

**Local Agency Formation Commission of Mendocino County—LAFCO**

200 S. School St.  
Ukiah, CA 95482  
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May 7, 2007

Honorable Richard Henderson  
Judge of Superior Court  
Foreman Glenn Pavlovic  
Mendocino County Grand Jury  
P.O. Box 629  
Ukiah, CA 95482

Honorable Richard Henderson and Honorable Members of the Grand Jury,

At our May 7, 2007 meeting the Commission reviewed the Grand Jury's Report, on the Westport County Water District entitled, Fire and Water Don't Mix. The Grand Jury's report directed the Commission to respond to Findings 1-5, 11, 13, 14, 17-22 and Recommendations 2 and 3. After review and discussion the Commission is providing this response to the Grand Jury.

**Grand Jury Findings and Commission Response:**

**Finding 1: The primary function of the WCWD is to provide water and sewer services.**

**Commission Response**

The principal act of a County Water District allows the District to provide water for beneficial use, wastewater treatment (sewage, waste and storm water), generate and sell electric power, reclaim lands, provide fire protection and provide water recreational facilities. However, the District can only provide the services allowed by the principal act that the voters agreed to upon formation of the District and these services are only to be provided within **the legal boundaries of the District**. WCWD has been authorized by the voters to provide water, wastewater and fire services within the boundaries of its territory. Its primary functions are to provide all three of these services, not just water and wastewater.

Through fee-for-service charges the District has a way to pay for the provision of water and wastewater services. The District cannot take funds received for fee-for-services for water and/or sewer and use them for the provision of fire services; that is money received for sewer services must be used for the provision of sewer services, and no other services. However, general overhead and administrative costs can be apportioned to each service fund.

As to fire services, the District's problem is that there was no funding mechanism for fire services approved by the voters at the time of formation. Thus fire services for the District are provided by an all volunteer fire department, which also accomplishes fundraising for the needs of the department.

In addition to not having a secure funding mechanism for the provision of fire services within its territory, the District has historically provided fire services outside the District boundaries. There is no authority or responsibility under the principal act under which they were formed to do this. By allowing the provision of fire services outside its boundaries by the fire department, the District may have taken on potential liability for the property owners within the District's boundaries

**Finding 2: Fire protection service, provided by the WVFD is an additional service defined when the WCWD was created.**

Commission Response

See Response to No. 1 above

**Finding 3: The WCWD budget is based primarily on revenue received from water and sewer services.**

Commission Response

See Response to No. 1 above

**Finding 4: Revenue from water and services (66 residents/businesses) cannot be used in support of fire protection.**

Commission Response

Correct. See Response to No. 1 above.

Note: Revenue for fire protection services will require some form of a property tax, which under Proposition 218 would require a two-thirds vote of the registered voters within the District and that money could only be used within the District for fire services.

**Finding 5: The County of Mendocino has funded WCWD with \$2,500 to \$6,000 a year.**

Commission Response

The Commission does not control or have any responsibility for the funding processes of the County. While we are aware the District receives some funds through the County, we would recommend that the Grand Jury seek information as to the exact amount received from the County Auditor's office.

**Finding 11: Currently WVFD personnel pay for most of their essential training.**

Commission's Response

The Commission is not responsible for the training processes of the District or the Volunteer Fire Department, thus we have no direct information as to how training is accomplished or who pays for the training. We would recommend that the Grand Jury seek this information from the District/Fire Department.

**Finding 13: When WVFD volunteer personnel are out of the area for training, the town is often left with few qualified volunteers to cover emergency situations.**

Commission Response

The Commission is not responsible for the training processes of the District or the Volunteer Fire Department, thus we have no direct information as to how training is accomplished or who remains in the District when training is being pursued by the volunteers. We would recommend that the Grand Jury seek this information from the District/Fire Department.

The Commission would make the additional observation that all District fire services are provided by volunteers. Volunteers cannot be compelled to show up for a response. And, if all of those volunteers are unavailable for any reason (training, work, out of town, sick, decided not to show up, etc.) the community would be without fire protection services. In essence, the community and travelers along Highway One and other roads are betting on the good will of a few people to show up to rescue them, provide immediate medical attention or to keep their house from burning down. At certain times this may not be a good bet. Most of Mendocino County and rural California are in this situation.

**Finding 14: WVFD is actively pursuing grants from various public and private sources to supplement operational needs.**

Commission Response

The Commission is not involved with WVFD in any way for the obtainment of grants and has no knowledge of the Department's efforts to seek grants.

