



May 13, 2003

To: Members, Formation Commission

From: Martha Poyatos *Martha Poyatos*
Executive Officer

Subject: 2002-2003 Grand Jury Report – Review of Mosquito Control Measures

The 2002-2003 Grand Jury filed the attached report on March 18, 2003 that included a recommendation for LAFCo action concerning the San Mateo Mosquito Abatement District Annexation application. The State Penal Code requires the Commission to respond to the Presiding Judge of the Superior Court within 90 days, in this case by June 16, 2003. The Commission would therefore need to provide direction to staff at your May 21, 2003 in order to meet the June 16 reply deadline. The response must state whether the Commission agrees with the Grand Jury recommendation or if the Commission disagrees, explain any disputed portions of the recommendation. In addition, the response must include a report on whether the recommendation has or will be implemented, including a time frame. Explanation should also be provided if any portion of the recommendation will not be implemented.

Staff recommends that the Commission review the following discussion and approve the draft response.

San Mateo County Mosquito Abatement District Sphere and Annexation Application

In the March 18, 2003 report, the 2002-2003 Civil Grand Jury examined whether county agencies have adequately responded to the threat of West Nile Virus. The Grand Jury concluded that San Mateo County does not have a comprehensive program to combat West Nile Virus and recommended that in order to adequately respond to West Nile Virus, San Mateo County Mosquito Abatement District should be permitted to expand their service to the entire County, that all cities should cooperate in this effort and that LAFCo should expedite the proposed annexation. More specifically, the Grand Jury recommended that:

1. LAFCo should expedite the proposed annexation of the currently unannexed portions of the County by SMCMD.
2. The City of Daly City must join SMCMD before the expiration of its current contract for vector control to not only protect its residents but to enable SMCMD to take effective countywide efforts.

The following responds to the recommendation that LAFCo expedite the annexation application. Responses from the City of Daly City and the San Mateo County Mosquito Abatement District are attached for your information.

Background

As stated in the Grand Jury report, SMCMAAD's boundaries include the bayside cities of San Mateo County from East Palo Alto to Millbrae including surrounding unincorporated areas. In response to the threat of West Nile Virus the District has applied to LAFCo to amend their sphere of influence and has requested annexation to include the balance of the County within their boundaries. The District's revenue consists of 0.0018 of the 1% property tax within District's boundaries along with a \$3.74 parcel tax. The District's share of property tax revenue was determined upon implementation of Proposition 13. In their proposal to annex the balance of San Mateo County, the District proposes a property tax transfer equal to the 0.0015% with cities for city areas and the County for unincorporated areas and they propose extending the \$3.74 parcel tax to the annexation area.

Revenue and Tax Code Section 99 requires that, prior to LAFCo certifying an annexation application as complete and holding a hearing to consider the annexation, affected agencies must first adopt resolutions of property tax exchange. To facilitate this process, LAFCo and Environmental Health Division staff held a study session for the county, affected cities and the SMCMAAD to clarify the annexation and property tax negotiation process. At that meeting, city representatives expressed concern about the fiscal impact of the proposed property tax exchange. To date, none of the affected agencies have adopted property tax exchange resolutions. As stated above, LAFCo cannot consider the annexation application until the property tax exchange resolutions have been adopted. Because annexation would require amendment of the District's sphere of influence and in anticipation of affected agencies meeting agreement and adopting necessary resolutions, the sphere of influence amendment and municipal service review has been placed on the Commission's May 21 agenda. Once an annexation application can be certified as complete, LAFCo staff can then place the matter on the Commission's next possible agenda.

Recommended Response:

- 1. LAFCo should expedite the proposed annexation of the currently unannexed portions of the County by SMC MAD**

Absent adopted resolutions of property tax exchange from affected agencies, LAFCo is not able to process the annexation application. The Commission is however considering the SMC MAD sphere of influence amendment and municipal service review at the meeting of May 21, 2003 and directs staff to place the annexation application on the Commission's next possible agenda once the property tax negotiation process is complete.

Staff recommends that the Commission adopt the above noted draft response.

