

**NAPA SANITATION DISTRICT
OPTIONS AND OPPORTUNITIES FOR GOVERNANCE**

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The Napa Sanitation District: an Historical Overview

The Napa Sanitation District (NSD) was established in 1945 under the County Sanitation District Act of 1923. The District was formed to provide for the collection and secondary treatment of wastewater for discharge into the Napa River for the City of Napa and unincorporated portions of southern Napa County. The District is governed by a Board of Directors responsible for all policy and planning related to its activities. The Board also sets rates and establishes charges for sewer service and is responsible for the District's budget and administrative affairs.

The formation of the NSD was initiated by actions of the Napa County Board of Supervisors in the early 1940's. Recognizing both the impending needs of the war-related population boom and the health issues related to wastewater flowing into the Napa River, the Board of Supervisors initiated talks with the City of Napa to organize a formal sanitation body to serve the needs of both the County and the City¹. A joint decision was made to organize a Sanitation District pursuant to Health and Safety Code 4700, and the original Board composition was formed, as required by state law, as a three-member board comprised of the Mayor of the City of Napa (or alternate), a Napa City Council Member, and the Chair of the Board of Supervisors (or alternate). In 1945, the District population was approximately 22,000 and covered just 5,035 acres. The District had an operating budget of \$23,000. By 1949, NSD's first facility, the Imola Treatment Plant, was on-line, and the facility, with minor upgrades, served the District adequately for more than 2 decades.

The world of wastewater treatment changed radically in 1972 with the passage of the United States Clean Water Act, an Act still standing today as the cornerstone of surface water quality in the United States. The Act required the setting of quality standards for all contaminants in U.S. water and also established a structure for regulating the discharges of pollutants into national waters. By employing a variety of regulatory and non-regulatory tools to sharply reduce direct pollutant dischargers into waterways, the Act aimed at the broad goal of restoring and maintaining the chemical, physical, and biological integrity of the nation's waters.

To facilitate these goals, the CWA mandated the National Pollutant Discharge Elimination System (NPDES), a permitting process implemented at state and local levels. In California, the State Water Resources Control Board (SWRCB) assumed the responsibilities of carrying out and overseeing the NPDES, which meant developing standards for all water being discharged into California waterways. Ultimately, the standards developed were beyond the treatment capacities of many wastewater treatment facilities—including NSD's Imola plant capabilities—resulting in the need for new and

¹ At that time according to state law, several structural and organizational options were available for governing the treatment of wastewater: a Sanitation District, a Sanitary District, an organized City or County Department, or an entity created through special legislation. Given the concerns at hand (the polluting of the Napa River with wastewater) and the multiple local governments involved, the jurisdictions formed the Napa Sanitation District in 1945. In its original form, the District was organized to provide secondary treatment of sewage for disposal into the Napa River.

upgraded plants across the state. At that time, federal grants and construction loans were made available through local state oversight bodies to help local jurisdictions finance the upgrades or the construction of new facilities required to meet the new standards.

In addition to establishing and overseeing regulatory procedures and requirements, the SWCRB was also the entity responsible for administering all federal facilities money available through the CWA. As part of its grant funding process, the SWCRB strongly encouraged collaboration and regionalization of wastewater treatment processing when applying for CWA funds. In part to meet this requirement, in 1975 the NSD formed a joint powers authority (JPA)² with the then-American Canyon County Water District³ to formalize sewer service in the south county area. This JPA, the Napa-American Canyon Wastewater Management Authority (NACWMA), jointly financed the Soscol Wastewater Treatment Plant, an advanced treatment plant which would meet the new federal and state discharge requirements for both districts and provide restricted (secondary) recycled water⁴.

In 1983 the state adopted regulations which again significantly impact the ability of the NSD to be in compliance with state and federal laws. The new regulations established “wet” and “dry” season discharge requirements and mandated that, beginning in 1988, no wastewater was to be discharged into the state’s waters between November 1 and May 1. At the time, neither the NSD nor the NACWMA had the capacity to store six months of wastewater without discharging into the Napa River. In 1984, needing to increase storage capacity to meet the 1988 deadline, the NSD began acquiring land through lease and purchase agreements. Between 1984 and 1988, the NSD procured more than one thousand acres of land in the south county area for the District to store its wastewater during the months when it could not discharge into the Napa River.

As part of the purchase program, the NSD entered into agreements to acquire several hundred acres known as the “Kirkland Ranch” property. Issues arose concerning the acquisition of approximately 450 acres north of Jameson Canyon. NSD’s attorney advised the Board that the property owner had agreed to grant an easement on the disputed acreage. However, the language in the agreement was not so clearly worded as to outline an outright grant of the land as an easement. The property owner insisted no such direct arrangement had been made, claiming there had been an agreement to come to terms on the property. The NSD elected to condemn the property and take it through eminent domain. The property owner sued and a judge eventually ordered the District to pay \$7.4 million to purchase the property.⁵ In response to the judgment, the District suspended its land acquisition program in favor of expanding its reclamation program.

² A Joint Powers Authority is an official government agency formed by contractual arrangement.

³ The American Canyon County Water District was the predecessor of the City of American Canyon and provided potable and wastewater services in the unincorporated area south of NSD’s service area.

⁴ Restricted recycled water may be used for irrigation on non-domestic crops such as pasture, orchard, fodder, etc. could be used for irrigation on non-domestic crops

⁵ The NSD Board ultimately sued the attorney who had provided them with the misleading interpretation of the agreement.

Throughout the 1980's, regulating agencies continued to place more and more restrictions on the quality of water allowed to be discharged into state waterways, and with each new regulation the District struggled to stay in compliance with its NPDES discharge permit requirements. In September of 1986, the Board authorized an engineering firm specializing in sewage systems, John Carollo Engineers, to develop a long range Master Plan for the NSD. The objective of the Master Plan was the development of a 25 year program of capital improvements to meet future population growth and facility replacement requirements. However, by the end of the decade the District was out of compliance with numerous state and federal regulations.

