaurants, marine services and other businesses, search and rescue operations, launch ramps, and public access. While a comparison of the Port District to the Harbor District is not perfect, the Port District nevertheless offers many of the same services as the Harbor District, while consistently managing to balance its budget.³⁶ In addition, the Port District's financial reporting clearly reflects enterprise vs. non-enterprise revenues and expenses, providing much more visibility into their financial picture. Unlike the Harbor District, the Santa Cruz Port District prepares monthly management reports to assist their commissioners in understanding the results of operations and

³² http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf page 5

³³ http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf page 5 and pages 28-31

³⁴ 1979-1980 Grand Jury report, San Mateo County Juror Commissioner's Office

³⁵ <http://www.youtube.com/v/7bE6V2mcgXE?start=4256&end=4393&version=3>

³⁶ http://www.santacruzharbor.org/documents/AgendasAndReports/2013/2013_aug27/Item11.pdf

other fiscal activity, thereby providing much greater transparency to the commission and the public.³⁷

Again, it should be noted that the Harbor District's financial reports are compliant with generally accepted accounting principles as specified by the Governmental Accounting Standards Board (GASB).³⁸ The Port District's financial reports also comply with GASB standards. However, in 2011 the Port voluntarily expanded its budget and reporting approach to a program-based budget in order to provide added detail and transparency.³⁹

A review of the most recent audited financial statements of both the Harbor District and the Santa Cruz Port District revealed:

- 52% of the Harbor District's total revenue is sourced from County property taxes,⁴⁰ while the Port District received no property tax dollars.⁴¹
- For every dollar received by the Harbor District as operational revenue, it spends \$1.58.⁴² Conversely, the Port District's budget is balanced despite receiving no property tax monies.⁴³

Because all categories in the Harbor District's financial reporting are considered enterprise activities,⁴⁴ the resultant lack of transparency makes it difficult for the Grand Jury to determine how much taxpayer money is subsidizing commercial activity. Meanwhile, the Port District has adopted accounting methods that permit a clear understanding of their enterprise and non-enterprise functions.

The Grand Jury recognizes that there are significant differences in the operations of the Santa Cruz Port District and the Harbor District. The Port has many more lessees providing rental income, has a more cooperative agreement with the Coast Guard for search and rescue operations, and operates a revenue-generating, do-it-yourself boatyard for vessel repairs. But it cannot be ignored that the Port District is able to provide non-enterprise services and balance its budget without a reliance on any property tax dollars. The Grand Jury believes that the Harbor District would be well served to study the Santa Cruz model.

³⁷ Port District senior official email to Grand Jury June 12, 2014

³⁸ <http://www.gasb.org/>

³⁹ Port District senior official email to Grand Jury June 12, 2014

⁴⁰ See Appendix D

⁴¹ District auditor's email to Grand Jury June 30, 2014

⁴² *ibid*

⁴³ http://www.santacruzharbor.org/documents/AgendasAndReports/2013/2013_aug27/Item11.pdf

⁴⁴ District auditor's email to Grand Jury May 7, 2014

SIMPLIFICATION/DIVESTITURE

If dissolution of the District cannot be accomplished, and if detachment is inequitable, the Grand Jury strongly recommends simplification of the District's operation through divestiture of its non-core functions and outsourcing its property management.

As reported above, the District's responsibilities include many varied activities. Rescuing stranded kite-boarders and collecting rents from restaurants and a surf shop are all within the District's purview. Building restrooms for visitors using the West Trail and managing lien sales of boats whose owners have defaulted on their berth fees are also within the District's authority. So are collecting unloading fees from commercial fish buyers and hosting an annual Easter egg hunt.

The Grand Jury questions whether the Harbor District can ably manage these diverse activities efficiently and economically. Based on its research related to this report, the Grand Jury concludes that the District should, at a minimum, divest itself of some of its responsibilities and focus instead on its core mission of providing "safe, well-managed, financially sound and environmentally pleasant marinas".⁴⁵ As mentioned in the above discussion, the Grand Jury believes that successor agencies, with more specific competency, can be found to assume the services the District currently provides.

