**Final Draft Report**

# Special Study:
# Mt. Diablo Health Care District Governance Options

*The Economics of Land Use*

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Contra Costa LAFCO

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# 1. INTRODUCTION

## Mt. Diablo Health Care District

### Formation and Statutory Authority

The Mt. Diablo Health Care District (MDHCD) was formed pursuant to Health and Safety Code Sec. 32000 in 1948 as the Concord Hospital District by the registered voters of the District. Following the formation of the Concord Hospital District in 1948, the District built and operated the Mt. Diablo Community hospital with funding provided by property taxes.

In 1994 (SB 1169) the State Legislature amended the enabling legislation renaming hospital districts to health care districts. The definition of health care facilities was expanded to reflect the increased use and scope of outpatient services. The legislation enacted a number of other substantial regulations governing the transfer of property, conflicts of interest, health care secrets and the public meeting act, lease agreements, the sale of property and assets.

### Boundaries

The MDHCD boundaries include the cities of Martinez, Lafayette (portions), Concord, and Pleasant Hill (portions), along with the unincorporated communities of Clyde and Pacheco. **Figure 1** shows the current boundaries of the MDHCD. The MDHCD has evolved over the years both in terms of its physical boundaries and its organizational structure. The City of Martinez was annexed in 1956, before the existence of Local Agency Formation Commissions (LAFCOs). Between 1967 and 1991, there were a number of boundary changes relating to the MDHCD (i.e., annexations, detachments), as well as two proposals to dissolve the District in 1972 and 1976, both of which were denied by LAFCO. The City of Pleasant Hill attempted unsuccessfully on two occasions to detach from the District.

### Financing

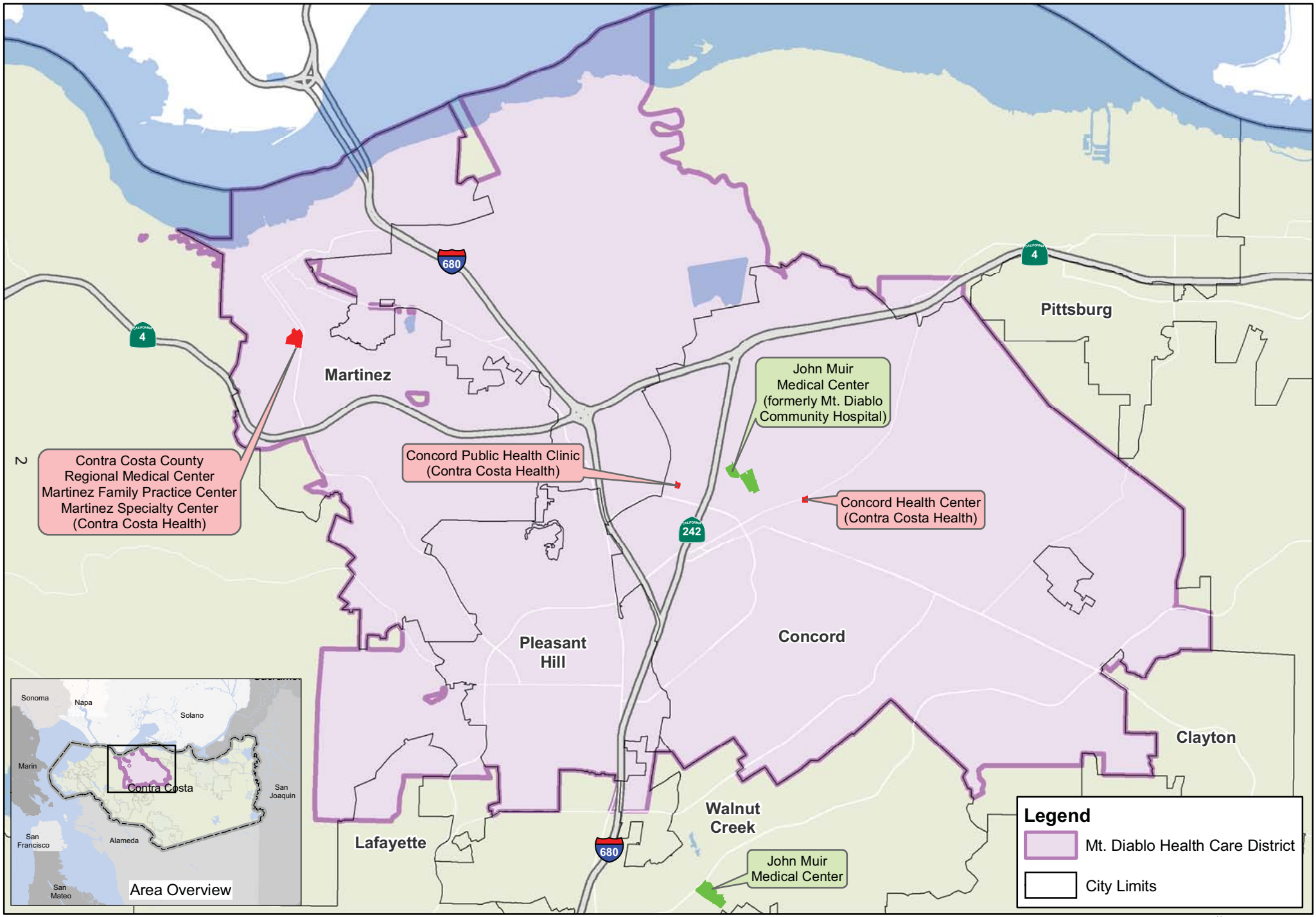
The MDHCD continues to receive property taxes to fund it operations. It currently receives approximately $245,000 annually from its property tax apportionment.

### Other Relevant History

In 1996, the MDHCD faced bankruptcy and entered into a Community Benefit Agreement (CBA) which transferred the assets of the District to John Muir Health (JMH) in exchange for certain assurances regarding health care services to be provided within the District.

The principal act for health care districts, Health and Safety (HSC) Code 32000, allows for transfer of district assets to either a private corporation or a nonprofit agency under certain conditions. HSC section 32121 (p) requires approval by the registered voters for the transfer of 50 percent or more of the district's assets. Measure MM was submitted to the voters on November 5, 1996. The measure requested approval of the merger of Mt. Diablo Medical Center and John Muir Medical Center. The transfer became effective when the voters approved Measure MM.

# Figure 1 District Boundaries MDHCD Special Study



The MDHCD has been involved in lawsuits with JMH regarding the provision of various services and facilities. During 2001 and 2002, the MDHCD spent approximately $739,000 on legal fees. The actions ultimately were settled.

In addition to the transfer of assets, the CBA also created the Community Health Fund (CHF); the CBA requires JMH to provide funding for CHF administrative expenses and to contribute $1 million per year to fund CHF programs, grants and events that address health issues and promote a healthy community. The MDHCD Directors serve on the CHF Board, ex officio (and/or appoint CHF Board representatives), along with the JMH appointees. The CHF Board makes annual allocations of the CHF to meet health care needs within the District.

## Purpose of the Study

LAFCO initiated this Special Study in response to past and ongoing community concerns about whether the MDHCD should continue as a special district, and in response to recommendations of the Healthcare MSR adopted by Contra Costa LAFCO in 2007. The MDHCD was the subject of Grand Jury Reports in 2001, 2003, 2008 and 2011. The Grand Jury has been concerned that the District is no longer fulfilling a useful mission and should be dissolved. Other members of the community have called on LAFCO begin the process of dissolving the District.

Under Government Code (GC) §56375(a)(3), a commission may initiate the dissolution or consolidation of a district only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to §56378 (special study), §57425, (SOI update), or §56430 (MSR). This is a Special Study undertaken pursuant to Government Code §56378. That statute requires that this study include an inventory of the agency and determine the maximum service area and service capacity.

This Final Draft Report includes revisions to the Draft Report (12/2/11) based on comments received. A summary of comments and responses is included as **Appendix C**. A Final Report will be prepared following the LAFCO hearing January 11, 2012.

### Determinations Required to Dissolve or Consolidate Districts

Under §56881(b), if LAFCO initiates action to dissolve or consolidate a district the resolution making the determination must include both of the following determinations:

a. That the public service costs resulting from a dissolution or change of organization would be less than or substantially similar to the costs of alternative means of providing the service.

b. That a dissolution or change of organization would promote public access and accountability for the community services needs and financial resources.

This purpose of this study is to assist the Commission in evaluating whether it can make the required determinations.

### Evaluation of Possible Changes of Organization

This Study evaluates the relative merits of the following potential actions by the Commission:

a. Maintaining the status quo.

b. Consolidation with another "like" or "unlike" district (i.e., formed under the same or different principal acts).

c. Dissolution and appointment of a successor for winding up purposes only.

d. Dissolution and appointment of a successor to continue health care services within the district.

The options are evaluated based on relative costs of providing service, public access and accountability, and other factors related to community acceptability and provision of comparable functions and services.

## Process

The process for a change in organization includes several basic steps summarized below, pursuant to GC §57077. There may be some variations depending on what action, if any, LAFCO decides to take regarding future service in the dissolved district boundaries.

a. At a noticed public hearing, the Commission accepts the special study, considers adopting a zero SOI to signal proposed dissolution and for consistency with SOI (GC §56375.5), considers making findings in accordance with the conclusion/recommendation of the special study and considers adopting a resolution initiating dissolution.

b. LAFCO notifies State agencies per GC §56131.5 and allows a 60-day comment period.

c. At a noticed public hearing, LAFCO considers approving dissolution.

d. Following 30-day reconsideration period (GC §56895), LAFCO staff holds protest hearing in the affected territory (GC §57008). The protest hearing is a ministerial action. While the Commission is the conducting authority, it often designates the Executive Officer to conduct the hearing.

e. Absent requisite protest, Commission orders dissolution after determining whether an election is required.

f. If there is no election or the dissolution is approved by the voters, LAFCO staff records dissolution paperwork and files with the State Board of Equalization making dissolution effective.

Additional LAFCO actions are noted in subsequent chapters for each option evaluated.

# 2. SUMMARY OF FINDINGS AND RECOMMENDATIONS

In accordance with the requirements of GC §56378, this section summarizes those items to be included as part of a special study. These items are discussed in additional detail in subsequent chapters. This chapter also includes recommendations regarding change of organization.

## Findings

### 1. *Inventory of the District Assets and Liabilities*

**Assets** - The MDHCD has no physical assets, other than office equipment. The MDHCD had approximately $833,946 in fund balances at the end of 2010; the projected fund balance at the end of 2011 is $787,707.[1] This balance could change depending on actual expenditures and a final accounting for the year.

**Liabilities** – The MDHCD will be liable for contract termination costs for the newly hired interim Executive Director.[2] The MDHCD's long-term liability consists of health insurance benefits provided to two directors (one current director, one former director). As described in more detail below, the present value of the health insurance liabilities, including all potential future payments, are estimated at more than $800,000.[3] These benefits and their cost to the MDHCD have been reduced by agreement with the two directors, beginning January 1, 2012. According to the MDHCD, there are no other long-term obligations or liabilities.[4]

### 2. *Maximum Service Area and Service Capacity*

The MDHCD current service area corresponds to its SOI, which is coterminous. The MDHCD service capacity is limited primarily by its financial resources, which currently total approximately $277,000 annually including property tax and John Muir contributions, in addition to appropriation of any available fund balances. Administrative, legal, and other overhead costs including election costs consume a majority of these resources, as described below, limiting the amount available to provide or expand health care programs.

### 3. *District's Accountability for its Financial Resources*

**Funds Allocated to Purposes other than Health Care** – From 2000 through 2011, approximately 83 percent of expenditures went towards overhead and administrative costs, including office staff, health insurance benefits, legal and litigation fees, and election costs.

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[1] Comments and Questions by the Mt. Diablo Health Care District, December 27, 2011

[2] Reported to be $10,000 if termination occurs within first three months.

[3] Actuarial Report, Zacarias Consultants, December 31, 2010; file: "MDHCD OPEB Report as of 12-31-2010.pdf"

[4] Roy Larkin, MDHCD Secretary/Treasurer, email transmittal received by EPS 10/21/11.

A significant portion of the $740,000 in legal fees spent in 2001-2002 was for litigation pursued in furtherance of the MDHCD's mission.

In 2011, overhead and administrative expenditures accounted for about 38 percent of total expenditures. However, after fund balances are drawn down and unavailable, overhead and administrative costs could equal at least 45 percent of total expenditures (before accounting for increases in staff costs, reduced health insurance costs, and potential added legal costs in 2012). After adding election costs, overhead will consume nearly all of the MDHCD's annual operating revenues (before including the use of any available fund balances).