In April 1988, the contracting engineers delivered a Master Plan to the NSD. To meet future demands of the District, the Master Plan asserted the District would need to collection, treatment, and disposal capacities. Given the expense of the proposed modifications, and given the different technological options available at the time for meeting new regulations, the Board formed a community task force and conducted extensive community outreach⁶ to review and solicit input on the District's options and future projects. Eventually, the Board adopted a revised plan which included planning for service for a smaller population than originally projected. The new plan, called the "Soscol Plant Modification Project," was completed and adopted in 1991 by the joint powers authority, the NACWMA.

Also in 1991, the JPA was restructured to give the ACCWD a larger ownership share in the Soscol Water Treatment Facility, including specific capacity entitlements and an opportunity for American Canyon to buy-in to the reclamation facilities provided by the NSD. However, when the City of American Canyon incorporated in 1992, the City succeeded the ACCWD as partner in the recently re-negotiated JPA. The new representatives from American Canyon expressed dissatisfaction with the terms authorized by the ACCWD Board members.

The restructured JPA solicited bids on the plant modification project, as planned. Original estimates by NSD engineers anticipated costs around \$45.9 million; when the bidding process was completed in 1993, the lowest bid came in at \$50.2 million. Already uncomfortable with the terms of the JPA and their significant financial responsibility for the modification project, the high-bids for the project prompted the American Canyon officials on the JPA Board to move the rejection of all bids. The motion passed unanimously, and NSD staff was then directed to work with the consultant to scale down the project to fit into originally estimated budget.

Not long after this vote and redirection, the City of American Canyon requested dissolution of the JPA. Although both the NSD and the City of American Canyon held public meetings about the future of wastewater facilities and treatment in southern Napa County, and although multiple attempts were made to restructure the JPA, by 1994 the

⁶ In addition to the task force, which met two times over two months, the District also organized input sessions for builders and developers, and sent a survey/informational mailing to property owners throughout the City and County of Napa.

JPA was dissolved⁷, leaving the NSD alone and fiscally and legally responsible for the Soscol Plant Modification Project—placing the burden for necessary plant modifications solely on NSD customers. The District Board moved ahead with the modification project.

The 1993-94 Napa County Grand Jury issued a report which was critical of NSD's recent management and legal decisions and problems. In response, a blue-ribbon committee was formed in 1995 by the City and County to evaluate governance and administrative structure options for the District. The committee consisted of 3 citizen representatives appointed by the Board of Supervisors, four appointed by the City of Napa, and was staffed by LAFCO.

This committee recommended increasing the size of the NSD Board to enhance local accountability and strengthen decision making processes. The committee recommended the District increase the size of its board from three to five by adding two members from the public. This recommendation was accepted by the District, and a special provision was added to state law to allow for this new board structure⁸. The new provision took effect in 1996, at which time both the City and the County each appointed a public member to the Board.

Since 1996, the Board has overseen the completion of two major capital improvement projects at the SWTF, has resolved litigation, and has been able to keep residential customer's fees stable. The NSD's facilities upgrades have included raising the level of wastewater treatment to from secondary to tertiary, enabling the District to provide Title-22 unrestricted use recycled water to major customers including Napa Valley College, Kennedy Park and the City's municipal golf course. The reclamation and recycling capacities of the District presently provide unique disposal and revenue-generating opportunities. Since 2001, NSD has installed approximately 18,000 feet for recycled water projects.

The District recently settled a ground-breaking lawsuit⁹ against the SWQRCB regarding certain provisions of its 2001 NPDES permit and is presently operating in full compliance with the permit. The District also exceeds regulations with its ability to process all of its water to tertiary levels, providing valuable unrestricted-use recycled water.

In conclusion, since its formation in 1945, although the NSD's essential functions have remained the same (collection, treatment, and disposal of wastewater), the body of regulations governing the processes and products of the District has changed dramatically—and the governance structure of sanitation activities has shifted several times in response to regulatory pressures. In the face of an increasingly dynamic

⁷ The NSD continued to serve AC's wastewater needs through a 5-year contract through 1999, and then year-by-year until the complete severing of ties in 2001.

⁸ See Health and Safety Code § 4730.9.

⁹ The NSD was the first municipal discharger in the Bay Area to challenge the SWQCB's 2000 regulations; twenty-six other wastewater treatment facilities followed the NSD in the suit.

regulatory environment, the District must continually be creative in governing and managing its responses to legal requirements.

Napa Sanitation District: Facility and Organizational Regulations

Federal and State Laws and regulations for the collection, treatment, recycling and disposal of wastewater requires the construction and operation of technical and complex treatment facilities which must comply with numerous State and Federal permits. NSD is responsible to the policies and expectations of 12 different government agencies, and must be responsive to numerous commenting agencies as shown below:

Primary regulations and governing agencies

- EPA Clean Water Act
- Regional Water Quality Control Board NPDES Permit
 - Discharge Prohibitions
 - Effluent Limitations (Wet/Dry seasons)—several dozen specifications
- Department of Health Services—reclamation permit
- County Environmental Health
- Bay Area Air Quality Management District Odor Control

Secondary Agencies

- California Department of Fish and Game
- U.S. Fish and Wildlife
- State Water Resources Control Board
- Integrated Waste Management Board
- Army Corps of Engineers
- Bay Conservation & Development Commission
- State Lands Commission

Commenting Agencies

- ABAG
- Federal Aviation Agency/Napa County Airport
- Flood Control District
- California Native Plant Society

NSD's facilities operate under an NPDES permit issued by the San Francisco Bay Region of the State Regional Water Control Board, and failure to comply with discharge requirements can result in significant fines against the District and/or restrictions on new hook-ups.

The District's management and operations are governed by all the rules and regulations required to run a public agency, including accounting and personnel requirements, State Health and Safety Laws (OSHA), and the Ralph M. Brown Act.

The District holds public meetings on the first and third Wednesday of each month at the District's wastewater treatment facility.

The District in Detail

Mission

The District's original Mission Statement was "to collect, treat, and dispose of wastewater." Today, it reads:

To collect, treat, beneficially reuse, and dispose of wastewater in an effective and economical manner that respects the environment, maintains the public's health and meets or exceeds all local, state, and federal regulations.