For example, the District reported to the Grand Jury that it is taking responsibility for improving the stability of the West Trail and constructing restrooms on site for visitors. The cost of these improvements is budgeted at \$365,000.⁴⁶ The popular trail follows the coastline just north of Pillar Point Harbor. The Grand Jury contacted a senior official with the County Parks Department, who indicated a willingness to explore a County take-over of the management of the trail.

As another example, a major dredging operation is necessary for the preservation of Surfer's Beach, located just south of the breakwater at Pillar Point Harbor. The Army Corps of Engineers will manage the project but, according to the Harbor District, requires a local funding co-sponsor. The Harbor District has assumed that role. It has already spent \$400,000 in planning costs before a grain of sand has been moved.⁴⁷ The final cost to the District for the project will be in the millions of dollars.⁴⁸ Yet Surfer's Beach is located within the City of Half Moon Bay. When asked by the Grand Jury why the dredging project has become the co-responsibility of the Harbor District, the answer was, "because Half Moon Bay is bankrupt." In fact, Half Moon Bay's current budget is balanced, with \$7.6 million in general fund reserves.⁴⁹ There may be other significant reasons why Half Moon Bay cannot (or will not) participate financially in the cost share of this project, but the answer given by the District indicates a willingness to expand its sphere of influence without considering the implications to taxpayers. Further, as described above in the Financial Reporting section of this report, without clear transparency of the

⁴⁵ <http://www.smharbor.com/harbordistrict/index.htm>

⁴⁶ http://www.smharbor.com/harbordistrict/final_budget_1314.pdf page 19

⁴⁷ Email from senior Harbor official June 9, 2014

⁴⁸ <http://www.smharbor.com/pillarpoint/ppdredge.htm>

⁴⁹ www.half-moon-bay.ca.us annual budget 2013-2014 page 51

District's financial data, neither the commission nor the taxpayers are able to make informed decisions regarding such expansion of the District's functions.

In 1996 the District purchased the decrepit Romeo Pier, located just north of Pillar Point Harbor, for \$185,000. The pier was once owned by the Romeo Packing Company, which used the pier to unload salmon and sardines for its packing plant in Princeton-by-the-Sea. When sardine fishing in the area ended in the 1950s, the pier was abandoned and left to rot. The pier has remained, decaying and idle, for nearly 20 years. Recently the Harbor commissioners rescinded their authorization of \$61,000 to begin study of a demolition plan.⁵⁰ It is estimated that removal of the pier will cost \$650,000.⁵¹ Again, the Grand Jury questions whether a lack of long term planning regarding this property reflects poorly on the decision-making ability of the Harbor Commission.⁵²

The Grand Jury noted, in a visit to the Oyster Point Marina/Park, a vacancy in a building managed by the District and recently vacated by a bait shop/convenience store. Months later the building is still empty. The Grand Jury believes that better efforts could be made in the management of all of the District's leases. As noted in the Financial Reporting section above, lease analyses for the District's tenants are infrequently performed. According to a senior District official the last lease analyses for the tenants at Pillar Point Harbor were conducted in 2006. The Grand Jury believes that the District would benefit by outsourcing the services of a local commercial real estate property management company. A professional property manager would bring greater management skills to the benefit of the tenants and the District. The property manager would also aid in the marketing effort to fill current and future vacancies.

The Grand Jury believes that the Harbor District's divestiture and outsourcing of these non-core activities will result in greater focus and efficiencies in those activities directly related to the District's core mission: harbor management.

GOVERNANCE

The Grand Jury believes that the District has evolved, perhaps organically, into a Hydra, the many-headed serpent of Greek mythology. Its numerous and varied operations now exceed the Commission's ability to govern effectively. This may not be a surprising conclusion. By law, Harbor District commissioners are paid \$600 monthly for a time-consuming and complex job requiring significant and wide-ranging expertise and attention to detail. In another special district, one with a very narrow and specific mission such as wastewater or fire protection services, a part-time governing board can be sufficient. But this is not the case with the Harbor District. It requires far more responsible governance than it currently receives. This is why the Grand Jury's primary recommendation is dissolution, with assumption of its governance by the County Board of Supervisors.