**Funds Allocated to Health Care** – From 2000 through 2011, approximately 17 percent of MDHCD expenditures were allocated to its Community Action programs, including grants and direct services (e.g., its CPR program). As noted above, a significant portion of the $740,000 in legal fees spent in 2001-2002 were for litigation pursued in furtherance of the MDHCD's mission.

In 2011, the MDHCD budgeted about $620,000, or 80 percent of its expenditures to Community Action programs; however, actual expenditures for Community Action programs totaled $162,000 or about 50 percent of total expenditures.

2011 budgeted expenditures slightly exceed annual revenues by drawing upon current fund balances. After those fund balances are substantially reduced, which could occur in about one to two years depending on future expenditures, MDHCD expenditures will be limited to current annual revenues of approximately $277,000 including property tax and John Muir contributions.

After deducting 2011 budgeted overhead costs of $160,000 (including insurance benefits), approximately $117,000 or 42 percent would remain for Community Action funding. Overhead expenditures are likely to increase in 2012 with the addition of an interim Executive Director, with offsets resulting from expected reductions in health insurance benefit costs. In addition, election costs could add a cost of $128,400[5] in 2012, pushing overhead expenditures to about $288,400 leaving no annual revenue available for health care (before utilizing fund balances or considering insurance benefits and Executive Director costs).

### *4. District's Accountability for the Community Services Needs*

The MDHCD is run by locally elected directors within the boundaries of the District. However, there have been instances where board seats were uncontested resulting in no election, and instances where vacancies have been filled by appointment. The relatively small size of the MDHCD budget and minimal financial resources (after accumulated fund balances are utilized) limit its ability to undertake significant actions and increase its visibility within the community, which otherwise might mitigate these issues.

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[5] Estimated election cost based on 102,701 registered voters within the MDHCD boundaries as of June 24, 2011, and a cost of $1.25 per voter (Contra Costa County Elections Department). If a measure to dissolve the District is also on the ballot there would be an additional $25,675 cost.

In the event of dissolution, any potential successor agency should have an established record of achieving accountability regarding its ability to meet health service needs. Potential successor agencies include the City of Concord, County Service Area EM-1, and the Los Medanos Community Healthcare District.

### *5. Public Access and Transparency of the District*

The MDHCD recently hired an Executive Director; the District anticipates that this action will help to remedy public accessibility issues, both recent and historic, i.e., compliance with open meeting laws, public records requests, development of a needs analysis and strategic plan, noticing requirements, use of a more open and explicit grant process, and grant monitoring. The current interim Executive Director has been hired for a 3-month period, and may be utilized after that period and paid on an hourly basis. The MDHCD may hire a permanent Executive Director, or similar staff position, after the current interim Executive Director's contract expires.[6]

### *6. Other Agencies Providing Similar Health Care Services*

Other agencies operating within the boundaries of the District, including both public and private organizations, provide health care services similar services similar to those provided by the MDHCD. For example, Contra Costa Emergency Services currently provides CPR training to students in partnership and with funding provided by the MDHCD. These agencies, notably, CSA EM-1, are identified in this report as being capable of providing services comparable to the MDHCD.

### *7. Public Costs and/or Savings Resulting from Dissolution or Consolidation as Compared to Maintaining the Status Quo*

Dissolution without any further continuation of service would reduce expenditures for overhead, administration, legal and election costs. Annual expenditures for ongoing health insurance benefits will remain for the life of each of the two benefiting Directors; these insurance expenditures currently are about $45,000 annually, with a total estimated liability of $800,000. Recent reductions of $17,420 negotiated by the MDHCD have reduced these annual expenditures to about $27,580. An actuarial analysis has not been conducted of the total liability assuming the reduced insurance costs, however, the liability may be reduced by as much as half.

Dissolution with the appointment of a successor to continue services would eliminate approximately $75,000, which is the amount currently spent by the MDHCD on overhead and administration (not including health insurance costs, or future increases in MDHCD staff costs for an Executive Director, and potential legal charges). In addition, there would be no need for bi-annual election expenditures of about $128,400. These administrative savings would be available for health care purposes. Potential successor agencies for continuation of services are expected to continue the District's services largely through the use of existing staff capabilities, however additional part-time staff may be required depending on the type of programs implemented, as well as the level of program oversight and management of

[6] EPS interview with Dyamon Doss, Executive Director, MDHCD, 12/30/11.

public participation. For example, CSA EM-1, which is recommended as a successor in Recommendation #3, below, estimated that it could require 0.5 to 0.8 of an additional staff position, which could equal approximately $40,000 to $60,000. Annual obligations for ongoing health insurance benefits would continue, as noted above.

For the initial years that the CSA EM-1 zone is in operation, if it is designated as successor agency, the Commission could impose a condition requiring CSA EM-1 to provide an annual report outlining how the zone funds are spent. As part of the MSR process, the Commission could consider whether annual reports are necessary and should be continued.

***8. Certain successor responsibilities could be shared between CSA EM-1 and the City of Concord.***

One of the key successor functions, in the event of dissolution of the District, is the administration of the Community Benefit Agreement (CBA) originally established between the MDHCD and JMH as a condition of the transfer of certain assets to JMH. The CBA established the Community Health Fund (CHF) that provides for the granting of $1 million in annual funding for health care services within the CHF Service Area.

While not an issue that can be resolved through the LAFCO action, some cooperation between affected agencies as well as changes to the CBA may be in order to assure effective management, enfranchisement of the effected electorate, and continuity. For example, CSA EM-1 could work with JMH to monitor the CBA and its terms, appoint members to a newly constituted Board of the CHF, and to continue participation in CHF annual allocations of $1 million, and finally assume responsibility for other aspects of the CBA. The County would assure that obligations of the MDHCD, including payment of lifetime health insurance benefits to two directors, were met entirely through the use of MDHCD reserves and property tax revenues.

The City of Concord also could be a new signator to the CBA, in addition to the County; termination and changes to the CBA would require the concurrence of both the City, which has a vested interest in the JMH Concord campus, and the County. This arrangement would provide for local control and oversight of CBA terms, as well as for regional involvement and oversight. The John Muir Concord campus serves not only Central County (53.8 percent of patients reside in Central County) but other parts of the County as well.

Representation on the CHF Board could consist of the same membership as for the CSA EM-1 zone advisory board, i.e., to include representatives of the City of Concord, the unincorporated areas, and other cities currently within the MDHCD. This arrangement helps to maintain a local and regional perspective, which is important considering that the CHF service area includes Central County and East County.

The CBA includes a termination provision requiring 180 days written notice in advance of the end of each 50-year term (the first term ends December 31, 2049). This provision provides an opportunity for public control if John Muir Health fails to maintain its high level of service and commitment to the community. A longer notice period, e.g., five years, would minimize potential John Muir Health disinvestment in the facility that could occur due to protracted uncertainties about possible termination. The future signators to the CBA could revise terms

of the CBA as appropriate to address local concerns about the future of the JMH Concord facilities, as well as to assure long-term site of the public's interests.

## Recommendations

1. ***Justification exists for dissolution of the MDHCD, considering that over the past ten years only 17 percent of MDHCD expenditures have been applied towards community health care purposes.***

   From 2000 through 2007, virtually no funds were spent for community health care purposes (with the exception of funds spent on litigation related to the CBA). While the MDHCD recently has undertaken efforts to increase allocations to community health care, reduce insurance costs, and hire professional staff to implement a strategic plan, the latter action will also increase administrative costs and not necessarily result in additional community health programs or services.

   After the MDHCD has drawn down its fund balances, overhead expenses will account for 45 percent or more of total expenditures. Potential insurance cost savings are unlikely to offset added costs for an Executive Director, unless the Executive Director position is limited to the equivalent of approximately one day per week, or a future staff position providing similar functions is filled at a cost lower than the current interim Executive Director.

2. ***Organizational options exist that could better utilize existing MDHCD resources.***

   In addition to the "status quo" and "dissolution", this Special Study considers consolidation with other entities currently providing health case services within or adjacent to the District boundary, including the County Service Area EM-1 (CSA EM-1) and the Los Medanos Community Healthcare District (LMCHD). These options could very likely provide comparable health care services at lower cost relative to the "status quo".

3. ***If reorganization occurs, evaluation of options considered in this Study favors dissolving the MDHCD and naming the existing CSA EM-1 as the successor agency.***

   CSA EM-1 is under the oversight of the County of Contra Costa and management of County Health Services Department. Creation of a zone coterminous with the existing MDHCD boundaries within CSA EM-1 and appointment of an advisory board would substantially eliminate existing MDHCD administrative costs and election costs (with the exception of mandatory commitments to lifetime health care benefits). This option would reduce existing overhead costs, since the County Health Services Department (which operates CSA EM-1) has the administrative and professional staff to provide services without a significant increase in their current costs, though some administrative costs may be necessary depending on programs provided.

   Public access and accountability would be promoted by use of existing County governance, finance and management structure, creation of a zone to assure the use of funds for health care needs within the existing MDHCD boundaries, and establishment of an advisory board from residents of the zone (existing District boundaries) consisting of knowledgeable, experienced professionals and members of the community. The initial membership of the advisory board could include members of the current MDHCD Board, to facilitate continuity.

# 3. HEALTH CARE DISTRICTS

## Health Care Districts in California

California at the end of World War II faced a shortage of hospital beds and acute care facilities, especially in rural areas of the state. In 1945 the Legislature enacted the Local Hospital District Law[7] to establish local agencies to provide and operate community hospitals and other health care facilities in underserved areas, and to recruit and support physicians. In 1993 the State Legislature amended the enabling legislation renaming hospital districts to health care districts. The definition of health care facilities was expanded to reflect the increased use and scope of outpatient services.

In total, 82 health care districts in California provide a variety of services. Some of the characteristics are displayed in **Table 1.** The table shows that 30 districts do not operate hospitals, five provide ambulance service, and 29 are located in rural areas. Many districts have been dissolved, and/or transferred ownership or operation of facilities to other entities.

As further described in the MSR, the health care industry "in general is going through changes, many of which are financially driven." Hospitals and their medical staffs are experiencing declining public financing through Medi-Cal and Medicare. Costs for construction and personnel are rising, and the overall emphasis by consumers and their medical providers for expensive technologies are driving costs up. In addition, human resources gaps at all health provider levels threaten the stability of providers in the provision of services, especially hospitals when attempting to staff beds. Other unique legislative parameters also face California hospital providers. California remains the only state with required nurse staffing ratios, and hospitals are continuing to grapple with the State-mandated seismic retrofit requirements due to impact the hospitals as early as 2013.[8]

Dissolution of hospital/health care districts has been considered in the past in Contra Costa County. The dissolution of the LMCHD was considered in 1999, but never completed. Other districts in Fresno, Sierra, and Plumas counties have been dissolved and/or consolidated into other districts.

[7] Health and Safety Code section 32000 et seq.

[8] Excerpted from the Public Healthcare Services MSR, 2007.

**Table 1 Overview of Health Care Districts in California**

| Statistic | Number |
|---|---|
| Health Care Districts in California | 82 |
| Counties with Health Care Districts | 40 |
| Counties with multiple Health Care Districts | 19 |
| County with most Health Care Districts | Kern (7) |
| Rural Health Care Districts | 29 |
| Health Care Districts without hospitals | 30 |
| Districts providing ambulance service | 5 |
| Districts that have declared bankruptcy | 4 |
| Districts that are dissolved or otherwise reorganized | 5 |

*Source: ACHD 2011*

Health care districts are commonly funded through a share of property taxes and by grants from public and private sources. Health care districts are special districts with the typical powers of a district such as the authority to enter into contracts, and purchase property, issue debt and hire staff. Under the HSC[9] health care districts may provide the following services:

- Health facilities, diagnostic and testing centers, and free clinics
- Outpatient programs, services, and facilities
- Retirement programs services and facilities
- Chemical dependency services, and facilities
- Other health care programs, services, and facilities
- Health education programs
- Wellness and prevention programs
- Support other health care service providers, groups, and organizations
- Ambulance or ambulance services
- Participate in or manage health insurance programs

Public health care agencies within the MDHCD that provide services similar to those authorized for health care districts are described in the following section.