To meet this mission, the purpose and function of the NSD is

- regulatory compliance;
- planning, constructing, and maintaining needed wastewater facilities including a collection system, treatment facilities, and river discharge and wastewater recycling sites;
- protecting public health;
- protecting the environment.

To meet these goals and fulfill its mission, the District has specific powers and responsibilities in State law, including powers that allow it to generate revenue, contract with outside parties, acquire land, and take legal actions.

Governance

The NSD Board of Directors is ultimately responsible for all aspects of the District. Specifically, the duties and responsibility of the Board are to

- set policy/planning
- set level of service
- set budget
- employ sufficient resources to accomplish mission
- balance public need with regulatory demand

Since its formation in 1945, although the District's essential functions have remained the same (collection, treatment, and disposal of wastewater), the body of regulations governing the processes and products of the District has changed dramatically—and the governance structure of sanitation activities has shifted several times in response to regulatory pressures. And in the face of an increasingly dynamic regulatory environment, the District must continually be creative in governing and managing its responses to legal requirements.

Current Service Area

Today, the Napa Sanitation District serves a jurisdictional boundary comprised of approximately 13,100 (with an additional 1,800 +/- acres in the sphere of influence). This area almost all of the City of Napa, the Silverado Country Club area, Napa State Hospital, and much of the unincorporated portions of southern Napa County. For the purposes of planning, the 1988 Master Plan defined the NSD service area as two parts, "primary" and

“secondary”. The primary service area is within the current City of Napa Rural Urban Limit line (RUL), the voter-approved urban growth boundary around the City of Napa. The secondary area is outside of the RUL but within the City’s sphere of influence and could be developed at a later date.

In total, the NSD jurisdictional boundary encompasses 13,167 acres, with 10,308 incorporated acres (78%) and 2,859 unincorporated acres (22%).¹⁰ These numbers do not include acreage outside the NSD’s jurisdiction that contract for reclamation services.

NSD and local land use policies

The District boundaries are within the land use authorities of both the City of Napa and the County of Napa, and according to Board members and District staff¹¹,

- all District Master Plans (built in 20 year modules) are based on adopted County and City General Plans;
- the District will respond to growth but not induce or retard it;
- General Plan growth is to be accommodated based on city population projections and county land area designations.

New sewer facilities within the District are reviewed as part of permitting processes within City and County planning departments.

Public Sewer—Capacity and Demand

The Soscol Water Treatment Facility (SWTF) has a treatment capacity of 15.4 million gallons per day (MGD), and the District maintains four adjacent oxidation ponds which encompass roughly 340 acres and provide approximately 1,700 acre-feet of storage capacity. Wastewater may be treated to a tertiary level at the plant, and the plant has a reclaimed water treatment capacity of 8.8 MGD and the District has a reclamation reservoir with a storage capacity of 6.5 MGD.

The most recent District Master Plan was completed in 1988 to meet the District’s wastewater and reclamation needs until 2012; the Plan was updated in 1990. According to the plan’s service population estimation of 82,000 in 2012, flow rates are projected at:

	<u>MGD</u>
Wastewater	8.4
Average annual flow	10.0
Wettest Year in 10	10.9
Peak month avg year	13.1
Peak month 10yr wet	16.2
5 year storm peak	49.9

Source: NSD

Though growth has occurred since the adoption of the 1988 general master plan, demands have been met with conservation efforts, such as the introduction of low-flow toilets. As

¹⁰ Estimates generated by LAFCO staff.

¹¹ The Board has never voted on official policy regarding growth and planning.

a result, demand on the plant has remained relatively stable since the mid-1980's at slightly under 6.5 MGD during the dry months.

Current and projected customer service base

Presently there are over 33,000 service connections and approximately 255 miles of underground sewer mainlines within the District's sphere of influence. The population within the District is approximately 78,000, and the NSD serves 33,712 customers.

Connections:	33,712
Single Family	22,069
Multi Family	7,904
Commercial/Industrial	3,739

Source: NSD

Population served	1994	2004	% change
Napa	64,000 +/-	74,000 +/-	+15.6%
Uninc	3,625 +/-	4,000 +/-	+10.3%
Total population served	67,625 +/-	78,000 +/-	+15.3%

Source: NSD

Types of Customers Served:

Type of customer	No. of Connections			% of Flow		
	1994	2004	% change	1994	2004	% change
Domestic/Residential	27,431	29,973	+9.3%	84.6%	79.2%	-5.4%
Commercial	3,301	3,372	+13.1%	10.6%	17.8%	+7.2%
Industrial	5	7	+40%	4.8%	3.0%	-1.8%
Total	30,737	33,712	+9.7%	100%		

Source: NSD

Major industrial dischargers in the area served by NSD and flow rates (in gallons per day)

Name	1994	2004	% change
Napa Pipe*	79,068	59,000	-34%
Dey L.P.	23,667	27,604	+16.6%
Kohnan*	9,945	7,334	-35.6%

Source: NSD

* Facility closed in 2004.

Finances

As defined by state law, NSD operations may be financed through wastewater and reclaimed service charges, assessments, lease or sale of property, and general obligation and revenue bonds. Property owners in Napa are billed annually, with County property taxes, for sewer service.

The District's budget is adopted following publicly noted board meetings in which members of the public are allowed to comment and offer suggestions with respect to revenues and expenditures. Summary annual budgets are available from the District's offices and now online at www.napasanitiationdistrict.com.

The District's operating budget for 2003-2004 was an expected \$10,995,200 in revenue with expenses of \$10,490,572. The Capital Improvement Fund balance is approximately \$9.5 million, with expenditures in FY 2004-05 expected to be more than \$7.5 million. The District has a very detailed and prioritized schedule of expected expenditures related to capital improvements and facilities maintenance.

Current customer fee structure

Wastewater service fees are calculated based on a formula applied to the size and type of facility. Annual charges vary widely but are figured from the base rate of \$274 annually per unit (which is the current Single-Family dwelling annual rate), and dwellings and businesses are charged multiple units depending on their functions and usages.