**Finding 17: Due to financial constraints, WVFD currently does not have an operating reserve and has no plans for additional equipment or replacements.**

Commission Response

The Commission is not responsible for the budget of the department and has no direct knowledge of the standing of its reserves or plans to obtain additional equipment.

**Finding 18: The WCWD tax base includes approximately 45 separate parcels with the unincorporated village of Westport, which covers slightly less than 10 square miles.**

Commission Response

The District can only pursue some version of a property tax within the legal boundaries of the District; such tax would require a two-thirds vote of the registered voters within the district. If there are only 45 parcels within the legal boundaries of the District then only 45 parcels would be subject to that tax. If those parcels did pay a tax for fire services that tax money could only be used within the legal boundaries of the District. It would be a misuse of government funds to take tax monies from the WCWD taxpayers and expend that money for the benefit of non-taxpayers outside the District boundaries.

**Finding 19: The WVFD response area is approximately 100 square miles. The boundaries range from seven miles east along Branscomb Road, north on Highway 1 to Usal Road, and south to the Ten Mile Bridge. It also includes the contiguous peripheral coastal and inland areas.**

Commission Response

The WCWD only has the authority to provide services within the legal boundaries of the District. Under the principal act, the District and thus the Fire Department have no authority to provide services outside those boundaries, except through mutual aid requests from other agencies. The Department has historically chosen to respond outside the District boundaries on a first response basis to the possible liability of the landowners in the District.

**Finding 20: Within a given year, WVFD responds to three to four calls within the district (village of Westport), and another 50-plus calls outside the district.**

Commission Response

The Commission does not dispatch, control or record calls for services for the District, thus we have no independent record of the amount, type or location of calls for services. We recommend that the Grand Jury seek this information from the Fire Chief.

**Finding 21: Services provided outside of the district boundaries or to nonresidents are not billed.**

Commission Response

The Commission is not responsible for the billing processes of the District and has no knowledge of those processes as conducted by the District. The Commission recommends that the Grand Jury seek this information from the District/Department.

**Finding 22: Costs for establishing a new district, including necessary elections, filing fees, and required documentation, can be in excess of \$10,000 to \$15,000.**

Commission Response

The costs for forming a district will depend on the size of the proposed district and other variables. Expected costs would include (1) petition costs if initiated by petition (2) mapping and legal description costs from a registered engineer or licensed surveyor; (3) LAFCO application costs which would include staff time and hard costs (printings and mailings for two public hearings to agencies, landowners and registered voters); (4) costs for the environmental review; (5) fees needed to be paid to other agencies such as the Department of Fish and Game and the State Board of Equalization; (6) costs for the required election; and (7) any legal and court costs should there be challenges to the process.

Most of these costs will be variable according to decisions made by the proponents of the formation of the new district. The proponents would also incur the costs of campaigning for support of the formation of the district.

**Grand Jury Recommendations and Commission Response**

**Recommendation 2: A separate and distinct Fire Protection District be established to encompass the entire response area (sphere of influence) of the WVFD, and the fire protection services currently provided by the WCWD be transferred to the new district.**

Commission Response

The WVFD does not have a sphere of influence, they are a subdivision of the WCWD; only the WCWD can have a sphere of influence and the size of the District's sphere is controlled by the limitations of the District's ability to provide all of its services.

Formation of a Fire Protection District and Tax Income

Formation of a Fire Protection District would require the majority agreement of registered voters and landowners within the boundaries of the proposed district. It would also require a willingness of the registered voters within the proposed district to impose some version of a parcel tax on those parcels within the district (see RCFPD information below). Under Proposition 218, this would require a two-thirds vote of the voters to impose this tax. Note: Parcels that are zoned TPZ cannot be taxed for this service; a large amount of the parcels within the possible territory of the proposed district would have this designation.

Potential Income Example

If the voters within the proposed district were willing to tax themselves at the average rate of \$100 per parcel per year, then every 100 parcels would yield \$10,000 per year in income. By comparison to other districts (see RCFPD example below) this is a high amount per parcel.

Due to the size of the available parcels within the possible boundaries of the district and the limitations of excluding TPZ zoned land from taxation, there may possibly be 200-400 parcels that could be taxed in the territory of the proposed district. If this is true, using the example of \$100 per parcel, this would equate to \$20,000 to \$40,000 per year tax income for the new district. This amount is an extremely marginal amount for a large district.

The newly formed fire district would still need to continue to do annual fund raising. Given the tax income suggested above, the district would not be able to afford to pay firefighters and would continue to be dependent on the good will of its available volunteers. In addition, because of its increased territory the FPD would gain new obligations for providing other facilities (additional fire houses, water tanks, etc.) and equipment sufficient for its territory.