[9] HSC Section 32000 et seq

## Current Public Health Care Providers in MDHCD Service Area

Within the boundaries of the MDHCD, public health care services are provided by several public and private agencies. **Table 2** shows the public agencies that provide those services relative to the MDHCD, and which have been considered as part of potential reorganization of the MDHCD. In addition, there are a number of private, nonprofit organizations providing health care and related services. Broader medical services are provided by private doctors, clinics and the major hospitals serving the area.

**Table 2**
**HCD Authorized Services Provided by Selected Public Agencies**

| Service | Agency and Services Provided | | | |
|---|---|---|---|---|
| | **MDHCD** | **LMCHD** | **Contra Costa Health Services** | **EM-1** |
| **Health facilities, diagnostic and testing centers, free clinics, and services** | None | Owns Pittsburg Health Center, which it leases to Contra Costa Health Services | Contra Costa Regional Medical Center and Family Practice Center/Martinez Specialty Center in Martinez; Concord Health Center and Public Health Clinic in Concord | None |
| **Outpatient programs, services, facilities** | None | None | Outpatient services provided at Martinez Family Practice and Center Concord Health Center | None |
| **Retirement programs, services, facilities** | None | None | CCHS Public Guardian Program; CCHS Senior Nutrition Program; Geriatric Consultation Team | None |
| **Chemical dependency programs, services, facilities** | None | None | Addiction medical services available at Concord Health Center and Martinez Family Practice Center | None |
| **Other health care programs, services, facilities** | Provides defibrillators to community facilities | Monitors legislation, participates in HCA activities, & policy briefings | Broad range of other health care programs, services and facilities (see www.cchealth.org/services/) | Supports County Trauma System, High Risk Heart Attack System, Cardiac Areas Programs, Stroke System |
| **Health education programs** | Provides CPR materials to train High School Students (w/County Health) | Website provides links to educational events and healthcare information and resources | Provides public education materials, CPR training (w/MDHCD) | Defibrillator Program provides information on developing programs; CPR & defibrillator training to 1st responders |
| **Wellness and prevention programs** | Grant programs | LMCHD Health & Wellness Funding Program provides services & grants | Community wellness and prevention programs | Child injury prevention programs, fall prvention programs |
| **Support other health care service providers, and organizations** | Grant programs; participates in Community Health Fund with JMH | Provides grant funding to community health programs | Provides information for other health care providers on various health related topics i.e. avian flu, west nile virus, nail salons | Provides EMS training in partnership with other agencies, e.g., American Red Cross |
| **Ambulances or ambulance services** | None | None | As Local Emergency Medical Services Agency, County Health provides direction, planning, and monitoring for pre-hospital EMS system; coordinates all EMS activities in County; contracts for ambulance service. | Provides EMS 1st responder training, communications, Haz Mat Program |
| **Participate in or manage health insurance programs** | None | None | Contra Costa Health Plan | None |

# 4. MT. DIABLO HEALTH CARE DISTRICT

The MDHCD boundaries encompass a population of approximately 204,700 residents, as shown in **Table 3**. The total assessed valuation within the MDHCD is $25.9 billion.

**Table 3 MDHCD Assessed Value and Population by Jurisdiction**

| Jurisdiction within MDHCD | MDHCD | | | |
|---|---|---|---|---|
| | Assessed Value | % | Population | % |
| **Concord** | 11,541,837,426 | 44.5% | 119,859 | 58.5% |
| **Martinez** | 4,214,778,686 | 16.2% | 35,538 | 17.4% |
| **Walnut Creek (portion)** | 10,120,279 | 0.0% | 66 | 0.0% |
| **Pleasant Hill** | 4,386,936,836 | 16.9% | 33,152 | 16.2% |
| **Clayton (portion)** | 19,328,121 | 0.1% | 28 | 0.0% |
| **Lafayette (portion)** | 190,157,016 | 0.7% | 728 | 0.4% |
| **Subtotal, Incorporated** | 20,363,158,364 | 78.5% | 189,371 | 92.5% |
| **Unincorporated** | 5,578,655,447 | 21.5% | 15,344 | 7.5% |
| **TOTAL MDHCD** | 25,941,813,811 | 100.0% | 204,715 | 100.0% |

Source: Contra Costa County Auditor-Controller (Rpt. EA3211, proc. 8/1/11) for FY11-12
Includes land, improvements, personal property, and local exemptions.

As stated in the MSR, the MDHCD Board sees its role as being: (1) an overseer of the CBA and monitoring District assets that have been transferred to John Muir, (2) promoting community health improvement, (3) facilitating community health partnerships, (4) advocating for the community's interests, and (5) serving as a liaison from the community to the JMH Board. The MDHCD has undertaken various Community Action programs and awarded grants in furtherance of its mission. These functions are described further in this chapter, as well as the related expenditures, sources of funding, assets and liabilities.

### Monitoring of Community Benefits Agreement

In exchange for the facilities and equipment transferred from the MDHCD to John Muir (referred to as the "System" in the CBA), the CBA requires the System to agree to a number of terms. Key terms include the following:[10]

1. Operate and maintain District's health care facilities and its assets for the benefit of the communities served by the District,
2. Maintain basic emergency services at the Hospital and Medical Center,
3. Maintain acute care hospital licenses for the Hospital and Medical Center, and
4. Establish and operate a Community Benefit Corporation.[11]

The MDHCD monitors those key terms to assure compliance by the System.

### Participation in Community Health Fund

In the CBA, the System agreed to transfer $1 million annually (or more, at its discretion) to the CHF, and up to $200,000 for administrative expenses, to fund unmet community health care needs within a defined service area.[12] The service area of the CHF encompasses most of eastern Contra Costa County, an area much broader than the MDHCD boundaries (see **Attachment A**). Five members of the 10-member board of directors are appointed by the MDHCD.

Since inception in 1997 through 2010, the CHF has granted over $20 million to local health care projects and collaborative health initiatives. Initiatives include increased access to dental care, expansion of services to an aging population, women's cancer services, and an initiative integrating behavioral health care with primary care at clinics in central and east Contra Costa.[13]

### Community Action Program (Grants and Other Programs)

The MDHCD web site includes a list of focus areas and funding priorities, which it identifies as its "Strategic Plan". The Strategic Plan's five categories are healthy lifestyle, health services, health access, support services, and workforce development. The Plan contains no further information or analysis regarding health needs within its service area, specific goals or targets for addressing those needs, or strategies for achieving goals. The MDHCD recently hired an Interim Executive

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[10] Article 7, Sections 7.1-7.4 and 7.7, Community Benefit Agreement by and between Mt. Diablo Health Care District and John Muir Medical Center, August 9, 1996.

[11] Also referred to as the "Community Health Corporation".

[12] Section 5.6, Attachment 2.5 (System Bylaws) to the Community Benefit Agreement

[13] Fact Sheet for the Community Health Fund, John Muir/Mt. Diablo Community Health Fund, 10/25/11.

Director who will be responsible for developing and implementing a strategic plan for addressing unmet health needs.[14]

The MDHCD has provided grants to numerous community organizations which fit within their targeted categories. During 2011, the MDHCD spent $80,000 on grants.[15] Additional grant requests are under review. The MDHCD budgeted, and has spent, approximately $80,000 in 2011 for its "CPR Anytime" program, which provides CPR kits to high school students. At the start of 2011, the MDHCD budgeted to spend nearly $500,000 in 2011, including its grants and CPR program.

The MDHCD has provided CPR kits as a part of CPR training program for high school students, in association with the American Heart Association and Contra Costa Emergency Medical Services. In 2011, the MDHCD spent approximately $80,000 to support the program.

## MDHCD Financial Resources

**Figure 2** illustrates MDHCD expenditures and revenues since 2000. As shown, expenditures for Community Action were minimal through the majority of the decade until recent years. Overhead and administrative costs accounted for much of the annual expenditures. During 2001 and 2002, the MDHCD initiated litigation against John Muir Health to protect the MDHCD's interests and mission; these expenditures account for the significant increase in non-Community Action grants and direct service expenditures in those years. In certain years, including the budgeted 2011 year, expenditures exceeded revenues because reserves were available. These reserves accumulated in years in which expenditures were less than revenues.

**Table 4** shows annual revenues to the MDHCD from 2000 to the present. Operating revenues for 2011 totaled $276,000. The District is funded primarily by property tax revenues (ad valorem). The 2011 revenues included $246,800 in property tax revenues, which represent approximately 90 percent of annual operating revenues. An additional $25,000 was received from payments from John Muir pursuant to the Community Benefits Agreement. Another $4,700 of income came from interest earnings.

The 2011 budget also included $833,946 in beginning fund balances from the prior year, consistent with the amount reported by the MDHCD 2010 Financial Report (pg. 10). The fund balance accumulated during periods when the MDHCD was not funding its Community Action program (less than $1,000 was spent on Community Action programs from 2000 through 2007), or during years in which it spent less than it received in annual revenues. These fund balances are in cash or other short-term (three months or less) investments. By the end of the current year, the ending fund balance is projected to decline to $787,700.[16]

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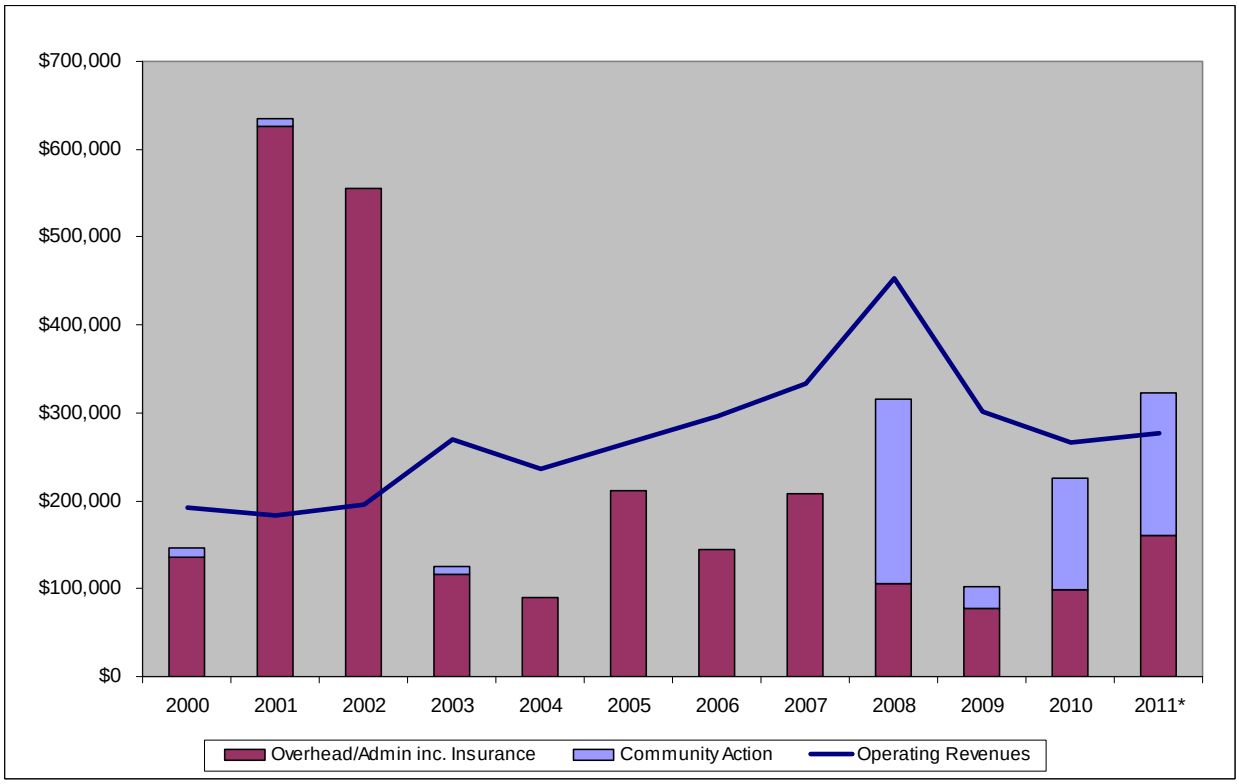
[14] MDHCD posting 10/24/11.

[15] "MCHCD Budget vs. Actual, 1/1/11 to 12/31/11.

[16] Ibid.

**Figure 2: Overview of MDHCD Expenditures and Revenues, 2000-2011**




* 2011 source: Budget vs. Actual, Jan. 1, 2011 to Dec. 31, 2011

## Property Taxes

As shown in **Table 4,** property tax represents about 90 percent of MDHCD revenues. Over the past twelve years, revenues peaked at $291,000 in 2007, then declined to the current $246,800.