Connection fees also vary but were increased during the early 1990s, and were set at \$5,650 in 1995 for residential buildings. In 1995, a methodology was established for commercial and industrial connections that multiplies the residential connection fee by a factor determined by estimated sewage generation and flow.

Recycled water is priced at \$0.78 per 1,000 gallons delivered.

Revenue

Summary of Fee Revenue

Customer class	1994	2004	% change
Single Family	\$3,818,912	\$5,911,742	+54.8%
Multifamily	\$1,210,685	\$1,499,437	+23.8%
Commercial/ Industrial	\$1,742,184	\$2,604,789	+49.5%
Institutions and Government	\$228,589	\$281,508	+23.2%
Reclamation	----	\$282,250	-----
Total service fee	\$7,000,380	\$10,579,726	+51.1%
Connection Fee Revenue	\$1,456,410	\$3,063,596	+110.4%
American Canyon Service	\$331,029	-----	-----
Total Revenue	\$8,787,799	\$13,643,322	+55.3%

Source: NSD

Largest users of NSD services:

Name	% of revenue 1994	% of revenue 2004	% change
Napa State Hospital	2.62	1.53%	-1.09%
Napa Pipe	1.89	0.55%	-1.34%
Napa Unified School District	1.18	1.06%	-0.12%
QVH	1.04	0.82%	-0.22%
Embassy Suites Hotel	.74	0.72%	-0.02%
County of Napa	.53	0.57%	+0.04%

Source: NSD

Organization/employee structure

A general manager is appointed and serves at will to the board to oversee and provide direction for all departments of the District. Designated staff is on call 24 hours a day, 7 days a week to respond to any reported emergencies.

The District is run by 46 employees including 8 manager or supervisory positions in four departments, including

- Administration
- Collections
- Treatment
- Technical Services

Public Outreach

The NSD recently activated its website, now accessible at www.napasaniationdistrict.com. The website is a thorough, educational, useful and fun tool including updates on district improvements, a virtual tour of the SWTF, multiple conservation and pollution prevention tips, copies of educational brochures as well as technical information about the District, regulations, and fee structures. Links are also provided to Board agendas, minutes and budget summaries as well as state and federal oversight agencies and laws.

Recently, District staff worked with Vintage High School to create a Pollution Prevention curriculum, which involves science classes organizing around pollution prevention ideas and participating in pollution prevention projects. Additionally, the District publishes a quarterly newsletter and welcomes ratepayers to ask questions by phone or by visiting its administrative offices.

The District actively seeks feedback from and/or gives operational updates to many different bodies including the development community, local service clubs, and the Chamber of Commerce.

Napa Sanitation District Governance Structure: An Analysis of Options

Should the Napa Sanitation District remain as currently organized? Or should wastewater treatment services be delivered through a different governmental structure?

Special districts are a unique form of government created by the State of California almost 100 years ago¹². According to state law, a special district is “any agency of the state for the local performance of governmental or proprietary functions within limited boundaries”¹³—which means a special government delivering a specific service to a specific geographic area. Special districts are not a part of the state government, or city or county government. They are not school districts, benefit assessment districts, or economic development or redevelopment agencies.

A special district is a stand-alone government agency. The purpose of a special district is to afford focused, targeted attention on the delivery of a particular service or set of services to a local, geographically defined constituency which specifically wants—and is willing to pay for—what is being offered through the district. Some special districts provide one service (such as wastewater treatment), and some provide multiple services (such as wastewater treatment and garbage collection). Their governing boards may be elected or appointed, or some combination of the two.

Also, some special districts are considered “enterprise” districts¹⁴, meaning fees are directly related to specific services provided and for which customers are directly charged. Non-enterprise districts, such as fire protection districts and mosquito abatement districts, charge all district residents a fee for the availability of services because it would be impractical to charge user’s service fees only—imagine the trouble if fire protection services were paid entirely and only by those who called the fire department with emergencies.

There are several significant advantages to having services delivered through a special district:

- the services are tailored to citizen demand;
- there exists a clear and direct cost-benefit relationship between fees and services;
and
- the governing body is, ideally, responsive, transparent and accountable.

¹² For thorough and accessible information about special districts, see “What’s So Special About Special Districts?” available on the California State Senate’s website at www.sen.ca.gov. The document is available through the Local Government section under Standing Committees.

¹³ Government Code §16271 [d]

¹⁴ “Enterprise” funds are also commonly used in municipal governments to provide self-supporting services on a user-charge basis. Common examples of municipal service enterprise funds include water, sewer, and garbage.

However, special districts can be problematic if they offer inefficient or overlapping services, hinder regional planning, or become too obscure to be accountable.

The Napa Sanitation District offers its constituents several advantages: as an enterprise special district, NSD services are tailored to citizen demand, constituents pay direct fees for services, and the rate fees and structures are readily available to the public. The NSD Board meets 22 times a year, there are no overlapping services within the NSD and surrounding jurisdictions, and the local Grand Jury and public newspapers have for several decades kept the District rather free from obscurity.

When the Napa Sanitation District was formed almost 60 years ago, there was clearly a need and the will for wastewater treatment services to be delivered through a highly specialized and focused system. Is that still the case today? Does wastewater treatment in Napa still warrant the “special” attention it gets as a special district authorized and governed by State law and its own Board of Directors? Would an alternative government structure better serve the needs of the District’s constituents as it relates to services, accountability, and public participation?

Answering these questions requires an explication and analysis of the applicability of special district standards and legal requirements to the current needs of Napa County’s local governments and constituents.

Special Districts, Local Governments, Taxes and Fees

An important issue to be reviewed vis-à-vis the Napa Sanitation District, wastewater treatment services and local governments in Napa has to do with the way financing strategies of local governments and services have changed many times in the decades since the authorization of sanitation districts. Major citizen initiatives, such as Propositions 13 and 218,¹⁵ placed strong limitations on how local governments can and cannot raise taxes and generate revenue, and the State government has similarly constricted local government revenues through legislation shifting dollars away from local agencies, including special districts.