CC: John Maltbie, County Manager
Paul Scannell, Assistant County Manager
Thomas F. Casey, County Counsel
Carol Woodward, Deputy County Counsel
Marcia Raines, Director, Environmental Services Agency
John Martin, City Manager, City of Daly City
Bob Gay, General Manager, San Mateo County Mosquito Abatement District

Attachments: Grand Jury Report
Response from City of Daly City
Response from San Mateo County Mosquito Abatement District



Superior Court of San Mateo County

Hall of Justice and Records
400 County Center
Redwood City, CA 94063-1655

Peggy Thompson
Court Executive Officer
Clerk & Jury Commissioner

(650) 599-1711
FAX (650) 363-4698

March 18, 2003

Ms. Martha M. Poyatos
Local Agency Formation Commission
455 County Center
Redwood City, CA 94063

Re: REVIEW OF MOSQUITO CONTROL MEASURES

Dear Executive Director:

The 2002-2003 Grand Jury filed a report on March 18, 2003 which contains findings and recommendations pertaining to your agency. Your agency must submit comments, within 90 days, to the Hon. Beth Labson Freeman.

As you are the public agency that has been commented upon by the Grand Jury, your comments regarding the findings and recommendations are due no later than June 16, 2003 to:

Hon. Beth Labson Freeman
Judge of the Superior Court
Hall of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655.

For all responses, the responding person or entity shall indicate one of the following:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

Additionally, as to each Grand Jury finding, the responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

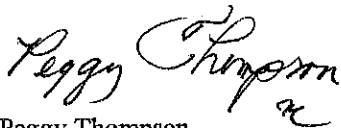
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation therefor.

Please submit your responses as follows:

1. **Responses to be placed on file with the County Clerk by the Court Executive Office**
 - a. **Prepare original on letterhead, address and mail to Judge Freeman**
2. **Responses to be placed at the Grand Jury website**
 - a. **Copy response and send by E-mail to: grandjury@sanmateocourt.org. (Insert agency name if it is not indicated at the top of your response.).**

If you have any questions regarding these procedures, please do not hesitate to contact Thomas F. Casey, III, County Counsel, at (650) 363-4756.

Very truly yours,



Peggy Thompson
Court Executive Officer

PT:mc
Enclosure

cc: Hon. Beth Labson Freeman
Thomas F. Casey III



Review of Mosquito Control Measures

Summary

The San Mateo County Grand Jury finds that to combat the threat of further cases of West Nile Virus, the San Mateo County Mosquito Abatement District should be permitted to expand its programs of vector control throughout the entire county. All cities in the county should cooperate with LAFCo in expediting the proposed annexation of all areas not currently with the District.

Recommendations

1. LAFCo should expedite the proposed annexation of the currently unannexed portions of the County by SMCMAAD.
2. The City of Daly City must join SMCMAAD before the expiration of its current contract for vector control to not only protect its residents but to enable SMCMAAD to take effective countywide measures.



Review of Mosquito Control Measures

Issue

Have San Mateo County agencies, including the San Mateo County Mosquito Abatement District, County government, and individual cities adequately responded to the threat of West Nile Virus?

Background

There have been several cases of West Nile Virus among County residents. While only twenty percent of those infected contract the disease, and less than one percent contract the severe form with development of aggravated meningitis or encephalitis type symptoms, it can be fatal to the elderly or those with compromised immune systems.

The San Mateo County Mosquito Abatement District (SMCMAD), formed by the merger of two small districts in 1953 and headquartered in Burlingame, is an independent special district set up and empowered under state law with one of its primary functions that of combating mosquitoes and mosquito-borne diseases. It provides safe, i.e., non-toxic to humans, methods of control. SMCMAD recently completed and updated a comprehensive Arbovirus Surveillance and Response Plan under which SMCMAD will continue to provide vector management services. A "vector" is an organism that transmits a disease.

In a comprehensive report to the Board of Supervisors on the West Nile Virus on September 18, 2002, the San Mateo County Health Services Agency recommended that the SMCMAD be expanded to include the entire County. Currently, only one-third of the geographic area of the County is within the District. Seven cities in the northern portion of the County (Daly City, Brisbane, South San Francisco, Colma, San Bruno, Pacifica and Half Moon Bay), the western coastal section of the County, and certain rural areas to the south are outside the District.

The Board of Supervisors endorsed the recommended plan to combat West Nile threat to San Mateo County by annexing to SMCMAD portions of the County that are not within the District. Annexation would enlarge the District from approximately 166 square miles to a total County area of 450 square miles.