Although assessed value within the MDHCD totals about $25.9 million, substantial areas within the MDHCD boundaries do not contribute incremental increases in property tax growth (or decline) to the MDHCD. Those areas do not show any Tax Increment Allocation Factors, which allocate incremental changes in property tax to specific entities serving the corresponding area. A review of Tax Rate Areas (TRAs) within the MDHCD show that substantially all of the TRAs within the City of Concord contribute incremental property tax to the MDHCD, as well as nearly all of the parcels within the City of Pleasant Hill and unincorporated areas to the north of Concord. However, none of the TRAs within the City of Martinez contributes, nor do certain unincorporated areas to the east of Martinez.

**Table 4 Summary of MDHCD Revenues (2000 to Present)**

| | REVENUES | | | |
|---|---|---|---|---|
| Year | Property Tax | John Muir Grants | Other Income | TOTAL |
| **2000** | $149,154 | $25,000 | $17,586 | $191,740 |
| **2001** | 157,037 | 25,000 | 1,459 | 183,496 |
| **2002** | 181,724 | 25,000 | (11,012) | 195,712 |
| **2003** | 194,215 | 25,000 | 50,435 | 269,650 |
| **2004** | 203,594 | 25,000 | 8,189 | 236,783 |
| **2005** | 223,369 | 25,000 | 18,500 | 266,869 |
| **2006** | 255,649 | 25,000 | 15,989 | 296,638 |
| **2007** | 290,638 | 25,000 | 17,274 | 332,912 |
| **2008** | 276,694 | 165,600 | 10,339 | 452,633 |
| **2009** | 267,630 | 25,000 | 8,635 | 301,265 |
| **2010** | 226,550 | 25,000 | 15,254 | 266,804 |
| **2011*** | 246,863 | 25,000 | 4,700 | 276,563 |
| **TOTAL** | **$2,673,117** | **$440,600** | **$157,348** | **$3,271,065** |

* 2011 source: "Budget vs. Actual, Jan. 1, 2011 to Dec. 31, 2011".

A number of factors may have contributed to the absence of increment allocations to the MDHCD. For example, at the time that AB8 created increment factors (in 1979, to implement Prop. 13), the MDHCD may not have been collecting property taxes from certain areas within its boundaries; therefore, no increment factor would have been created. Another factor may be that the MDHCD was not allocated a share of property taxes when parcels were annexed to the MDHCD. A separate study would be necessary to audit these historical factors, and the conclusions of that study would not necessarily change any current allocations or amounts of property tax to the MDHCD.

### Contributions from John Muir Health

Pursuant to the CBA, JMH contributes $25,000 annually to the MDHCD to help fund administrative expenses. In 2008, JMH provided additional funding to pay for a grants consultant to help the MDHCD establish grant criteria and process, including a system for reporting and monitoring of grants. A review of recent MDHCD minutes and public documents does not indicate that a grant criteria and review process, or monitoring system, is currently active.

### Other Revenues

The MDHCD receives miscellaneous other revenues, primarily interest earnings on deposits.

### Other Assets - Property

As a part of the CBA, the MDHCD transferred ownership of all hospital assets, including land, buildings and equipment, to JMH (referred to as the "System" in the CBA). Section 1.4 of the CBA states (as excerpted):

> **"1.4 District Assets**. On the Closing Date, subject to the terms and conditions of this Agreement, District shall assign, grant, convey, transfer and deliver to System, and System shall accept from District, all of District's right, title and interest in and to all of the assets and properties owned by District, of every kind, character and description, whether tangible, intangible, personal, or mixed, and wherever located including….
>
> (l) Mt. Diablo Medical Center. All rights and title in and to the land and buildings described on Exhibit 1.4(l) ("Hospital Land' and "Hospital Buildings", respectively) and all permanent fixtures and improvements to such Hospital Land and Hospital Buildings;…"

Measure MM, which was passed by MDHCD voters on November 5, 1996, approved "the transfer of District assets" in accordance with the CBA and resolution by the MDHCD. The transfer of real property from the MDHCD to "John Muir Medical Center" is also documented in the grant deed recorded December 31, 1996. The transfer of ownership was consistent with HSC 32121; had the transfer occurred as a lease, it would have been subject to a 30-year maximum term rather than the current 50-year term (plus extensions), and would not have included the provisions for reversion of assets which are part of the CBA.

### Cash and Other Liquid Assets

At the beginning of 2011, the MDHCD reported $833,946 in fund balances according to the MDHCD 2010 Financial Report (pg. 10). These fund balances are in cash or other short-term (three months or less) investments. The fund balance accumulated during periods when the MDHCD was not funding its Community Action program (less than $1,000 was spent on Community Action programs from 2000 through 2007), or during years in which it spent less than it received in annual revenues.

By the end of the current year, the ending fund balance is projected to decline to $787,700.[17]

## Expenditures

**Table 5** shows MDHCD expenditures since 2000, up through the current 2011 budget year. Overhead and administration, including insurance benefits, accounted for nearly all of the expenditures until the last four years. On average over the 12-year period, about 83 percent of expenditures were for overhead and insurance expenditures. In 2011, the ratio of overhead and insurance to total expenditures was 50 percent.

[17] ibid.

### Overhead and Management

The MDHCD currently employs one part-time office employee to assist with administrative duties. In addition, the District engaged an attorney in 2011 and recently hired an interim part-time Executive Director for a three-month term. Board members are paid a stipend, and undertake various overhead and administrative tasks. The MDHCD maintains a web site. One current board member also receives health insurance benefits (see "Liabilities", below), and the MDHCD provides health insurance benefits to one former board member.

MDHCD expenditures for overhead and management costs (including Director's stipends, post-retirement benefits, administration, and web site) totaled $160,900 in the 2011. This represents approximately 50 percent of operating expenditures.

From 2000 through 2011, approximately 83 percent of expenditures went towards overhead and administrative costs, including office staff, health insurance benefits, legal and litigation fees and election costs. A significant portion of the $740,000 in legal fees spent in 2001-2002 was for litigation pursued in furtherance of the MDHCD's mission.

After adding election costs, overhead will consume nearly all of the MDHCD's annual operating revenues (before including the use of any available fund balances or before including Executive Director costs and insurance cost savings).

**Table 5 Summary of MDHCD Expenditures (2000 to Present)**

| | EXPENDITURES | | | | | | |
|---|---|---|---|---|---|---|---|
| Year | Overhead & Admin. | Medical/Dental Insurance | Subtotal | % of Total | Community Action | TOTAL | Ending Balance |
| **2000** | $119,066 | $27,010 | $146,076 | 99.7% | $403 | $146,479 | ** |
| **2001** | 603,852 | 31,249 | 635,101 | 99.9% | 500 | 635,601 | ** |
| **2002** | 517,713 | 38,527 | 556,240 | 100.0% | 0 | 556,240 | ** |
| **2003** | 71,521 | 53,974 | 125,495 | 99.9% | 87 | 125,582 | ** |
| **2004** | 62,642 | 27,978 | 90,620 | 100.0% | 0 | 90,620 | ** |
| **2005** | 178,080 | 33,717 | 211,797 | 100.0% | 0 | 211,797 | 244,596 |
| **2006** | 103,866 | 41,190 | 145,056 | 100.0% | 0 | 145,056 | 396,178 |
| **2007** | 170,462 | 38,103 | 208,565 | 100.0% | 0 | 208,565 | 520,525 |
| **2008** | 70,060 | 34,959 | 105,019 | 33.2% | 211,000 | 316,019 | 657,139 |
| **2009** | 42,347 | 34,990 | 77,337 | 75.1% | 25,683 | 103,020 | 855,384 |
| **2010** | 53,301 | 44,937 | 98,238 | 43.5% | 127,827 | 226,065 | 833,946 |
| **2011*** | 112,386 | 48,510 | 160,896 | 49.8% | 162,186 | 323,082 | 787,707 |
| **TOTAL** | **$2,105,296** | **$455,144** | **$2,560,440** | | **$527,686** | **$3,088,126** | |
| | 68% | 15% | 83% | | 17% | 100% | |

* 2011 source: "Budget vs. Actual, Jan. 1, 2011 to Dec. 31, 2011".

** Note: Ending balances for certain years don't equal prior balance plus annual change due to adjustments in financial statements.
MDHCD adopted GASB accounting methods in 2004; ending fund balances were negative through 2004. Insurance on cash basis; prior years also included "Net periodic post-retirement" in the "Overhead & Admin." category for purposes of this table.

2002 included $326,941 in legal fees, in 2001 legal totalled $412,203. These fees were expended largely on litigation in furtherance of the MDHCD mission.

### Community Action Program (Grants and Other Programs)

From 2000 through 2007, Community Action Program expenditures totaled less than $1,000. Approximately $365,000 was spent in 2008 through 2010.

During 2011, the MDHCD spent $80,000 on grants. Additional grant requests are under review. At the start of the year, the MDHCD budgeted $620,000 for Community Action grants. The MDHCD budgeted, and has spent, approximately $80,000 in 2011 for its "CPR Anytime" program, which provides CPR kits to high school students. The CPR kits were used to train all 9th grade students in the Mt. Diablo Unified School District. Over 3,000 students per year were trained for the last two years.

## Liabilities

The MDHCD's only long-term liability consists of health insurance benefits provided to two directors (one current director, one former director). As described in more detail below, the present value of the health insurance liability, including all potential future payments, is estimated at more than $800,000.[18] These benefits and their cost to the MDHCD have been reduced by agreement with the two directors, beginning January 1, 2012. According to the MDHCD, there are no other long-term obligations or liabilities.[19]

### Lifetime Health Insurance Benefits

Government Code Section 53201(b) allows public agencies to provide health insurance benefits to former elective members of the legislative body who served in office after January 1, 1981, and whose total service at the time of termination was not less than 12 years. This allowance was discontinued by GC §53201(c) which disallows those benefits to any person first elected to a term of office that begins on or after January 1, 1995.

Currently, one former Board member and one current Board member are receiving health insurance benefits paid by the MDHCD. These benefits are projected to cost approximately $45,000 in 2011 (Budget vs. Actual, January 1, 2011 to December 31, 2011). An actuarial report prepared for the MDHCD (Zacarias Actuarial Consultants, April 14, 2011) estimated a pension liability of $806,649 as of the end of 2010. This amount represents a present value of all future payments for the provision of these health care benefits.

A resolution adopted by the MDHCD at its meeting November 15, 2011, accepted proposals from its two directors that would reduce current costs to the MDHCD. The two directors reserved their right to receive current levels of benefits in the future.

According to the resolution, one of the directors (Grace Ellis, current Director) is in the process of applying for PERSCare Supplemental/Managed Medicare, plan code 1322 at a monthly cost of $865, or an annual total of $10,380. This is compared to the current monthly cost of approximately $1,900, or current total annual cost of $22,800. The annual savings to the MDHCD is more than half of the current cost for this director, or a savings of about $12,420 annually. Ms. Ellis also agreed to evaluate less expensive dental coverage.

The other person (Ron Leone, former director) currently receiving health insurance benefits, has agreed to obtain alternative coverage if the MDHCD reimburses him approximately $580 per month, or about $7,000 annually (potentially including dental and vision). The current monthly MDHCD cost for this director is approximately $22,000 annually, so the reduction would be an annual savings of about $15,000.

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[18] Actuarial Report, Zacarias Consultants, December 31, 2010; file: "MDHCD OPEB Report as of 12-31- 2010.pdf"

[19] Roy Larkin, MDHCD Secretary/Treasurer, email transmittal received by EPS 10/21/11.

An actuarial analysis has not been conducted of the total liability assuming the reduced insurance costs; however, the liability may be reduced by as much as half.

## Facilities

Office space is provided to the MDHCD by JMH at no cost. The MDHCD has no other facilities.

# 5. *PRIOR LAFCO AND OTHER REVIEWS OF THE MDHCD*

The MDHCD has been the subject of multiple reviews, including a LAFCO MSR,[20] Grand Jury reports,[21] and other community review and comment (e.g., Contra Costa Taxpayers Association). This chapter summarizes key comments from those reviews.

## Public Health Care Services Municipal Service Review

The Public Health Care Services MSR focused on the health care services provided by agencies under LAFCO's purview, including the three health care districts: LMCHD, MDHCD, and West Contra Costa Healthcare District. The MSR, which is required by State law, provides a comprehensive review of the delivery of municipal services provided in the county.