⁵⁰ <http://www.smharbor.com/harbordistrict/agendas/05072014.pdf>

⁵¹ www.midcoastcommunitycouncil.org/harborshoreline/

⁵² An additional surplus property, vacant and owned by the District since 1953, is referred to as the Post Office lot. Located just south of Pillar Point Harbor and east of Highway 1, the lot is "split zoned". The northerly portion adjacent to the existing post office is zoned for commercial development. A second portion of the parcel is zoned as El Granada Gateway and described as a largely open space. The Grand Jury is pleased that the District recently placed this long-held, non-producing asset up for sale.

It is impossible for the Grand Jury to ignore the negative public comments that the District's general manager frequently receives. He is most often the public face of the Harbor District. However, it should be noted that the general manager serves at the pleasure of the Harbor Commission with whom final oversight resides.

The behavior of the current Harbor District Commission, and reports of similar dysfunction going back at least as far as 2001,⁵³ seem to indicate a systemic flaw in the ability of District commissioners to govern effectively and collegially. As has been reported frequently in the press, commission meetings often devolve into shouting matches. A hotel that hosted commission meetings asked the District to relocate, citing complaints from hotel guests about the noise. Armed sheriff's deputies have been called to meetings to preserve order. One commissioner was chastised, at a public commission meeting, for asking whether the District's director of finance is a CPA. Another commissioner publicly expressed outrage when his seat next to the commission president was moved. By their own admission, commissioners have experienced bullying and antagonism, one commissioner even telling the Grand Jury that another commissioner's goal may be to "destroy the District." During the course of individual interviews with the Grand Jury, commissioners accused each other of ethics violations and of wasting taxpayer money.

This behavior is an embarrassment to the commission and reflects poorly on their ability to manage a \$10 million governmental agency heavily supported by taxpayers. The abysmal group dynamics are evident in the numerous hours of recorded video of commission meetings.⁵⁴ Body language, tone of voice, and verbal warfare create an atmosphere more often found in reality TV shows than in a governmental agency.

Although, the District itself recently recognized the need for more collegiality by hiring a facilitator,⁵⁵ a recommendation made 13 years ago by the 2001-2002 Grand Jury,⁵⁶ even that process was distorted by a squabble over the number of candidates to interview. After deciding on three, one invited candidate was left sitting, patiently waiting for his turn to speak, when the meeting was abruptly adjourned.⁵⁷

In interviews with the Grand Jury, most commissioners could not recall what internal committees existed, to which committees they were assigned, or when they last met. One commissioner told the Grand Jury that he was assigned to a committee the Grand Jury later learned did not exist. This indicates a lack of communication and clarity among commissioners. Commissioners admitted to the Grand Jury that the general manager received a contract renewal without the benefit of a performance review. Another commissioner reported to the Grand Jury that the commissioner was unable to obtain needed District information without having to resort to numerous public records requests. The general manager and a commissioner have filed suit

⁵³ http://www.sanmateocourt.org/court_divisions/grand_jury/2001reports.php?page=01SMCHarborDistrict.html

⁵⁴ <https://www.youtube.com/watch?v=xGJ6ZCpozLo>

⁵⁵ <http://www.smdailyjournal.com/articles/news/2014-03-21/san-mateo-county-harbor-district-seeks-help-commissioners-looking-to-hire-facilitator/1776425120124.html>

⁵⁶ http://www.sanmateocourt.org/court_divisions/grand_jury/2001reports.php?page=01SMCHarborDistrict.html

⁵⁷ <http://www.smdailyjournal.com/articles/news/2014-03-21/san-mateo-county-harbor-district-seeks-help-commissioners-looking-to-hire-facilitator/1776425120124.html>

against each other, charging harassment and incurring unknown legal fees to be borne by the District.