The delivery of sanitation services through the Napa Sanitation District is a revenue-generating system. But as an enterprise agency demands, revenues raised and generated by user fees and other financing mechanisms are legally bound to the delivery of services within the system itself. It is a fairly strict supply-demand arrangement: constituents need wastewater treatment services and the District provides exactly that, charging users only what it costs to get the water from and to where it needs to go.

Sanitation services delivered through the broader, more general purview of a city could, under certain conditions, free funds from the constraints described above, thus potentially

¹⁵ California Proposition 13, passed in 1978, limits property taxes to 1% of the full cash value of the property, caps annual increases at not more than 2%, and requires a 2/3 voter approval on new tax measures. Proposition 218, passed in 1996, applies the same standards to property service assessments and limits the use of assessments to services which directly benefit property.

allowing a local government new flexibility in generating and managing local revenue. For example, sanitation services could be delivered through a city department without dedicating revenues to a specific enterprise fund. However, this is uncommon in today's world of municipal finance. Most cities provide such services through enterprise departments or agencies. In these restricted arrangements, appropriation of 10% of gross enterprise fund revenues to a general fund is allowed, in part to address overhead issues for the City's administration. For example, if sanitation services generate \$10 million in gross enterprise fund revenue, a local government may take 10% of that—one million dollars—and transfer it to the general fund. Ideally, these transferred funds are used to address administrative overhead and to contribute to departments that deal with the impact of the wastewater system. For example, transferred funds might be used by a city's public works department to repair sidewalks that have been damaged by tree roots growing askance over underground sanitation pipes. Some have expressed concern, that these transferred funds are used to address issues entirely unrelated to the sanitation system from which the revenues are derived.

In the specific case of the Napa Sanitation District, however, such revenue-generation is complicated by the fact that the NSD currently has within its boundaries two local governments—the City of Napa and the County of Napa. While revenue-sharing agreements could be arranged, there is inherently the problem of lack of representation for the rate-payers of the service outside the control of the primary government's boundaries if the service system were rolled into either the City or the County alone.

Representation, Transparency, and Accountability

Because the NSD serves residents in separate and rather different governmental jurisdictions, the City of Napa and the County of Napa, issues about adequate and fair representation, as well as conflicts of interest regarding what services get paid for with what fees, could arise if sanitation services are delivered through only one of the municipalities. Further, and importantly, because wastewater treatment systems are massive public works infrastructure systems with direct impacts on local development opportunities, placing the system into the governance structure of one local government would give that government implicit decision-making power over another government's land use planning.

Examples of these possibly emergent problems can be seen in the structure of systems today. For example, because the County of Napa is more rural and agricultural than the City—and therefore more likely to have opportunities to use reclaimed instead of potable water—conflicts could arise between fee structures and service delivery of potable versus reclaimed water and who is fairly represented in the debate over such issues. And regarding land use authority, a parallel example presently exists in Napa regarding potable water services: because the City of Napa delivers potable water to parcels governed by the County, the County government's ability to approve land development for those parcels is implicitly dependent upon the willingness of the City to extend water services to County land.

It is difficult to gauge whether a multipurpose agency, such as a city or county, or a single-purpose agency, such as a special district, is more transparent and responsive to its constituency. Each organizational structure has its advantages. Multipurpose agencies typically enjoy greater name recognition in the community. However, their meetings are often longer and cover a broad spectrum of issues. Issues relating to a specific service can be lost on their agenda. The agenda of special districts are dedicated to the service in question.

Options, Opportunities, and Trade-offs

Is there anything about sanitation services, specifically wastewater treatment in Napa County, suggesting a special district is the best governmental entity to oversee such services?

It is important to note the nature of wastewater treatment has changed radically since the NSD was formed in 1945. Sixty years ago, Napa's elected leaders were primarily concerned about how wastewater might impact the health of their constituents. Today, the NSD is engaged in a constant monitoring of Napa's impact on the ecosystem of the San Francisco Bay. Wastewater treatment today is about micro-organisms and habitats for species most people have never even heard of – it is a highly technical and technologically advanced field, a field considered among the most important of all environmental specialties.

However, the complicated nature of wastewater treatment is not itself a reason that the service should be offered through a special district in Napa County. In fact, many of Napa's neighboring jurisdictions provide wastewater treatment services to their constituents without special district authorization. But Napa County is unique in that 1) the NSD serves two local governments with one treatment plant, which has specific implications for coordinated land use planning, and 2) it is a heavily agricultural county, which has specific implications for the diverse needs of both urban and rural wastewater service customers, particularly in the area of reclamation opportunities.

Given there are arguments and examples of systems supporting the effective delivery of wastewater treatment services through many different types of government structures, and given the State's direction to collapse and/or restructure special districts whenever it is efficient and reasonable to do so,¹⁶ it is important to explore all the options available for Sanitation services in Napa. The California Government Code specifically states “a single multipurpose government governmental agency...may be the best mechanism” for providing community services and establishing priorities for services. What reasons would be compelling enough to change the nature of the governance structure of wastewater treatment in Napa? The following six criteria offer a guideline for considering whether or not a change in governance structure would be worthwhile:

¹⁶ Government Code §56001

Efficiencies in delivery of service

Although the nature of wastewater treatment services provided by the Napa Sanitation District is highly technical, its governing body can impact the efficiency of service delivery through its decisions regarding management, budgeting, planning and policy.

Realizing economies of scale

Wastewater treatment is a system of expensive infrastructural components, and as such has the opportunity to realize great benefits through maximizing economies of scale.

Nature of geographical boundaries

The State's direction to streamline local government services focuses considerable attention on collapsing or integrating services which are duplicated within small or even overlapping geographical boundaries.

Need for specialization of services

Whether or not a community or government needs specialization in sanitation services has a large impact on the appropriate nature of the body overseeing that service.

Accountability, accessibility, and transparency for ratepayers

Changing a system's governance structure often involves changing the nature of the "access" the public has to its government, and attention needs to be paid to the trade-offs of that change.

Cost of change

The actual cost of changing governance structure of the sanitation services from the status quo needs to be considered in comparison to the benefits provided by the alternative structure.