SMCMAD submitted a formal application for the annexation to LAFCo on January 21, 2003. Negotiations took place involving SMCMAD, the cities, the County and LAFCo. Such negotiations considered tax consequences in the newly annexed areas which would involve 1) a \$3.74 annual parcel tax, equal to that imposed on owners presently within the District, and 2) allocation to the District of a portion of the one percent assessed value (AV) tax. Both subventions would increase SMCMAD revenue by approximately \$335,000 from parcel tax proceeds and \$400,000 from the AV allocations. The increased

tax revenue would fund the cost of six new employees required to service newly annexed areas.

Findings

SMCMAD has stated that the annexation needs to conclude quickly so that the new staff can be hired and trained to be ready for the mosquito breeding season beginning this spring. No city or other areas, including unincorporated areas in the County, has formally opposed annexation, with the sole exception of Daly City. However, several cities have raised questions as to costs that would result from inclusion in the annexed area.

Daly City has refused to approve annexation. Daly City in its Council resolution stated that the annual costs of annexation would involve the transfer of \$91,000 of City property taxes to the District and a further payment of \$120,000 in parcel taxes. Daly City has stated it does not intend to agree to any transfer of property taxes or imposition of assessments on its owners and residents and has asked SMCMAD to delete its name from the resolution requesting annexation and the LAFCo application.

In a letter dated January 22, 2003, SMCMAD's Manager stated that while SMCMAD has a contractual abatement agreement with Daly City for the Mussel Rock area expiring June 30, 2003, SMCMAD would be unable to provide further services to Daly City on a contractual basis after that date.

Daly City has previously contracted for SMCMAD services, including responding to residents' complaints, mosquito surveillance and preventative and control measures at catch basins, vaults, waste water facilities, freshwater and salt marshes and residences, as well as overall monitoring and disease control including the use of sentinel flocks of chickens and dissemination of public information. It is SMCMAD's position that many if not all of these programs will be discontinued if Daly City is not annexed to the District. SMCMAD has performed significant preventative measures in significant areas of mosquito infestation within Daly City, including coast side, lands adjacent to San Francisco Bay, near Lake Merced, golf courses and storm drainage from Junipero Serra Boulevard and in the vicinity of the Cow Palace.

Conclusion

San Mateo County does not have a comprehensive countywide vector control program. To mount an effective campaign against the outbreak of further cases of West Nile Virus within San Mateo County, SMCMAD needs to conduct county-wide monitoring, surveillance, and treatment; and to provide public information and education. To be successful, SMCMAD needs the full legal power and authority, financial capacity, staffing, and public support.

Recommendations

1. LAFCo should expedite the proposed annexation of the currently unannexed portions of the County by SMCMAAD.
2. The City of Daly City must join SMCMAAD before the expiration of its current contract for vector control to not only protect its residents but to enable SMCMAAD to take effective countywide measures.

March 9, 2003

Honorable Beth Labson Freeman
Judge of the Superior Court
Hall of Justice
400 County Center, 2nd Floor
Redwood City, CA 94063-1655

RE: Review of Mosquito Control Measures

Dear Judge Labson Freeman:

The Grand Jury has appropriately identified the issue regarding the potential annexation of areas within the county by the San Mateo County Mosquito Abatement District (MAD) as follows: "Have individual cities adequately responded to the threat of West Nile virus?" Unfortunately, we were not provided an opportunity for input to the Grand Jury and find we must disagree with many "facts" presented in the report and its conclusions. In order to make such determinations one must assess the threat of West Nile virus to the residents as opposed to other threats and needs that the requested annual funding of over \$200,000 would address within the community.

The National Center for Disease Control reports on cases of West Nile virus. As of January 8, 2003, they reported only three non-fatal cases of West Nile virus in the western United States, including one in Montana, one in Wyoming and one in Southern California. As these are the only cases reported, it is suggestive that the contracting of this disease may have occurred during travel to another portion of the United States. Further, nationally since 1999, there have been 252 deaths as a result of the virus, less than the homicide rate in the Bay Area for the last year or deaths due to vehicle accidents or any number of other diseases for a similar period.