Reports in the press and in social media often comment on the disorderly commission meetings. In an attempt to restore order, the commission initially suspended video recordings, with one commissioner calling them a “fungus”.⁵⁸ Each member of the public is limited to 3 minutes for comment during meetings. Based on a proposal by the general manager⁵⁹ the District instituted a 5-minute time limit for commissioners to speak and created a requirement that agenda items be approved by a majority vote before being placed on the next meeting agenda. The press characterized these actions as an attempt to cut off dialogue.⁶⁰

The District’s dysfunction results in a lack of connection with some of its key stakeholders. In April of this year, for example, the District applied for a \$3.4 million federal grant⁶¹ to improve the infrastructure of Johnson Pier. Although the primary beneficiaries of these improvements would be commercial fishermen, some of these same constituents filed a protest letter asking the government to deny the application. The fishermen indicated that, despite promises to the contrary, they were not included in the planning of the proposed infrastructure changes. The fishermen wrote, “this is indicative of the lack of working relationship between the...District and the backbone of the industry on which the... Harbor has been built.”⁶²

At the outset of its investigation, the Grand Jury noticed that only one commissioner listed contact information on the District’s website. Other commissioners refused to post something as simple as an email address. These commissioners even appealed to the District’s legal counsel, attempting to have the one commissioner’s contact information deleted. Upon advice from their attorney, the remaining commissioners did eventually post email addresses. According to local press reports, the law firm that has represented the District for years recently advised the commission to seek new legal counsel.⁶³

Each commissioner, individually, told the Grand Jury that fiscal oversight of the District was the most important responsibility of the commission. Yet the District has been operating on a 23-year old Pillar Point Harbor long-range master plan, which remains in effect today. A Request for Proposal for a new strategic business plan was finally issued this fiscal year.⁶⁴

In interviews with the Grand Jury, only one commissioner was conversant with current District fiscal issues such as the amount and uses of financial reserves or when tenants’ lease analyses had last been performed. Additionally, the commissioners were unaware of who was assigned to the financial committee or when it last met. Interviews with commissioners indicated that only claims and expenses were reviewed monthly and not on a detailed line item basis. The Grand

⁵⁸ <http://www.smdailyjournal.com/articles/news/2014-02-08/harbor-district-caught-in-storm-infighting-and-allegations-overshadow-boards-work/1776425117883.html>

⁵⁹ <http://www.smharbor.com/minutes/mf091813.pdf>

⁶⁰ http://www.hmbreview.com/news/harbor-commission-cuts-off-colleague-tightens-rules/article_b9da135a-05d7-11e3-9671-001a4bcf887a.html

⁶¹ http://www.smharbor.com/harbordistrict/tiger_grant_2014.pdf

⁶² www.halfmoonbayseafood.org

⁶³ http://www.hmbreview.com/news/attorney-to-part-ways-with-harbor/article_6eab2fa6-b08e-11e3-8534-001a4bcf887a.html

⁶⁴ http://www.smharbor.com/harbordistrict/StrategicBusinessPlan_RFP2013.pdf

Jury believes that the commissioners' attention to budget is inadequate. Exceptions to the budget are reported only at the discretion of the finance director. The commission approved expenditures exceeding budget. These actions then required the District to either dip into reserves and/or rescind its prior decisions.⁶⁵ This occurred less than six weeks from the end of the current fiscal year.

A Grand Jury report published this year,⁶⁶ recommended every independent special district in the County seek certifications in governance from the Special District Leadership Foundation (SDLF).⁶⁷ The Harbor District would especially benefit from the training in finance and fiscal accountability, leadership and collegiality these courses offer. The Grand Jury specifically recommends that each commissioner attain the "Recognition in Special District Governance" certification.⁶⁸ This course provides core governance training for special district board/commission members.