Ideally, a change might be worthwhile if it results in

- increased service efficiencies,
- greater realization of economies of scale,
- an increased number of customers who need special services being served in a coordinated manner, and
- increased accessibility to consumers, given the significant environmental impacts of wastewater treatment.

The following is an analysis of governmental options for wastewater treatment services in Napa according to the above criteria:

1. Maintain status quo

The current organizational structure of the NSD is governed by the California Health and Safety Code. The five-member Board of Directors meets two times a month and focuses entirely on wastewater treatment and reclamation services and systems in the District. The Board is ultimately responsible for all actions of the District and District employees.

2. Add more representatives to current board structure

Efficiencies in delivery of service:

An increase in board membership could provide for increased deliberation of issues and improved oversight of the District's management and budget functions. An expanded Board would also allow for the creation of larger and more specific committees without overburdening board members. All of these changes could result in more efficient delivery of services to District constituents.

On the other hand, increased deliberations could lead to lengthier deliberations and complicated conversation which could result in structural inefficiencies.

Realizing economies of scale:

N/A

Nature of geographical boundaries:

Although there would be no change in the geographical boundaries in this scenario, the structure of representation vis-à-vis jurisdictional boundaries would need to be given consideration. Currently the Board is composed of three members representing the City of Napa's interests and two members representing the County of Napa's interests. Increasing the number of Board members could change the composition and weight of interests represented.

Need for specialization of services:

No change.

Accountability, accessibility, and transparency for ratepayers:

Direct accountability to District constituents may or may not increase, depending on the nature of the expanded Board, though the transparency of deliberations and decisions may increase simply by extended conversations.

Costs:

Administrative costs with a Board expansion would likely increase a small amount in order to extend staffing services to additional board members. There

would be an increase in the total compensation to the Board issued in the form of stipends for attending meetings.

3. Directly elected Board of Directors

Efficiencies in delivery of service:

It is possible this alternative might result in elected board members with issue scopes broader than the current Board's emphasis on the most efficient and cost effective operations of the public sewer system. A directly elected sanitation district Board of Directors could significantly impact the ability of local governments to meet development or planning goals if the Board adopts policies or makes decisions contrary to existing General Plans and land use decisions. City and County growth could be re-directed by an elected NSD Board of Directors if growth policies are impacted by decisions either not to provide public sewer facilities to specific locations or by constructing unnecessary capacity into the District.

Realizing economies of scale:

N/A

Nature of geographical boundaries:

Unchanged.

Need for specialization of services:

No change.

Accountability, accessibility, and transparency for ratepayers:

Theoretically, a directly elected board of representatives would be more directly accountable to the District's constituents because voters would place or remove Board members in elections based on sanitation district issues alone.

Cost of change

It appears that overall costs to the District ratepayers would go up under this structure given the expense of holding public elections.

4. Dissolution of District and reorganization as a City Department or County Service Area

Dissolution of the NSD would result in the termination of the District, and the City or County of Napa would be the successor and assume all district assets. Dissolution of the NSD would leave the unincorporated areas, the Silverado Community, and the Napa County Airport Industrial Area, without a public sewer provider unless separate service contracts were established. Annexations may be required.

Efficiencies in delivery of service:

Through an agent within the City or County, sanitation service delivery would be under a much larger umbrella of services already provided, and as such could benefit from larger, more specialized departments pertaining to management including finance, personnel, legal expertise, etc.

Realizing economies of scale:

Infrastructure scale would remain unchanged, though personnel scales may be affected as noted above.

Nature of geographical boundaries:

The governmental boundaries of wastewater treatment service provisions could change radically with the dissolution of the NSD because it could, unless a joint powers authority were established, leave the entirety of one local jurisdiction completely out of the bounds of service. Annexations may be required.

Need for specialization of services:

Dissolution of the NSD, if it were taken over by the City of Napa, could leave the unincorporated areas, the Silverado Community, and the Napa County Airport Industrial Area, without a public sewer provider unless separate service contracts were established. Further, incentives may change regarding current and future provisions of reclaimed water opportunities.

Accountability, accessibility, and transparency for ratepayers:

With sewer service and reclamation opportunities administered by the City or County, ratepayers might have less information about sewer and reclamation services in Napa County because such decisions would be made in departmental meetings rather than in public meetings of the governing board.

Also, concerns may arise regarding the “fairness” of representation of the multiple jurisdictions involved.

Costs of change:

Cost savings may be possible through reductions in administrative and personnel costs and by consolidating equipment and maintenance operations. However, many administrative and personnel services in the NSD have already been integrated with county services; and given the specialized nature of sewer water treatment, there would be little existing redundancy in equipment or maintenance costs.

5. **Reorganization into the City of Napa through merger or formation of a Subsidiary District**

Merger

Merging a special district into a local government means the complete termination of the district, including cessation of all the district's limited powers.

According to Government Code §57084, the territory of a merged district shall be entirely included within the boundaries of a city. Merging the NSD into the City of Napa would result in the entirety of the NSD to be merged within the City. Non-city parcels, or the parcels currently comprising the County segment of the NSD, may be required to obtain separate service contracts for wastewater treatment. Annexations may also be likely, particularly for unincorporated parcels within the City limits.

Efficiencies in delivery of service:

As a department within the City, sanitation service delivery would be under a much larger umbrella of services already provided, and as such could benefit from larger, more specialized departments pertaining to management including finance, personnel, legal expertise, etc.. Regarding reclamation services, an expanded reclamation program potentially entails a loss of revenue generated through the potable water system if potable water users switch to reclaimed water services. Planning and policies for reclaimed water service delivery may change significantly depending on the City's interests as determined by the City Council.

Realizing economies of scale:

Infrastructure scale would remain unchanged, though personnel scales may be affected as noted above.

Nature of geographical boundaries:

Merging the NSD into the City of Napa would result in the entirety of the former district to be merged within the City.

Need for specialization of services:

Non-city parcels may be required to obtain separate service contracts. Also, incentives may change regarding current and future provisions of reclaimed water opportunities.