Obviously, the new district would still need to receive the present augmentation funds received by the present WCWD and used for workers compensation insurance for the fire department. However, it is not an absolute that this could occur. The County Auditor's office would need to make a determination if these funds presently given to the WCWD could be transferred to the new FPD and of course the WCWD would need to concur in this transfer if it is possible.

#### Comparison Information From Redwood Coast Fire Protection District

For informational and comparison purposes, the Commission is providing the following information for the Grand Jury about Redwood Coast FPD which was formed in 1997. The size of the RCFPD is approximately equal to the possible territory for a Westport Fire Protection District. However, it has more parcels than the potential WFPD would have. This information is summarized from the Municipal Service Review conducted by LAFCO in 2006.

Prior to the recent annexation of the territory of the Irish Beach Water District, RCFPD boundaries encompassed approximately 130 square miles. The Total Operating Budget for RCFPD for Fiscal Year 2005-2006 was \$102,586 with Total Revenues of \$114,475. The District spent \$3,500.00 on capital improvements leaving \$11,889 for Reserves. Primary Expenses were: Payroll--\$19,910, Operations and Maintenance--\$29,550, Insurance--\$19,308, Contract Services--\$3,300, and Permits--\$850.

Total tax revenues received for RCFPD for FY 05-06 were \$87,000 which constituted 76% of total revenues. The District also received \$20,025 in Service Charges representing approximately 17.5% of total revenues and \$7,450 in miscellaneous income (interest-rent-donations) representing approximately 6.5% of total revenues. The District received no grants in this fiscal year. Total revenues for the year were \$114,475.

RCFPD has a voter approved maximum parcel assessment tax of \$75 per unit of which the present assessment is \$40 per unit, leaving \$35 for future needs. The special assessment tax is based on the number of units on a given parcel. The lowest unit value that could be assigned is one-half unit for an unimproved residential zoned parcel; this

would equate to \$20 per year at present unit assessment. A residence on less than five acres would be assigned a unit value of 2 plus ½ if there were an additional residential unit on the property. Thus, a residential parcel of less than five acres with one house would be assessed \$80 per year; if it had a second home it would pay an additional \$20 per year. Higher assigned unit values would include such things as Heavy Industrial, Packing Plants, Hospitals, Restaurants, Motels or Hotels, etc.

RCFPD has no paid fulltime employees but does have two paid part-time employees; one functions as the General Manager/Secretary at .2 Full Time Equivalents (FTE) and the other functions as the Fire Chief also at .2FTE. The District has 16 volunteer firefighters. All volunteers are considered “employees” under the law (OSHA). Current staffing of the District includes the following: one Fire Chief, one Assistant Fire Chief, three Captains, and eleven firefighter/EMTs.

The District has three primary facilities: (1) A four-bay firehouse in Manchester located at 19601 South Highway One; (2) A five-bay firehouse in Point Arena located at 282 Lake Street, and; (3) A two-bay firehouse located in Irish Beach at 15401 Forest View Road.

Prior to the IBWD annexation, Redwood Coast FPD had eight emergency vehicles:

1. 1966 Ford Curtis—750-gpm pump/500-gallon tank
2. 1972 GMC fire engine—750-gpm pump/600-gallon tank
3. 1981 Chevrolet 1 ton—300-gpm pump/250-gallon tank
4. 1985 Ford fire engine—1500-gpm pump/1000-gallon tank
5. 1985 Ford fire engine—1500-gpm pump/1000-gallon tank
6. 1989 Ford 350—Rescue vehicle
7. 1997 Dodge—Rescue vehicle
8. 2002 International—2000-gallon water tender with 3000-gallon portable tank

For the past four years the RCFPD has responded to an average of 149 calls a year; 2002— 101 calls; 2003— 159 calls; 2004— 192 calls; 2005—142 calls. Of the 142 calls for service in 2005, there were: six (6) structural fires; four (4) grass fires; two (2) vehicle fires; seventeen (17) vehicle accidents; ninety-seven (97) medical aid calls; unknown number of mutual aid calls; six (6) hazardous materials calls and; ten (10) miscellaneous calls.

RCFPD primarily operates with volunteers which keeps its labor costs low. If the District had to pay for its firefighters, it would require nearly a million dollars a year in additional revenue, assuming the same level of staffing that presently exists. This would mean that tax assessments would need to be more than ten times the present assessment. Another way to view this is that the volunteer firefighters are providing a gift of nearly a million dollars each year to the taxpayers of the District.