The Grand Jury also recommends that the District's general manager earn the SDLF's "Special District Administrator Certification".⁶⁹ This certification requires course work and an examination and is aimed at improving the knowledge and skills of a special district administrator.

FINDINGS

- F1. The Local Agency Formation Commission recommended dissolution of the Harbor District in 2006 with the County identified as the successor agency. The Grand Juries of 1990 and 1991 also recommended dissolution.
- F2. The District's financial reporting meets the Governmental Accounting Standards Board requirements.⁷⁰
- F3. Commissioners are not receiving timely and adequately detailed financial reporting to support fully informed decisions.
- F4. Committees, both standing and ad hoc, are not consistently formed nor do they meet with any regularity.
- F5. Potential successor agencies exist which could reasonably assume all or some of the District's current responsibilities.
- F6. The District consistently requires tax dollars to offset operating losses.

⁶⁵ <http://www.smdailyjournal.com/articles/news/2014-06-06/harbor-district-dips-into-reserves-budget-reveals-need-to-draw-on-2m-to-cover-expenses/1776425124495.html>

⁶⁶ http://www.sanmateocourt.org/documents/grand_jury/2013/web_transparency.pdf

⁶⁷ The SDLF was created in 1999 and defines itself as "a 501(c)(3) organization formed to provide educational opportunities to special district officials and employees to enhance service to the public provided by special districts in California." The sister organization of the SDLF is the California Special Districts Association (CSDA). The CSDA has been in existence since 1969 to "promote good governance and improve core local services through professional development, advocacy, and other services for all types of independent special districts."

The SDLF can be found at www.sdlf.org.

⁶⁸ <http://www.sdlf.org/#!/recognitions/c309>

⁶⁹ <http://www.sdlf.org/#!/sda-certification/ctzx>

⁷⁰ www.gasb.org and www.gfoa.org

- F7. Operating losses for the last 5 fiscal years are approximately \$18.3 million.⁷¹
- F8. The District holds long-term assets that have not been revenue producing.
- F9. At least 10 separate cities, towns, and special districts within the County have applied for detachment from the Harbor District.
- F10. The District infrequently performs lease analyses and price/rate benchmarking.
- F11. The District has been operating on a 23-year old Pillar Point Harbor master plan.
- F12. The Santa Cruz Port District successfully weaned itself from the use of any property tax revenues while continuing to provide non-enterprise services and balancing its budget.

RECOMMENDATIONS

- R1. The Local Agency Formation Commission will initiate a service review of the Harbor District by December 31, 2014.
- R2. The County Board of Supervisors will begin the process of dissolution of the Harbor District by December 31, 2014.
- R3. The Harbor District will commence study, by September 1, 2014, of the Santa Cruz Port District as a model for financial planning and reporting to provide clarity to enterprise/non-enterprise revenue and expense categories.
- R4. The Harbor District will develop a plan to eliminate the use of property tax revenue for offsetting enterprise losses by March 30, 2015.
- R5. The Harbor District will standardize detailed quarterly financial reporting at commission meetings by March 30, 2015.
- R6. The Harbor District will identify a successor agency to assume control of the West Trail by December 31, 2014.
- R7. The Harbor District will explore transferring or cost-sharing, with the City of Half Moon Bay, the co-sponsorship with the Army Corps of Engineers of the Surfer's Beach dredging operation by December 31, 2014.
- R8. The Harbor District will continue to seek interested parties to acquire non-revenue producing surplus properties.
- R9. The Harbor District will explore the outsourcing of management of all commercial real properties to a real estate management firm by December 31, 2014.
- R10. As soon as possible after the November 2014 Harbor Commissioner elections, the Harbor District will form standing and appropriate ad hoc committees, which meet regularly.
- R11. Harbor District commissioners and general manager will earn Special District Leadership Foundation certifications by July 1, 2015.