In summary, the MSR identified a number of key issues and made the following determinations for the MDHCD. Where applicable, these determinations have been updated with more recent information.

- **Growth and Population** - The MSR expected the population within the MDHCD service area to reach 281,000 by 2035. The current population is approximately 205,000 according to the 2010 census.

- **Infrastructure Needs or Deficiencies** – As described in the MSR, the MDHCD does not own or manage any facilities. Per the terms of the 1996 CBA with JMH, all rights and title to the District's assets, including the Mt. Diablo Community Hospital, transferred to JMH. In February 2007, JMH approved a $170 million expansion of this campus, including a cardiovascular institute and expanded emergency room.

  The MSR identified significant health care issues, unmet needs, and underserved populations within the MDHCD service area. However, because of the District's financial condition, the District was not funding any health care services or programs at the time of the MSR, a deficiency which the MSR said could be addressed by refocusing MDHCD efforts from oversight of the CBA towards supporting health care services and programs. In recent years, including 2011, the MDHCD has increased its spending on health care grants and programs relative to prior years reviewed by the MSR.

- **Financing Constraints and Opportunities** – The MSR identified MDHCD financial constraints that limited the District's ability to fund health care services and programs; 43 percent of its 2006 revenues were budgeted for election and audit expenses and 22 percent to Board-related expenses. In addition, the MSR described a $760,037 unfunded liability associated with lifetime health care benefits for board. In the most recent 2011 budget year, the MDHCD budget 19 percent of its revenues for administration and health benefits, although this percentage could more than double if the MDHCD does not achieve its grant

[20] 2007.

[21] 2001, 2003, 2008 and 2011.

targets. The current unfunded health care benefit liability was approximately $800,000 at the end of 2010; however, this could be significantly reduced if the MDHCD reduces its benefit obligations (see next item).

- **Cost Avoidance Opportunities** – The MSR recommended that the MDHCD should pursue opportunities to participate in Joint Powers Insurance Agreements and other programs to reduce liability and medical insurance costs. Currently, the MDHCD provides health insurance benefits through CALPERS; the MDHCD has considered revisions to the lifetime health benefits it provides to two directors which will reduce these costs.

- **Opportunities for Rate Restructuring** – The MDHCD does not charge fees for service as they are not directly providing services.

- **Opportunities for Shared Facilities** – The MSR explained how the MDHCD participates in the decision-making process for grants provided through the John Muir/Mt. Diablo Community Health Fund. It also identified opportunities for the District to leverage its resources to support the new health center being opened by the County in the area. The MDHCD currently is considering grants to La Clinica.

- **Evaluation of Management Efficiencies** – The MSR described how the MDHCD operated under the direction of the Board of Directors with one part-time staff. Recently, the MDHCD hired an interim Executive Director to help develop and implement its strategic plan and address other recognized procedural issues.

- **Government Structure Options** – The MSR identified a number of options for re-organization, which would require further study, but did not make a recommendation. The MSR also indicated that LAFCO could maintain the status quo, and require progress reports from the MDHCD. **Chapter 6** in the current study describes these and other options in greater detail.

- **Local Accountability and Governance** – The MSR did not identify any issues or concerns; it indicated that the districts encourage public participation and make documents available, hold open and accessible public meetings, and that recent elections were contested, evidence of public interest in the health care organizations. However, the last two MDHCD elections have been uncontested.

## Grand Jury Reports

Dissolution of the MDHCD has been the subject and recommendation of four Grand Jury reports in 2001, 2003, 2008 and 2011. The Grand Jury reports have repeatedly raised the same concerns as summarized below.

- The MDHCD does not own or operate any health care facility nor provide assistance in the operation of health facilities nor any other medical services to its constituents

- Pursuant to the CBA, the MDHCD has limited duties to a) perpetuate itself as the body to reclaim the assets the District transferred in the merger, should that merger fail; b) approve payments from two pension funds to former District employees; c) nominate five members to

the board of the JMH/Mt. Diablo Health Benefit Corporation; and d) accept or reject (but not nominate) eight of the 16 JMH/Mt. Diablo Health System Directors.

- The primary source of revenue for the MDHCD is property tax revenue which is largely used to support the District's own administrative and operating expenses including lawyers, accountants, election costs, and the Board's medical benefits.
- Since the merger, the MDHCD has had little success and continues to search for some tangible health-related activity to perform. Instead of being directly involved in managing and overseeing health care programs, the District Board functions more as administrators and grant allocators.

These issues and related recommendations are further described in the LAFCO staff transmittal to the LAFCO board May 11, 2011 related to Agenda Item 11.

## Other Reviews

LAFCO received correspondence from the Contra Costa Taxpayers Association expressing concerns with the MDHCD, and requesting that LAFCO begin the process to dissolve the District.[22] The Association raised issues related to primary use of MDHCD revenue to support administrative costs; ongoing fiscal issues including granting of life-time health insurance benefits, lack of financial procedures, and alleged embezzlement; frequent board turnover and perennial internal disputes; lack of professional staff; and ongoing disputes with JMH which consume resources.

[22] Correspondence received by LAFCO, May 2, 2011 (see Attachment A to LAFCO May 11, 2011 agenda (Item 11)).

# 6. GOVERNANCE OPTIONS

In August 2007, LAFCO completed the *Public Healthcare Services Municipal Service Review*. The MSR report identified four government structure options for the MDHCD to respond to issues identified in the MSR.

Subsequent analysis eliminated the MSR option of "Formation of a Subsidiary District" because the creation of a subsidiary district from the MDHCD does not meet legal criteria. GC §57105 requires that the MDHCD be entirely contained within a city, or that the city contain both 70 percent of the land area and 70 percent of the registered voters. The City of Concord represents approximately 44 percent of the land area and 59 percent of the population of the MDHCD. Furthermore, the existing MDHCD boundaries overlap other cities, which would preclude the creation of a City of Concord subsidiary district even if it met the 70 percent test.

The options evaluated in this report include:

- Maintain Status Quo
- Consolidation (of like and unlike districts) and/or creating a new district
- Dissolution with appointment of successor only for the purpose of winding up MDHCD affairs
- Dissolution with appointment of successor for continuing service

These options are compared and evaluated in the following sections and are summarized on **Table 6.** Specific aspects of the LAFCO process which differ from the basic steps described in **Chapter 1** are summarized.

### CEQA

Dissolution will first require the creation of a zero sphere. The zero sphere signals LAFCO's intent to dissolve the district. This action qualifies for a general exemption from CEQA review since establishing a zero sphere will not result in a change in regulations, land use or development.

## Maintain Status Quo

This option would continue to allow the MDHCD to exist and function under its current organization. The MDHCD would continue its oversight of the Community Benefits Agreement and participation on the Community Health Foundation Board which allocates in excess of $1 million annually provided by JMH to address various community health needs.

**Table 6**
**Summary of Governance Options—MDHCD Special Study**

| Governance Option | Description | Advantages | Disadvantages |
|---|---|---|---|
| **Status Quo** | No change to existing MDHCD. | MDHCD recently hired interim Exec. Director who could improve operations, public accountability & access. | MDHCD at risk of continuing past practices, including lack of activity and high expenditures for overhead. |
| **Establish Subsidiary District** | Does not qualify since 70% of the territory and 70% of the population are not within the city boundary. | NA | NA |
| **Consolidation**<br><br>MDHCD and LMCHD | Unite two or more districts into a single new successor health care district. | Existing territory served by MDHCD would continue to be served by successor district. Revenues of the two districts could be used to enhance services of the combined district<br><br>Successor district provides similar services.<br><br>Economies of scale result in reduced administrative costs. | Revenues generated by MDHCD taxpayers would be expended for benefit of all residents of new, larger district, reducing benefits to existing MDHCD taxpayers.<br><br>Likely political opposition to consolidation due to differing communities of interest.<br><br>Reduced local representation. |
| **Dissolution**<br><br>Successor for the purpose only to wind up affairs of MDHCD | Existing district ceases all functions and services. The City of Concord statutorily qualifies as successor for the purpose of winding up affairs, or CSA EM-1 could be designated as successor. | Elimination of MDHCD admin. expenses.<br><br>Existing MDHCD property tax revenues revert to other agencies (after payment of MDHCD obligations). | No further provision of current MDHCD health-related services, & its property tax no longer available for health care purposes.<br><br>Loss of CBA provisions, including oversight of facilities and licenses, and participation in CHF grant process. |
| **Dissolution**<br><br>Successor for continuing service | Designate CSA EM-1 as successor to continue the service.<br><br>Creation of a Zone of benefit corresponding to current MDHCD boundaries for continued collection of existing property taxes.<br><br>Creation of an advisory body consisting of representatives from the area. | Existing territory served by MDHCD would continue to be served by CSA EM-1 zone, including use of property taxes and advisory board.<br><br>Reduction of admin. expenses, eliminate election costs, funds become available for health care. Professional staff to implement policies and programs.<br><br>Continuation of CBA provisions, including oversight of facilities and licenses, and participation in CHF grant process. | Primary function of EM1 is ambulance service, with some related training services (CPR, defibrillators).<br><br>One or more cities could opt out, potentially reducing property tax increment in the future.<br><br>Reduced local representation. |

The MDHCD has begun to address issues and concerns raised against it in the past and as identified in the MSR; recent actions include:

- Awarding of grant funds to community organizations
- Financial assistance to CPR training programs in high schools
- Recent reductions to current health insurance benefits programs which will reduce MDHCD overhead expenditures
- Hiring of an Interim Executive Director

However, MDHCD revenues remain limited and subject to further declines depending on economic trends. While the addition of professional staff could help to improve its operations and focus and remediate past issues related to accountability and public access, this hiring would increase administrative expenditures. As noted in "Expenditures", **Chapter 4**, overhead and administrative costs equal at least 50 percent or more of total expenditures depending on costs for the interim Executive Director and/or subsequent professional staff, and legal fees, compared to potential health insurance savings beginning in 2012. Including election costs, overhead will consume all MDHCD operating revenues (before use of any available fund balances).

***Advantages***

1. Property taxes collected within the district will continue to be spent for services within the district.
2. As indicated by the MSR, maintaining the status quo provides the district time to make changes to its operations. The MDHCD is actively increasing program spending, attempting to reduce its health insurance liabilities, and has hired an interim executive director.

***Disadvantages***

1. The district has a history of not spending revenues on programs but on administration and benefits to its directors. Although the MDHCD is actively increasing program spending and has hired an executive director, the additional staff costs will increase the proportion of revenues spent on overhead.
2. Issues raised by the Grand Jury and other community members related to fiscal and operational problems, lack of activity, and dysfunctional management could continue.

## Consolidation (of like and unlike districts) and/or creating a new district

### Consolidation with Los Medanos Community Healthcare District (LMCHD)

This option is not recommended since discussions with LMCHD indicated the likelihood of strong community opposition to the proposal based on geographical, social, and historical differences between the differing areas served by the two districts. Political opposition was also identified by the MSR as a disadvantage of this option.

This option would consolidate the MDHCD with the LMCHD, which are "like" districts formed under the same statutes. The boundaries of the consolidated entity would correspond to the combined boundaries of the two existing districts. The current share of MDHCD property taxes would be collected by the consolidated entity; these revenues would be available for use throughout the consolidated entity unless a zone is created to geographically restrict use of the revenues. An advisory board could be established to oversee and guide the use of funds. Existing LMCHD staff would be responsible for staff support, with direction from the Board of the consolidated entity. The board of the consolidated entity would replace the MDHCD as party to the Community Benefits Agreement, and would succeed to all rights and responsibilities of the Agreement. LAFCO could establish terms and conditions related to the initial and ultimate composition of the consolidated Board.

### LAFCO Process

At a public hearing, LAFCO recommends the consolidation and schedules a protest hearing. The consolidation can be completed without an election unless 25 percent of the registered voters or 25 percent of the landowners with 25 percent of the assessed value protest.[23]

#### *Advantages*

1. Enhances revenue base of LMCHD to be used for community health care needs.
2. Reduces/eliminates existing MDHCD administrative costs.
3. Continues mission and goals of the MDHCD (subject to decisions of consolidated board).
4. Continues community role in CBA.

#### *Disadvantages*

1. Reduces board representation from within MDHCD boundaries (assuming number of LMCHD board members does not change).
2. Distributes property tax resources over a broader service area.
3. LMCHD represents a different community of interest, and there is a strong probability that consolidation would be met with community opposition.