Commission Commentary as to the Potential Value of Forming a Westport Fire Protection District

The Commission agrees that there is some potential value to forming a separate and distinct fire protection district, but it would not be a cure-all or absolute fix for the financial problems of providing fire services to this area. In reviewing the formation of a district, LAFCO is required by law to determine the financial viability of the proposed district. As described above there is limited opportunity for tax income from the formation of the district. This limited available income would argue that a district not be formed.

However, there are other factors to be examined that would support an analysis for the formation of fire protection district. Those would include:

1. If a FPD was formed the WCWD would be relieved of the responsibility for providing fire service within the boundaries of their District.
2. The WCWD would be relieved of any liability that it may have when the Fire Department responds outside its territory.
3. However limited, the Fire Department would have additional income over that which it presently has.
4. A Fire Protection District would allow a legal response to areas that presently do not have a legal right to fire protection from WCWD.
5. At present, all but one of the Fire Department volunteers lives outside the District boundaries. These people volunteer because the WCWD Fire Department does respond outside its legal boundaries into areas where they reside. Forcing the District to only respond within its legal boundaries would most likely cause these people to quit volunteering. Creating a Fire Protection District with larger boundaries that includes the volunteer's residences would have the benefit of bringing these volunteer's properties into the district boundaries, thus encouraging them to continue to volunteer.
6. Based on a larger legal response area, a newly formed Fire Protection District could obtain grants for equipment, water storage, buildings, training, etc. commensurate with its legal authority and the size of its territory.
7. As indicated in the Grand Jury Findings, at present, most calls for service are provided outside the boundaries of the WCWD. Those property owners or individuals who reside in the newly formed district that are receiving emergency response services would therefore be paying for the services and assuming the responsibility for the associated liability.
8. Because of the larger territory, the newly formed Fire Protection District would have the legal authority to bill non resident travelers along Highway One and other locations who request emergency response services.

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**Disclaimer:** While the Commission has listed some of the potential positive values to the formation of a Westport Fire Protection District, the Commission is not and cannot be a proponent of the formation. The Commission would by law have to make an objective decision at the public hearing as to the value and viability of the proposed district.



**Recommendation 3: The Mendocino County Local Agency Formation Commission (LAFCO) provide technical and financial support and assistance in the formation of a new fire district in the Westport area.**

Commission Response

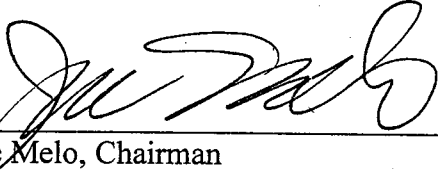
If the results of the Municipal Service Review (G.C. 56430) required to be conducted by LAFCO for the WCWD indicate that there is some viability for the formation of Fire Protection District, LAFCO would be willing to provide the necessary technical assistance to the proponents for the formation process, as we would for any proposal. In addition, the Commission would be willing to waive some of the LAFCO fees associated with staff time for this process. Fees for hard costs associated with printings and mailings would be needed. All other fees and costs required by other agencies (SBOE, Fish & Game, County Elections, etc.) and private parties (engineers or surveyors) would be the responsibility of the proponents. The Commission has no funds for the purpose of providing financial support for formation of any district.

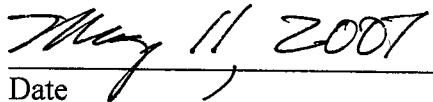
Also, LAFCO cannot do any of the work of educating and convincing voters and property owners of the value of the formation of a fire protection district.

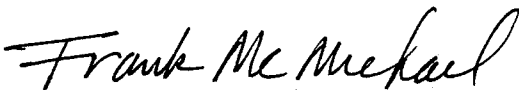
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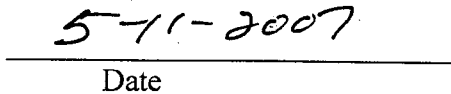
This response to is being provided to the Grand Jury after discussion of the above named report as an agenda item at our May 7, 2007 meeting. Upon a motion by Commissioner Orth, seconded by Commissioner Shoemaker, the Commission directed Chairman Melo to sign the Commission's response and directed Executive Officer McMichael to forward the signed response to the Grand Jury by the following roll call vote:

Ayes: Delbar, Shoemaker, Oslund, Kisslinger, Orth and Chairman Melo  
Nays: None  
Abstains: None  
Absent: Smith

  
\_\_\_\_\_  
Jere Melo, Chairman

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Attest: Frank McMichael, Executive Officer

  
\_\_\_\_\_  
Date