⁷¹ District audited financial statements for fiscal years 2008-2013

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

- R1. San Mateo County Local Agency Formation Commission
- R2. County Board of Supervisors
- R2-R11 San Mateo County Harbor District
- R7 The City of Half Moon Bay

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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APPENDIX A

List of citations for SUMMARY, Paragraph 1

Yearly losses: SMHD audited financial statement:

http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf

Armed deputies/harassment complaints: <http://www.smdailyjournal.com/articles/Inews/2014-02-08/harbor-district-caught-in-storm-infighting-and-allegations-overshadow-boards-work/1776425117883.html>

Commissioners mocked: <https://www.youtube.com/watch?v=xGJ6ZCpozLo>

Missing checks: http://www.hmbreview.com/news/harbor-district-details-missing-checks/article_23e1f94a-4258-11e3-a1a7-0019bb2963f4.html

Chair caper: https://www.youtube.com/watch?v=q_rCWBE5uKU

Public outcry:

<http://www.smdailyjournal.com/articles/opinions/2014-02-22/special-district-dysfunctions/1776425118591.html>

<http://www.montarafog.com/vanilla/discussion/446/harbor-districts-tucker-pushing-to-eliminate-videotaping-of-board-meetings-says-stars-are-acting/p1>

Records destruction:

http://www.mercurynews.com/bay-area-news/ci_25054464/harbor-district-bid-destroy-records-viewed-suspicion

Commission benefits:

http://www.mercurynews.com/salary-survey/ci_24798591/former-part-time-pols-bay-area-reap-medical

District Property tax revenue FY 2012-2013:

http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf (page 13)

APPENDIX B

Harbor District documents reviewed by the Grand Jury:

- Policies & Procedures Manual
- Joint Powers Agreement with City of South San Francisco
- Organizational chart
- Job descriptions
- Budget Workshop Materials Packet
- SMCHD Website and links
- Memo dated 6/2003 to Board of Harbor Commissioners from Peter Grenell: re: Harbor District Priority: Increase Funding
- SMCHD Draft Rates & Fee Schedules
- Map of Pillar Point Harbor Jurisdiction
- RFP: To Provide Strategic Business Plan Preparation Services (October 2013)
- Johnson Pier Feasibility Study
- Dashboards for Pillar Point Harbor
- Oyster Point Marina Capital Improvement Program 2010-2015
- Agenda and Packet for Strategic Planning, Finance and Priorities Workshop 2012
- SMCHD Marketing Plan (from Business & Management Plan dated 5/30/13)
- Records Management Policy from Policies & Procedures Manual #2.1.4 (Approved and Effective 7/17/96)
- Resolution 19-13 of the SMCHD to Amend Resolution 5-94 Rules for the Preparation and Distribution of Meeting Agendas
- Memo dated 4/24/2012 To Board of Harbor Commissioners from Peter Grenell re: Informational Update on Pillar Point Harbor 1991 Urban Waterfront Restoration Plan Implementation as part of the SMCHD's Strategic Planning Process
- Harbor District Emergency Reserve Funds as per the FY 2012-2013 Capital & Operating Budget
- Tiger Grant Application Letter dated 5/19/14 to US Dept. of Transportation, Office of Infrastructure Finance & Innovation
- SMCHD: List of Major Capital Improvement Projects FY 2013-2014 (adopted in Budget)
- SMCHD 2013 Harbor Commission Committee Assignments
- Memo dated 3/14/3013 to Board of Harbor Commissioners from Peter Grenell re: Information on Board of Harbor Commissioners Committees
- SMCHD List of Major Capital Improvement Projects FY 2013-2014
- Map of District's parcels at Pillar Point Harbor.
- Map of State Tidelands Grant
- Board of Harbor Commissioners Meeting Minutes (various)