Accountability, accessibility, and transparency for ratepayers:

With sewer service and reclamation opportunities as a city function inside a city department, ratepayers might have less access to information about sewer and reclamation services in Napa County. Also, concerns may arise regarding the "fairness" of representation of the multiple jurisdictions involved.

Costs of change:

Cost savings may be possible through reductions in administrative and personnel costs and by consolidating equipment and maintenance operations. However, many administrative and personnel costs in the District have already been minimized by the District's contracting with the County of Napa for certain procedures; and given the specialized nature of sewer water treatment, there would be little existing redundancy in equipment or maintenance costs.

Costs to ratepayers could go up or down depending on the City's administrative procedures, whether or not they desire sewer fees to cover non-sewer costs, and choices regarding the balance of offerings of potable or reclaimed water to select customers.

Creation of Subsidiary District

A reorganization of the NSD as a subsidiary district of the City of Napa would result in replacing the current District Board of Directors with the Napa City Council, the Council serving as the *ex officio* Board of Directors. The District would continue in existence with all of the powers, rights, duties, obligations and functions as a County Sanitation District. The management and administration of the District, including all of the District's employees, could be brought into the City with services contracted back to the District.

Establishing a subsidiary district pursuant to Government Code §57105 is subject to the following territorial conditions:

- The entire territory of the district shall be included within the boundaries of the city; or
- The portion of the district within the city shall represent both 70% or more of the area of land within the district and 70% or more of the number of registered voters who reside in the district.

Efficiencies in delivery of service:

The District would continue in existence with all of the powers, rights, duties, obligations and functions as a County Sanitation District. The management and administration of the District, including all of the District's employees, could be brought into the City with services contracted back to the District. Planning and policies regarding reclaimed water may change significantly depending on the interests of the City Council acting *ex officio* as the District's Board of Directors.

Realizing economies of scale:

Infrastructure scale would remain unchanged, though personnel scales may be affected as noted above.

Nature of geographical boundaries:

Unchanged.

Need for specialization of services:

Given the need for reclaimed water within Napa County but outside of the City’s boundaries, there may be concerns about the City’s incentives to continue the District’s current agenda to provide 100% recyclable water to County interests who may need it and may significantly benefit from it.

Accountability, accessibility, and transparency for ratepayers:

Accountability to ratepayers may increase as sewer treatment services will become the political responsibility of one elected City body and may become a specific election/voting issue. However, county residents and property owners would no longer have representation on the board.

The transparency of deliberations and decision making is not likely to change under this structure.

Costs of change:

Cost savings may be possible through reductions in administrative and personnel costs and by consolidating equipment and maintenance operations. However, many administrative and personnel costs in the District have already been minimized, primarily through a contract between the District and the County of Napa for certain administrative procedures. Given the specialized nature of sewer water treatment, there would be little existing redundancy in equipment or maintenance costs.

Costs to ratepayers could go up or down depending on the City’s administrative procedures, whether or not they desire sewer fees to cover non-sewer costs, and choices regarding the balance of offerings of potable or reclaimed water to select customers.

6. Expand District Boundaries

This option would mean establishing the NSD as a regional sewer and reclamation agency serving an expanded area, potentially including the Napa River Reclamation District, the multiple Lake Berryessa water and sewer districts, the Circle Oaks County Water District and the Los Carneros Water District. An expanded district would place specific water and sewer responsibilities under the umbrella of one public agency.

Efficiencies in delivery of service:

If the NSD were established as a regional sewer and reclamation agency serving an expanded area, there would likely be many changes in the efficiency of service delivery for all the affected entities, including the opportunity to provide a standard of operations countywide which complies with or exceeds Federal and State Clean Water regulations.

This option, though complicated, also moves Napa County toward the state mandated goal of collapsing and re-organizing special districts when and where it makes collaborative, regional governmental sense.

However, there are many complications with such an expansion, including the nature of the antiquated and failing facilities in other districts which have placed the small agencies out of compliance with State and Federal laws. Given the limited ability of the other districts to raise revenues for new facilities and improvements, an expanded service district might avail previously precluded funding opportunities.

Realizing economies of scale:

There are many and wide-ranging opportunities for taking advantage of economies of scale if the NSD were to widen its boundaries, from equipment to infrastructure to personnel. The benefits could be significant and may include:

- reducing duplicate administrative and maintenance costs throughout the county, and
- providing for greater flexibility to move personnel and equipment to areas of need throughout the county.

Nature of geographical boundaries:

Could change drastically.

Need for specialization of services:

Many localities are currently in great need of wastewater treatment service specialization and upgrades.

Accountability, accessibility, and transparency for ratepayers:

The accountability of the Board to ratepayers, transparency of deliberations and decisions, and ability to navigate existing and future challenges under such a re-organized structure requires a much more in-depth study, although given the District would remain a special district, changes are not likely to be structural in nature.

Costs of change:

Requires further, in-depth study.

7. Reorganize as a different type of district

Efficiencies in delivery of service:

The NSD could be reorganized into a number of other types of special districts capable of providing public sewer and reclamation services, such as a County Water District, a County Service Area, or a Community Services District. Such reorganization would change the scope of services available to the public through

the District—constituents could request the construction of a ballpark or amphitheater, for example. However, the present need in Napa currently filled by the NSD is that of public sewer service, and the California Health and Safety Code provides authority for the efficient operations of public sewer and reclamation services.

Meeting future challenges of sewer and reclamation systems under a different Board structure may become efforts less focused and less efficient if a Board opts to utilize different powers provided under the auspices a different type of districts.

Realizing economies of scale:

N/A for wastewater treatment services; unclear whether or not other services would benefit.

Nature of geographical boundaries:

May or may not change.

Need for specialization of services:

N/A for wastewater treatment.

Accountability, accessibility, and transparency for ratepayers:

Although different districts may have different Board structures, issues of accountability and transparency are likely to remain similar in any special district.

Costs of Change:

Though sewer costs may not go up, other costs may be incurred if the District utilizes other powers.