## Dissolution with appointment of successor only for the purpose of winding up MDHCD affairs

Dissolution would eliminate the MDHCD and its share of property taxes would revert to other taxing entities, after obligations of the MDHCD have been paid. LAFCO would appoint a successor agency to wind up the affairs of the MDHCD; see further discussion of successor agencies below.

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[23] GC 57081(b)

### Successor Agency Responsibilities and Obligations

1. **Payment of Medical Insurance Benefits** – Currently, the MDHCD spends approximately $45,000 annually for lifetime medical insurance benefits for two directors (one current, one former); the successor would need to continue this payment, which could be funded through some combination of MDHCD remaining assets and property tax revenues until the obligation is fully funded. The MDHCD recently negotiated reductions in the cost of this program, reducing future liabilities; however, the program participants reserved their rights to return to the original program.

2. **Disposition of Property** – The MDHCD does not own real property. The successor would be responsible for disposing of any unsecured property, such as office equipment.

3. **Debt** – Other than obligations related to the medical insurance benefits noted above, the MDHCD has no debt or other long-term financial obligations.[24]

4. **Litigation and Claims** – No litigation or other legal or financial claims are pending.

5. **CBA** – It is assumed that the JMH and the successor agency would terminate the CBA as part of winding up the affairs of the MDHCD. It is assumed that John Muir would continue the CHF without MDHCD representation; however, John Muir would be under no contractual requirement to do so. Similarly, John Muir would not be bound by the other provisions of the CBA related to specific facilities and licenses.

### Successor Agency

GC §57451 addresses the determination of a successor for the purpose of winding up the affairs of a dissolved district. Subsection (c) indicates that the City of Concord qualifies as the successor because the MDHCD boundaries overlap multiple cities and unincorporated area, and the City of Concord contains the greater assessed value relative to other cities and the included unincorporated territory as shown in **Table 3**.

However, GC §57451(d) provides that if LAFCO's terms and conditions distribute all of the remaining assets of a dissolved district to a single existing district, then the single existing district is the successor.

Potential successor agencies include:

1. **City of Concord** – The City currently does not provide health care services. The City of Concord could be designated as successor agency to wind up the affairs of the District pursuant to GC §57451(c). Preliminary discussions with City staff indicate that the City has the capability to undertake actions to wind up the affairs of the MDHCD, assuming that all financial obligations and administrative costs are funded by resources of the MDHCD. Under the current configuration of the MDHCD, the City could not be named the successor agency for the purpose of continuation of MDHCD services; the City cannot create a subsidiary district that would qualify for continuation of MDHCD services and receive its property taxes

[24] Roy Larkin, MDHCD Secretary/Treasurer, email transmittal received by EPS 10/21/11.

since the City's land area is 44 percent of the MDHCD's land area and therefore does not meet the required 70 percent, and the current MDHCD boundaries overlap other cities.

2. **CSA EM-1** – The CSA EM-1 could be designated as successor pursuant to GC §57451(d), which allows a district to be designated successor if all the remaining assets will be transferred to the district, e.g., CSA EM-1. Contra Costa Health Services Department, which manages EM-1, is under the direction of the County Board of Supervisors, and would have the ability and capacity to undertake actions to wind up the affairs of the MDHCD.

### LAFCO Process

The process will follow the basic steps identified in **Chapter 1**. In addition, it will be necessary for LAFCO to identify a successor for the purpose of winding up the affairs of the MDHCD. It may also be necessary for LAFCO to specify a Gann limit applicable to CSA EM-1 which will allow for an increased collection and use of property taxes for the purpose of winding up the affairs of the MDHCD.

#### *Advantages*

1. Elimination of administrative expenses, including staff, legal, election costs, and health benefit costs (after current obligations are paid). Some staff costs may be necessary to wind up the affairs of the MDHCD.
2. Elimination of $25,000 of annual JMH contribution to administration.
3. Avoids duplication of services which can be provided by other public and private agencies.
4. Returns tax dollars currently utilized by the MDHCD to other existing public entities serving the area, after payment of all MDHCD liabilities and obligations.

#### *Disadvantages*

1. Loss of MDHCD allocation of annual property taxes to community health needs. In 2011, approximately $192,000 was allocated to local health programs, including $80,000 directed to CPR training of high school students.
2. Loss of MDHCD participation (direct participation and/or through designated representatives) on the Board of the Community Health Foundation, which allocates over $1 million annually to community health needs.
3. Loss of MDHCD oversight of certain aspects of JMH facilities and licenses.
4. Loss of the MDHCD as receiver of hospital assets in the event of termination of the CBA.

The disadvantages noted above assume that the CBA does not continue in force. However, it would be possible to continue the CBA by allocating responsibilities to a successor for continuing service.

## Dissolution with appointment of successor for continuing service

This option is similar to the dissolution described above; however, services would continue under the designated successor. Ongoing responsibility for continuing health care services could not be assigned to the City of Concord because the boundaries of the MDHCD extend well beyond the City limits; statutes do not allow for the formation of a subsidiary district within the City to continue services of the MDHCD unless the City represents at least 70 percent of the MDHCD land area and 70 percent of registered voters, as described further in the following section.

### City of Concord as a Successor

Review of options eliminated the MSR option of "Formation of a Subsidiary District" because the creation of a subsidiary district from the MDHCD does not meet legal criteria. GC §57105 requires that the MDHCD be entirely contained within a city, or that the city contain both 70 percent of the land area and 70 percent of the registered voters; the City of Concord represents approximately 44 percent of the land area and 59 percent of the population of the MDHCD.[25] Furthermore, the existing MDHCD boundaries overlap other cities, which would preclude the creation of a City of Concord subsidiary district covering the existing MDHCD boundaries even if it met the 70 percent test.

The City of Concord can form a new subsidiary district within its municipal boundaries at any time; however, the new subsidiary district could not qualify as a successor to the MDHCD services, assets and revenues since it fails the 70 percent test.

To establish a subsidiary district from the MDHCD with the City Council serving as ex officio board of directors of the subsidiary district, the current boundaries of the MDHCD would first need to be reduced to only include the City of Concord and adjacent unincorporated areas currently within the MDHCD (Ayers Ranch, Clyde, Pacheco); within this reduced boundary configuration, the City of Concord would represent approximately 73 percent of the land area.[26] This reduced boundary not only excludes the City of Martinez, which currently does not contribute incremental property taxes to the MDHCD, but would also exclude Pleasant Hill and portions of other cities that do contribute property taxes to the MDHCD.

For the reasons described above, the City of Concord as a successor for continuing services is not recommended as a viable option.

### CSA EM-1 as a Successor

This option would include the establishment of a zone within CSA EM-1 corresponding to the current boundaries of the MDHCD. The current share of MDHCD property taxes would be collected within the zone and restricted to providing extended services which address unmet health care needs within the zone. An advisory board, including representatives from the zone,

[25] Estimates of land areas based on EPS GIS analysis.

[26] Ibid.

could be established to oversee and guide the use of funds. While LAFCO cannot enforce the ongoing use of a zone and advisory board, LAFCO can provision the continued allocation of property taxes as long as EM-1 meets those terms and conditions. Contra Costa Health Services Department would be responsible for staff support, with direction from the Board of Supervisors. CSA EM-1 would replace the MDHCD as party to the CBA, and would succeed to all rights and responsibilities of the CBA.

CSA EM-1 is administered by the Contra Costa Health Services Department (as the EMS Agency) under the direction of the County Board of Supervisors.[27] In 1989, CSA EM-1 was established to provide funding for enhancement of emergency medical services including expansion of paramedic services, upgrades to the EMS communications system, and additional medical training and equipment for fire first responders. EM-1 is authorized to provide emergency medical services and "miscellaneous extended services", which includes services the county is authorized by law to perform, and which the county does not also perform to the same extent on a county-wide basis.

The EMS system includes communities, hospitals, clinics, senior nursing facilities, dispatch, pre-hospital first responders and transport providers who work in concert to support an integrated system of response in emergencies and disasters. According to the EMS Agency, EMS is evolving to play an increasingly important role supporting health care programs and community health care initiatives that reduce as well as treat illness and injuries.

In addition to serving as the EMS Agency overseeing EM-1, Contra Costa Health Services Department provides a broad range of community health services spanning the range of services also authorized for health care districts. Numerous advisory groups exist which provide input and direction on specific issues and services. Contra Costa Health Services Department operates health facilities, clinics, outpatient programs and services, senior services, other health care programs and services, wellness and prevention programs, provides health insurance programs, and disseminates health information. The Contra Costa Health Services Department's community outreach program has benefited from funding provided by the MDHCD.

Although specific grant funding, programs and services to be provided by the new zone of CSA EM-1 would be determined by the future advisory board, preliminarily it is anticipated that the following programs could be continued and potentially expanded:

- CPR-How to Save a Life Program in MDHCD Schools
- Placement of Public Access Defibrillators (AEDs) in community locations throughout the MDHCD service area
- "CPR at Home" Parties
- Public Awareness campaigns
- Child and Senior Injury Prevention Programs
- Community Disaster Preparedness to promote resiliency

[27] Public Healthcare Services MSR, Contra Costa LAFCO, 2007.

Program administration, implementation and oversight may require 0.5 to 0.8 staff. The lower cost assumes streamlined administration without a great deal of public controversy and meeting facilitation. The 0.8 staffing level is based on a greater level of community interaction; this level would include the value added of direct community support provided by a skilled health care professional experienced in community outreach and program development to successfully facilitate the implementation and provide reliable oversight of projects and programs. Outreach programs frequently fail without this strong support.[28]

## LAFCO Process

The process will follow the basic steps identified in **Chapter 1**. In addition, it will be necessary for LAFCO to identify a successor for the purpose of continuation of services. LAFCO will also establish terms and conditions related to the creation of a zone and the allocation of property tax. It may also be necessary for LAFCO to specify a Gann limit applicable to CSA EM-1 which will allow for an increase collection and use of property taxes, if applicable.

### *Advantages*

1. Enhances revenue base of CSA EM-1 for community health care needs within a zone corresponding to the boundaries of the MDHCD.
2. Substantially eliminates existing administrative costs, including elections, although some additional staff cost may be necessary depending on programs implemented.
3. County Health Services Department provides a broad range of programs, including programs and facilities within MDHCD boundaries.
4. Contra Costa Health Services Department has extensive professional and support staff resources, and established public accountability and public access mechanisms.

### *Disadvantages*

1. Loss of representation by locally-elected board.
2. Involves creating a zone within CSA EM-1 to assure that property taxes continue to be collected from the MDHCD boundaries and directed to health care needs within the area.
3. May require resolution by affected cities approving of the creation of the zone and implementation of additional services by the CSA within their boundaries. CSA law allows for the creation of a zone to provide new and/or enhanced services.
4. If a city opts out of the CSA zone, for example the City of Concord, the CSA zone could experience a significant loss of future property tax increment. However, it appears likely that community support would exist for continuation of the use of property taxes for health care purposes in the area.

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[28] Communication between Pat Frost, Pat Frost, Director, Emergency Medical Services Contra Costa Health Services, and Lou Ann Texiera, Contra Costa LAFCO, 12/29/11.

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Fact Sheet for the Community Health Fund, John Muir/Mt. Diablo Community Health Fund, 10/25/11.

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Taylor, Margaret, California's Health Care Districts, April 2006.