APPENDIX C

District Dissolution
Application Processing

Processing Steps
Adoption of Resolution of Application by County of San Mateo or any city or district requesting dissolution and establishing either a short term or long term successor agency. Application must have plan for service and a budget.
LAFCo Receipt of Application
Referral by LAFCo to Affected Agencies/Data Collection
Issue Certificate of Filing within 30 days (starts 90 day clock for LAFCo Hearing)
San Mateo LAFCo Hearing to consider application (May be continued for up to 70 days)
If approved, <u>Notice of Protest Hearing</u> (Must be issued within 35 days of LAFCo action, <u>Hearing may not be held sooner than 30 days from LAFCo approval</u>)
Protest Hearing held by Executive Officer (Must be no sooner than 21 days and no later than 60 days from date of Notice) (Written protest must be submitted by conclusion of protest hearing.)
Within 30 days from Protest Hearing, Executive Officer shall make a finding about the protests submitted and not withdrawn and order the dissolution without election if less than 50% of the voters submit protest or terminate the application if greater than 50% submit written protest.
If no election, LAFCo files Certificate of Completion and either date of recordation or a predetermined date such as the beginning of a fiscal quarter or year is the effective date.

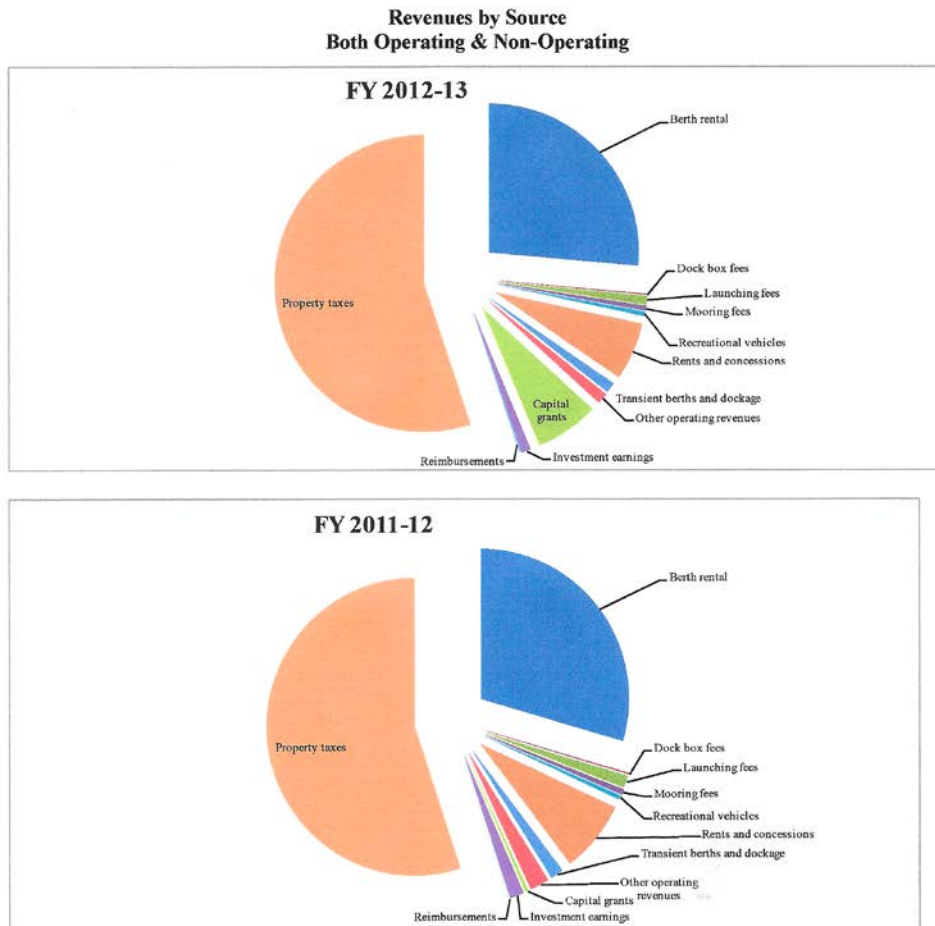
APPENDIX D

**San Mateo County Harbor District
Basic Financial Statements
For the year ended June 30, 2013**

Management's Discussion and Analysis, Continued

Financial Analysis of the District as a Whole, Continued

The following is a graphic illustration of revenues by source:



Issued: July 9, 2014