DISCUSSION

Although reviewing and analyzing all the various governance structures through which wastewater treatment services could be delivered in Napa is useful, in the end the central question emerges as whether or not the system should remain as a special district or be reorganized as service within an existing local government structure.

To review, there are advantages and disadvantages to each particular arrangement. As a special district, the Napa Sanitation District presently appears to offers its constituents several advantages: as an enterprise special district, NSD services are tailored to citizen demand, constituents pay direct fees for services, and the rate fees and structures are readily available to the public. The NSD Board meets 22 times a year, there are no overlapping services within the NSD and surrounding jurisdictions, and the local Grand Jury and public newspapers have for several decades kept the District in public view.

Maintaining the status-quo means NSD customers will continue getting wastewater treatment services through a fee-for-service system which is accountable and transparent to customers. Wastewater treatment decisions will remain essentially un-politicized, and coordinated land use planning will continue between NSD area customers and the local governments representing those customers. Also, revenues generated through a fee-for-service enterprise fund, as NSD revenues are restricted for use solely within the system itself which may be, in difficult fiscal times, a lost opportunity for funding other related public services. On the other hand, as a moderate-sized agency, whose staff is primarily dedicated to the technical aspects of the operation of the sewer system, the NSD may struggle with real or perceived administrative issues in financial and personnel areas .

These real or perceived problems with administrative issues might be compelling reason to reorganize wastewater treatment services in Napa to be delivered through the department of an existing local government. The City of Napa and the County of Napa have departments that specialize in such areas as finance, personnel, and legal expertise. Last year, the press gave coverage to the resignation of the NSD general manager, noting a number of questionable activities by the administrator. Agencies with more resources devoted to administrative matters might have been better equipped to avoid the real and the perceived problems.

A matter of significant debate is whether it is in the best interests of the community with respect to the generation of revenues in excess of the costs of operation for a municipal service. In a single-purpose agency, such as the NSD, excess funds are placed in reserves and reinvested in the agency and the delivery of service. In a multi-purpose agency, such as the City of Napa, excess funds might be used to address externalities of the sewage system. A matter of great debate is whether it is appropriate using the excess funds to address other public works projects of interest to the community.

A transfer of services out of a special district and into a local government would give customers less access to and accountability for the services offered. Further, given the multi-jurisdictional nature of the NSD, infrastructure planning could become heavily

politicized between jurisdictions, and land use choices of one government would be explicitly in the hands of a different, and possibly competing, government. Geographical representation would be imbalanced, and serious questions might emerge regarding accessibility of services.

When the 1995 NSD Study Committee recommended the addition of two members to the Napa Sanitation Board of Directors, they did so because, as the 1993-94 Grand Jury had suggested that the inability of a three member board to form committees and have specialized deliberations had impacted the Board's ability to make fully informed and thoughtfully considered decisions in the best interest of the District's rate-payers. Specifically, the Study Committee concurred with the Grand Jury's assessment that the Board's actions regarding some Kirkland Ranch property and the financial arrangements of the Soscol Modification Treatment Plant might not have resulted in multi-million dollar impacts on the rate-payers if the Board had studied the issues in more depth through committees.

The 1995 Study Committee also determined that the two additional members should be public-at-large members, not elected officials, to give added constituent representation and accountability. Further, though the committee deliberated whether or not both members should be appointed by the Napa City Council, given the large population of the District's rate-payers residing within the City, the committee members determined the balance between County and City interests should remain proportional to the original Board composition. With the District's ongoing and increasing focus on providing reclaimed water services, the committee determined the County's interests would only be expanding in representation needs, and therefore the City should maintain a majority but not obtain supermajority representation.

The focus and commitment of the board today remains the efficient collection, treatment, beneficial reuse, and disposal of wastewater in a manner that respects the environment, maintains the public's health and meets or exceeds all local, state, and federal regulations. One of the main goals of the District is to recycle 100% of its wastewater, and it is actively pursuing ways to realize that goal. Recently, the District was awarded a \$250,000 grant from the State Department of Water Resources funding its proposal to build a system capable of pumping high-quality recycled water back into the ground. DWR has noted that this kind of project is "the first of its kind."

The challenges faced by today's NSD Board are very similar to the challenges the Board has faced for several decades—namely, how to keep a massive, capital intensive system running to serve the District's needs and be in compliance with State and Federal regulations. However, new challenges have also emerged, including the increasingly litigious nature of the clean water business as technology advances and environmental advocates use courts to establish influence over regulatory agencies. The Board has, since its 1995 restructuring, been involved in several lawsuits, most notably the legal action the Board itself instigated by choosing to contest the discharge-permit requirements issued by the SRWQCB in 2001.

The current Board is also facing the perception that it must address regulations and expectations for management and workplace culture in light of the publicized issues that surrounded the resignation of the previous general manager. The Board must decide how much control management should have versus how much micromanaging the Board should do on budget matters and procedures for hiring and training personnel.

However, nothing about the current structure of the NSD or its Board of Directors directly prohibits the Board from actively and accountably dealing with all of the aforementioned contemporary challenges. Further, given the intensifying environmental and ecological importance of wastewater treatment services, it is important to consider that minimal gains in efficiencies in bureaucratic systems such as personnel and budgeting processing may not be significant when compared to the loss of public accountability and access such systems might impose. As to the fiscally-restrictive nature of an enterprise district, because a system already exists whereby the District pays some fee for street and sidewalk repairs, there is opportunity for the District and the City of Napa to revise that system and perhaps make it more accountable to the actual costs of system impacts.

CONCLUSION

In conclusion, it does not seem likely that either customers or local governments would be better served by the transformation of the Napa Sanitation District into another entity, specifically a City or County department. Further, because there are no overlapping special district boundaries or overlapping service deliveries or inefficiencies within the NSD's geographical areas, the NSD does not meet the State's criteria under the mandate¹⁷ to collapse and/or restructure Special Districts whenever it is efficient and reasonable to do so. In fact, reorganizing the NSD would preclude other opportunities within the County of Napa to realize potential economies of scale and service efficiencies—opportunities which are worth serious review.

¹⁷ Government Code §56001