Your report indicated, "there have been several cases of West Nile virus among county residents." That is incorrect based upon the latest information provided to us (see attached letter). There have been no cases among county residents or in northern California. Thus, Daly City has made the independent assessment of its ability to adequately respond to the threat of the West Nile virus in relationship to its ability to respond to other threats and needs of the community.

In terms of Daly City's need for abatement services within the community, the report and information provided to the Grand Jury appears to be substantially overstated. Needed mosquito abatement has been infrequent and in very limited areas. Daly City has contracted with the District for an average amount of about \$6,000 per year in the last three years to deal with specific problems, as in contrast to the over \$200,000 the District has requested as part of the annexation. In a meeting with Mr. Robert Gay the Manager of the district, a statement was made that they had received numerous calls from Daly City residents and others to provide treatment services and that the District kept records of such calls. We requested a copy of those records be forwarded to us and the only information we received services that were provided in the 1960s in the Bayshore area prior to substantial drainage improvements taking place (see attached). In fact, most of that area actually lies within the City of Brisbane. No other records or confirmation of any calls for service outside of Daly City's small service contract were provided to support his contentions.

It is misstated in the report that Daly City has contracted with the district for services including responding to resident's complaints, mosquito surveillance and prevention and control measures in catch basins, vaults, wastewater facilities, fresh water and salt marshes and residences, as well as overall monitoring and disease control. Such contracting for services has not occurred.

Further, the typical services described by the Mosquito Abatement District are related to standing water in back yards, storm sewer lines, catch basins, marshy areas and other such locations. Daly City is constructed almost entirely on sloping ground and, therefore, such flat areas are very rare. The storm system drains very effectively and there is little opportunity in Daly City for standing water except in very isolated locations, such as Mussel Rock. Therefore, the services that would be routinely provided to communities with large flat areas would generally not be needed within this community. We have no record of any request for services from residents related to problems from mosquito presence.

The report also alludes to the Lake Merced area, which falls under the responsibility and authority of the City and County of San Francisco. The adjacent golf course, the Olympic Club falls within unincorporated San Mateo County as well as the City and County of San Francisco, not within Daly City. We have contacted San Francisco Health Department to determine their plans and assessment of the West Nile issue. They have indicated that they do not currently have, or plan to have, a specific program to address this issue based upon their assessment of the situation.

Unfortunately, the manager of the Mosquito Abatement District has indicated that Daly City would not be provided (on a cost reimbursement basis) any additional services if we are unwilling to provide the district over \$200,000 through the annexation process. He has implied that no other similar services are available. However, in our research, we have identified other sources of mosquito abatement services that can be used to meet Daly City limited needs and we will use such services, if necessary.

In summary, Daly City, like many communities, is currently facing reductions in its public safety staff, as well as other areas of services to the community. The diversion of over \$90,000 of property taxes that help provide public safety must be evaluated in light of the potential significance of any one threat contrasted with a wide range of public safety issues within the community and where resources can best be allocated to meet those most significant issues. Further, we are concerned regarding an additional assessment on our residents, many of whom are struggling financially, without a clear indication of benefits that they would receive.

Finally, the mosquito abatement district has not attempted to discuss Daly City's position in an attempt to arrive at an approach that might be mutually agreeable and beneficial to both agencies. Unless that occurs, Daly City does not intend to agree to the proposed annexation.

We are pleased to provide this additional information.

Sincerely,

Adrienne J. Tissier
Mayor

AJT/lc

Attachment

SAN MATEO COUNTY
MOSQUITO ABATEMENT
1351 Rollins Road
Burlingame, California 94010-2409
(650) 344-8592
FAX (650) 344-3843

March 28, 2003

Hon. Beth Labson Freeman
Judge of the Superior Court
Hall of Justice
400 County Center; 2nd Floor
Redwood City CA 94063-1655

Judge Freeman,

As requested, this letter is in response to the recent Grand Jury report regarding review of mosquito control measures.

The San Mateo County Mosquito Abatement District agrees fully with the Grand Jury findings, although the implementation of your findings is contingent on the work by the other two mentioned agencies. Our District will abide by whatever actions result from their participation. For clarification purposes, the meeting held March 6, 2003 did not result in any negotiations pertaining to Revenue and Tax Code Section 99.

Respectfully,

Dennis Preger
President, Board of Trustees
San Mateo County Mosquito Abatement District