# 8. ACRONYMS AND ABBREVIATIONS

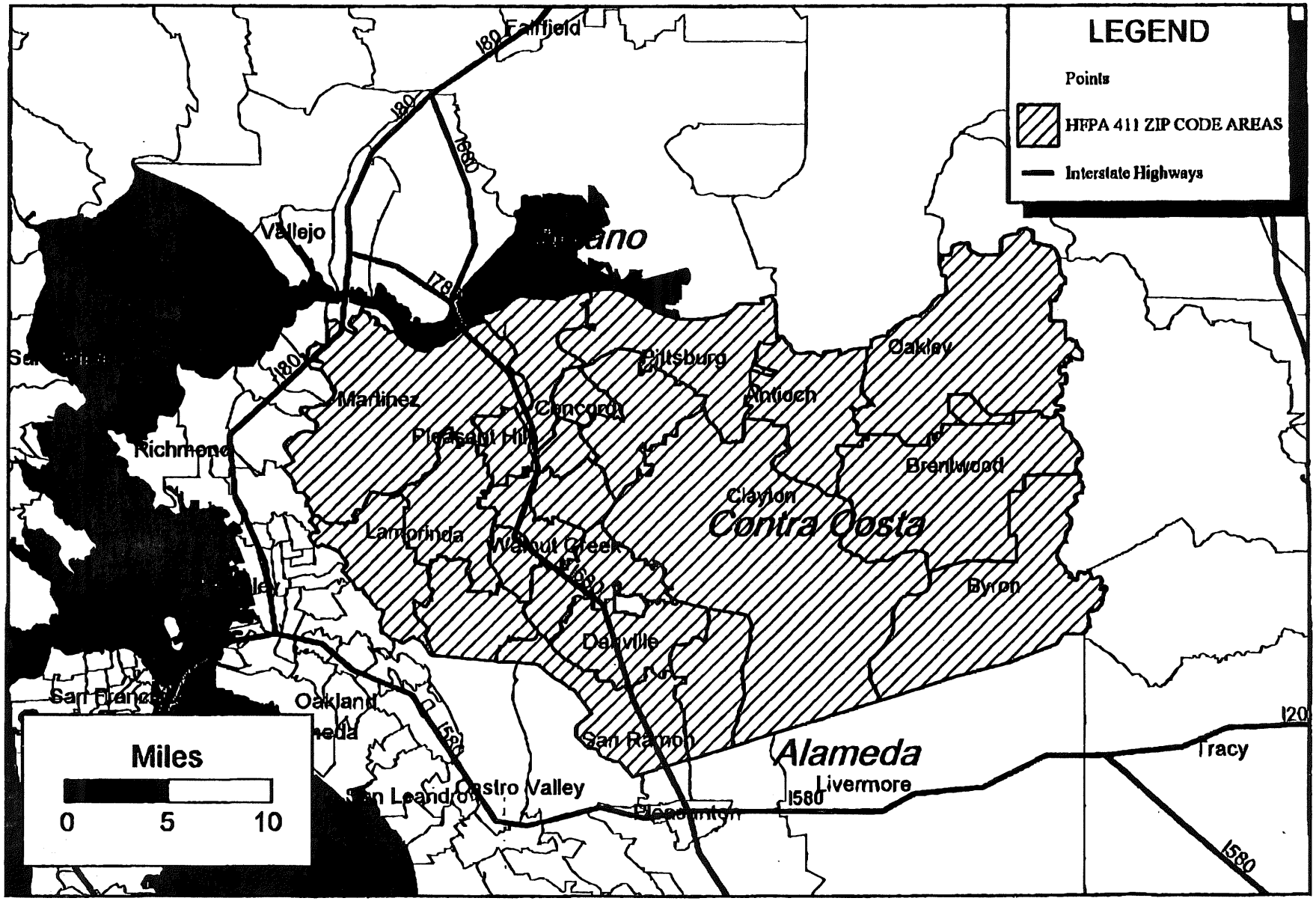
| | |
|---|---|
| ACHD | Association of California Healthcare Districts |
| CHF | Community Health Fund |
| CKH | Cortese-Knox-Herzberg Local Government Reorganization Act of 2000 |
| CBA | Community Benefit Agreement |
| CSA | County Service Area |
| GC | Government Code |
| HSC | Health and Safety Code |
| JMH | John Muir Health |
| LMCHD | Los Medanos Community Healthcare District |
| MDHCD | Mt. Diablo Health Care District |
| MSR | Municipal Service Review |
| TRA | Tax Rate Area |

# APPENDIX A

Map of CHF Service Area
(Exhibit C to JMH Bylaws, Section 5.6)

# Health Facilities Planning Area 411

## (Includes Concord, Danville/San Ramon, East County, Lamorinda, Martinez, and Walnut Creek Planning Zones)



# APPENDIX B

# Applicable Laws

**GC §57302 (Dissolution or Consolidation)**. Allows the Commission to impose terms and conditions on any change of organization pursuant to §56886. If there is a conflict, terms and conditions imposed under §56886 preempt other portions of CKH dealing with changes of organization.

**GC §56886 (Terms and Conditions)**. Specifies the terms and conditions that the Commission may impose include the following:

(i) The disposition, transfer, or division of any moneys or funds including cash on hand and monies due but uncollected, and any other obligations;

(m) The designation of a city, county, or district as the successor to any local agency that is extinguished as result of any change of organization or reorganization, for the purpose of succeeding to all the rights, duties, and obligations of the extinguished local agency with respect to the enforcement, performance or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency;

(t) The extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency or a successor local agency in the affected territory;

(v) Any other matters necessary or incidental to any of the terms and conditions specified in this section.

**GC §57451 (Dissolution)** For the purpose of winding up the affairs of a dissolved district, the successor of the dissolved district shall be determined as follows:

(c) If the territory of a dissolved district is located in the incorporated territory of more than one city or the unincorporated territory of more than one county, or any combination of the incorporated or unincorporated territory of two or more such cities and counties, the successor is that city whose incorporated territory or that county whose unincorporated territory shall, upon the effective date of dissolution, contain the greater assessed value of all taxable property within the territory of the dissolved district, as shown on the last equalized assessment roll or rolls.

(d) If the terms and conditions provide that all of the remaining assets of a dissolved district shall be distributed to a single existing district, the single existing district is the successor.

**GC §57452 (Dissolution)** Upon the effective date of dissolution, control over all the moneys or funds, including cash on hand and moneys due but uncollected, and all property, real or personal, of the dissolved district is vested in the successor for the purpose of winding up the affairs of the district.

**GC §56375 (LAFCO Powers and Duties)** The Commission may initiate certain actions including district consolidations and dissolutions.

**GC §56375.5 (Consistency with SOI).** LAFCO actions must be consistent with the sphere of influence.

**GC §56378 (Authorization for LAFCO to Initiate a Special Study)** Provides LAFCO's authority to initiate special studies and contents of such studies.

**GC §57077 (LAFCO Actions and Elections)** Authorizes LAFCO to order a change of organization or reorganization without an election.

**GC §57102 (Resolution Ordering Dissolution and Making Findings**) Specifies findings the Commission must make in a dissolution proceeding.

**GC §56131.5 (Notification of State Agencies)** – Requires that LAFCO notify specific State agencies regarding LAFCO actions involving health care districts, and provides a 60 comment period to State agencies.

**GC §57008 (Protest Hearing in Affected Territory)** - For LAFCO initiated proposals, requires LAFCO to hold the protest hearing in the affected territory.

**GC §57105 (Subsidiary Districts)** - An order establishing a district of limited powers as a subsidiary district may be adopted if upon the date of that order the commission determines that either of the following situations exists:

(a) The entire territory of the district is included within the boundaries of a city.

(b) A portion or portions of the territory of the district are included within the boundaries of a city and that portion or portions meet both of the following requirements:

> (1) Represent 70 percent or more of the area of land within the district, as determined by reference to the statements and the maps or plats filed pursuant to Chapter 8 (commencing with Section 54900) of Division 2 of Title 5 for the current fiscal year.
>
> (2) Contain 70 percent or more of the number of registered voters who reside within the district as shown on the voters' register in the office of the county clerk or registrar of voters.

**GC §25210 – 25217.4 - County Service Area (CSA) Law**

**GC §25217 (a) (CSA Zones)** – The Board of Supervisors may form zones within CSAs whenever the board determines that it is in the public interest to provide different authorized services, provide different levels of service, provide different authorized facilities, or raise additional revenues within specific areas of a CSA.

# APPENDIX C

# Response to Comments
# Special Study: MDHCD Governance Options
# Draft Report (12/2/11)

1. ACHD dated 12/7/11
2. Pat Frost, County EMS (email)
3. Contra Costa County Chapter Grand Jury dated 12/9/11
4. Carl Hutchins dated 12/11/11
5. Bob Campbell, County Auditor 12/12/11 (**no attachment; verbal corrections only**)
6. Michele Sheehan dated 12/12/11
7. Davis L. Todhunter dated 12/12/19
8. MDHCD dated 12/13/11
9. Alan Smith dated 12/13/11 (email)
10. Kay Ready dated 12/13/11 (email)
11. Erma Abelarde dated 12/19/11
12. Wanda M. Peets dated 12/19/11
13. City of Concord dated 12/22/11
14. Edi Birsan dated 12/24/11 (email)
15. Joan Weber dated 12/26/11 (email)
16. Linda Waters dated 12/27/11 (email)
17. Doug Dildine dated 12/27/11
18. John Muir Health dated 12/27/11
19. Claire Yragui – NorCal Transition Services dated 12/27/11 (email)
20. Doug Stewart – Pacheco/MTZ Homeless Outreach dated 12/27/11 (email)
21. Eric Stern – Regional Center of the East Bay dated 12/27/11 (email)
22. Maureen Shea dated 12/27/11 (email)
23. MDHCD dated 12/27/11
24. Rudy Jaime dated 12/27/11 (received by email 12/28/11)
25. Kris Hunt dated 12/27/11

Note: the following responses focus on those comments that are directly relevant to the Special Study process. Comments have been restated for brevity; the reader is referred to the original documents for complete context, and other general comments and opinions expressed by the commenter.

**1. ACHD dated 12/7/11**

**1a. Comment**: The MDHCD now has a fully constituted board, reduced the costs of health benefits, and hired an interim Executive Director for three months to develop a business plan; the MDHCD should be allowed the opportunity to develop and implement the plan.

**1a. Response**: Comment acknowledged. The Study recognizes that the current Board has taken steps to remediate past issues, although the problem of limited resources against high overhead costs remains.

**2. Pat Frost, County EMS (email)**

2a. Comment: The Study's discussion of the CPR program on pg. 15 and pg. 19 should be corrected and expanded. Table 2 should be revised to clarify the role of Health Services vs. EM-1. The discussion of CSA-EM1 services should be expanded. The Study should clarify that some staff increase may be necessary if EM-1 becomes successor, depending on programs implemented.

2a. Response: The report has been revised to be consistent with the comments.

**3. Contra Costa County Chapter Grand Jury dated 12/9/11**

**3a. Comment**: The Study's findings do not differ materially from four prior Grand Jury reports regarding the minimal health care benefits provided by the MDHCD, small expenditures inconsistent with the district's mission and out of proportion to its administrative overhead. The MDHCD should be dissolved.

**3a. Response**: Comment acknowledged.

**4. Carl Hutchins dated 12/11/11**

**4a. Comment**: Dissolve the MDHCD and stop further expenditure of tax money.

**4a. Response**: Comment acknowledged.

**5. Bob Campbell, County Auditor 12/12/11 (verbal)**

**5a. Comment**: The Study's discussion of property taxes should be revised to clarify that the MDHCD base property taxes are allocated on a Countywide level, although increases and decreases are based on changes at the local Tax Rate Area level.

**5b. Response**: The Study has been edited accordingly.

**6. Michele Sheehan dated 12/12/11**

**6a. Comment**: Dissolve the District.

**6a. Response**: Comment acknowledged.

**7. Davis L. Todhunter dated 12/12/19**

**7a. Comment**: Dissolve the MDHCD and stop further expenditure of tax money.

**7a. Response**: Comment acknowledged.

**8. MDHCD dated 12/13/11**

**8a. Comment**: The Study is incomplete because it does not include interviews with MDHCD board members, explanation from the District of its governance challenges or financial plans, or information about new programs and services implemented in as soon as 60 days. The MDHCD will provide the information required for a complete report.

**8a. Response**: Please see responses to MDHCD comment #23.

**8b. Comment**: The Draft Study does not present or reference the standards and procedures that will be used in evaluating the Study.

**8b. Response**: The Draft Study includes references to requirements established by State law for the LAFCO dissolution process and for findings and content of a Special Study. The commentor is referred to Appendix B for a summary of applicable statutes.

**9. Alan Smith dated 12/13/11 (email) Comment:**

**9a. Comment**: Dissolve the MDHCD. The tax on our house should be discontinued. If that is not possible it should be shifted to support the County hospital.

**9a. Response**: Comment acknowledged. If the MDHCD is dissolved with no successor to continue services, all taxing entities including the County will gain a small share of the current MDHCD taxes. If there is an ongoing successor, the MDHCD share of taxes will be directed to health care purposes by the successor entity. In any case, there will be no impact on an individual taxpayer's tax rate.

**10. Kay Ready dated 12/13/11 (email)**

**10a. Comment**: What more documentation is needed by LAFCO to shut down the MDHCD?

**10a. Response**: As described in the Study, LAFCO is required by law to base its decisions on the findings of a Municipal Service Review, a sphere of influence update or a Special Study.

**11. Erma Abelarde dated 12/19/11**

**11a. Comment**: Do not take away my ability to vote for the directors of the MDHCD. The hiring of an attorney and Executive Director is done by all public agencies. Leave the District alone so it can concentrate on serving the community.

**11a. Response**: Comment acknowledged. The Study identifies the high administrative costs, which include not only legal fees and ED costs, but also election and other overhead costs relative to the limited revenues available as a primary issue.

**12. Wanda M. Peets dated 12/19/11**

**12a. Comment**: Dissolve the MDHCD. No replacement agency need be formed. Its property taxes should be allocated to Contra Costa Emergency Services or divided among other public agencies.

**12b. Response**: Comment acknowledged. No new agency will be formed. The Study recommends that a zone of CSA-EM1, which is under the direction of Contra Costa Emergency Services, become the successor and use MDHCD revenues for health care purposes within the zone.

**13. City of Concord dated 12/22/11**

**13a. Comment**: The assessed values of the City of Martinez should not be considered, as these areas do not contribute tax revenues to MDHCD. Those portions of Unincorporated Area not contributing to MDHCD should also be excluded.

**13a. Response**: The Study specifically indicates that at the present time, areas such as Martinez do not contribute incremental increases (or decreases) to the MDHCD property tax. Property taxes are allocated to MDHCD as a share of Countywide property taxes; the MDHCD share is partly dependent on incremental taxes, but also includes a base amount which cannot be allocated to specific areas without a detailed audit, by tax rate area, of annual property tax collections and allocations prior to 1979 (implementation of Prop. 13) through the present.

GC §57451 specifically references assessed value as one measure for determining the successor agency for the purpose of winding up the affairs of MDHCD; this is the purpose for inclusion of assessed values in **Table 3**. Assessed value is also relevant to protest proceedings which are discussed in the Report. No other discussion of potential options references assessed value.

Statutes relevant to the Study do not specify that property taxes collections are a relevant consideration for any of the options considered.

The Study (Table 6 and page 32) does indicate that future incremental property taxes could be reduced for the CSA EM-1 option (for continuation of services) if a city opts out, e.g., the City of Concord. There are no other references to property taxes in the evaluation of options.

Additional text has been added to the Study to help clarify issues related to exclusion of areas from the current MDHCD boundaries.

**13b. Comment**: The report incorrectly concludes that the City of Concord could not be named a successor agency for the purpose of continuation of MDHCD services, and fails to adequately consider the ability of the City of Concord to form a subsidiary district for Health Care services.

**13b. Response**: The Study concludes that a subsidiary district could not be formed for the purpose of taking over the functions of the MDHCD, which would include the allocation of MDHCD property taxes, as well as its current services and responsibilities, pursuant to GC §57105 which requires that the MDHCD be entirely contained within a

city, or that the city contain both 70 percent of the land area and 70 percent of the registered voters. The action would require that the current area of the MDHCD be reduced in order for the City to meet the population and area requirements.

It is correct, however, that the City of Concord could submit an application to LAFCO to form a subsidiary district. However, this subsidiary district would not be able to take over the MDHCD property tax allocation or service responsibilities as noted above unless the subsidiary district contains both 70 percent of the land area and 70 percent of the registered voters, thereby requiring that the subsidiary district include territory outside of the city boundaries.

**13c. Comment**: The report fails to address the potential transfer of the John Muir Medical Center, Concord facilities, as provided for in the Community Benefit Agreement (CBA) between the MDHCD and John Muir Health (JMH).

**13c. Response**: The Study does state that the terms of the current CBA would transfer to the successor providing continuing service. The comment raises a potential issue which is independent of which option is selected, including the status quo; namely, that the CBA provides for termination and reversion of assets as early as December 31, 2049. The Study assumes that any successor would be entitled to attempt to renegotiate the terms of the CBA, just as the MDHCD could attempt to renegotiate the terms under the status quo. The Study did not evaluate the merits or potential issues inherent in the current CBA.

**13d. Comment**: The report improperly concludes that the City would not fully represent the interests of all current MDHCD residents with respect to the CBA.

**13d. Response**: The Study concluded that the City of Concord "would not necessarily represent the interest of all current MDHCD residents" is based on the fact that the City's population represents less than 60 percent of the MDHCD population. Approximately 53 percent of the patients at the JMH Concord campus reside in Central County, and the balance come from other areas in the County.

**13e. Comment**: The City of Concord, rather then CSA EM-1, should be designated as the successor agency to MDHCD.

**13e. Response**: Please see response to comment #14a.

**13f. Comment**: As a condition of the dissolution, the CBA with JMH should be redrafted, replacing MDHCD with the City of Concord, and assigning oversight of its provisions to the City of Concord.

**13f. Response**: LAFCO does not have the authority to redraft terms of an existing agreement, nor compel future parties to redraft terms. The Study does identify issues that future signators to the CBA should revisit for the benefit of the community, including increasing the amount of advance notice required for termination from the current 180 days, to mitigate potential adverse impacts of disinvestment in facilities due to protracted uncertainty regarding potential termination.

**13g**. **Comment**: As a condition of dissolution, the CBA should eliminate any provisions which would cause the Concord facilities (land and buildings) to be transferred back to any successor entity.

**13g**. **Response**: Please see response to comment 13f. The Study does not recommend that the termination provision be eliminated, since that would be contrary to the intent of the MDHCD when the CBA was written and signed by the MDHCD and JMH, and would eliminate the ability to regain public control of the hospital facilities in the event that JMH fails to continue to provide its current high level of services. Nonetheless, the current and future signators to the CBA can revisit CBA terms at any point.

**13h**. **Comment**: As a condition of the dissolution, the CBA should designate 3 of the 5 seats previously appointed by MDHCD on the Community Health Fund for appointment by the City of Concord.

**13h**. **Response**: Please see response to comment 13f. The Study recommends that LAFCO require that CSA EM-1's advisory board for the new zone include representation from various areas within the MDHCD. One option would be to consider that the representation be proportionate to population. A similar composition could apply to the terms of the CBA, to be revisited by the current or future signators to the CBA.

## 14. Edi Birsan dated 12/24/11 (email and attached article)

**14a. Comment:** Martinez should be removed from the District since it is not paying into the district.

**14a. Response**: Please refer to response to comment #13a.

**14b**. **Comment**: The City of Concord should be the successor agency.

**14b. Response**: Please refer to response to comment #13b.

**14c. Comment**: Most of LAFCO's members "just got there", which is not justification for the failure of LAFCO to take corrective action (other than the current dissolution consideration).

**14c. Response**: Most of the Commissioners are experienced LAFCO members, with six Commissioners with over 10 years on Contra Costa LAFCO.

**14d. Comment**: LAFCO lacks the tools to force district changes, other than the ability to dissolve a district.

**14d. Response**: LAFCOs were formed to 1) encourage the logical and orderly formation of local government agencies, 2) preserve agricultural resources, and 3) discourage urban sprawl. LAFCO's authority involves regulating boundary changes, establishing spheres of influence (SOIs), authorizing the extension for services outside a local agency's jurisdictional boundaries, initiating certain governance changes (i.e., consolidation, dissolution, merger, creating subsidiary districts), and conducting municipal service reviews (MSRs). Through the MSR process, as well as the Special Study process, LAFCO is able to review a number of factors, including district efficiency

and effectiveness, and take actions that it is authorized by law to take to address identified problems.

LAFCO also has a "tool box" of terms and conditions it can impose on a change of organization or reorganization as contained in Gov. Code Section 56886 and other sections of the Cortese-Knox-Hertzberg Act (Gov. Code Section 56000 et seq.). Terms and conditions cover a range of issues including jurisdictional issues, provision of service, mitigation of service impacts, transferring authority for charges, taxes and assessments, etc.

LAFCO does not manage districts, nor does it set policy or get involved in the day-to-day operations of cities and districts.

**14e. Comment**: Appointment of CSA EM-1 as successor does not solve the problem that any successor agency can make erroneous decisions.

**14e. Response**: This is correct, any successor agency, whether it is EM-1 or a city, can be prone to erroneous decisions.

**14f. Comment**: Appointment of CSA EM-1 does not correct any MDHCD issues, does not preserve good aspects of the CBA, and it opens up possibilities of abuse of funds and diversion of funds to uses that were not the intent of the Concord residents.

**14f. Response**: CSA EM-1 will reduce the use of funds for overhead, including eliminating election costs, as noted by the commentor. The City of Martinez was added to the MDHCD in 1956; it is expected that the original intent was to add taxpayers for the purpose of funding hospital construction. The JMH Concord campus is a regional facility serving more than just Concord residents. Approximately 53 percent of JMH Concord patients are residents of central county, and the balance come from other areas of the County.

**14g. Comment**: One reason for dissolution is that election costs are out of line with the revenue of the District.

**14g. Response**: Election costs are included as administrative costs, which historically have consumed a significant share of revenues, as noted in the Study. See also response to 14a above.

**14h. Comment**: The following issues are not reasons that support dissolution: 1) most of the money spent by the district was on administration and health care benefits; 2) until this year, the MDHCD did not spend significant money on health care issues; 3) MDHCD was non-reactive to the issues of 4 Grand Jury complaints.

**14h. Response**: Excessive expenditures for overhead and lack of spending on health care, which is the purpose and mission of MDHCD, are factors that the Study, as well as the prior MSR, consider in evaluating the District and whether dissolution is supported.

**14i**. **Comment**: The commentor proposes a number of actions, including designation of membership in a “Charity Health Board” and “Health Commission”.

**14i**. **Response**: LAFCO does not have the authority to create either of the entities noted and assign tax revenues and responsibilities, nor does LAFCO have the authority to limit expenditures on administration to 10% for those entities or for any other public entity.

**15. Joan Weber dated 12/26/11 (email)**

**15a. Comment**: The successor agency would not represent the taxpayers' interest as well as the MDHCD in monitoring the CBA or accepting any assets reverted pursuant to the agreement.

**15a. Response**: The Draft Study recommends that an advisory board be created to help monitor the terms of the CBA. This board should be comprised of representatives from the current MDHCD service area and could include city representatives and/or elected officials.

**15b. Comment**: Responsibility for appointments to the CHF would be taken from MDHCD and possibly jeopardize the CHF existence.

**15b. Response**: The Study recommends that the successor agency be responsible for the CBA and for appointments to the CHF. The appointments could mirror the advisory board.

**15c. Comment**: Despite oversight by an advisory board, it could become a political issue. I am against dissolution.

**15c. Response**: Comment Acknowledged.

**16. Linda Waters dated 12/27/11 (email)**

**16a. Comment**: I agree that MDHCD should be dissolved with CSA EM-1 appointed as successor.

**16a. Response**: Comment acknowledged.

**17. Doug Dildine dated 12/27/11**

**17a. Comment**: Dissolution is premature because neither the City of Concord nor the "ambulance company" are interested in or able to become the successor. The report does not address MDHCD's reorganization plan.

**17a. Response**: Both the City of Concord and the County Emergency Services, which provides a range of health services as described in the Study, have expressed willingness and ability to act as successor. As of the date of the Study and revisions to the Study, no plan had yet been prepared by the MDHCD; the interim executive director has just recently been hired for a three month period to develop a Plan.

**18. John Muir Health dated 12/27/11**

**18a. Comment**: Regardless of the District's future, John Muir Health will continue to honor its commitment under the CBA to the Community Health Fund to provide at least $1 million annually to be used for community grants.

**18a. Response**: Comment acknowledged.

**18b. Comment**: John Muir Health will continue to abide by the terms of the merger agreement and work cooperatively with the District or its successor.

**18b. Response**: Comment acknowledged.

**18c. Comment**: John Muir Health requests the opportunity to provide input on the potential terms and conditions to be placed on any change of organization, especially insofar as they affect the CBA.

**18c. Response**: Comment acknowledged.

**19. Claire Yragui – NorCal Transition Services dated 12/27/11 (email)**

**19a. Comment**: The MDHCD should not be dissolved.

**19a. Response**: Comment acknowledged.

**19b. Comment**: The Study stated that the City of Concord was a less desirable successor since it represented only 59 percent of the total MDHCD population.

**19b. Response**: Population is one factor in considering a successor. The primary issue is that the City of Concord cannot form a subsidiary district to become successor to MDHCD property taxes, services and responsibilities for ongoing services because under State law a subsidiary district cannot be formed from a district if the city represents less than 70 percent of the land area and less than 70 percent of the registered voters of the current district, which is the case.

**19c. Comment**: The Study is lacking in detail and the alternatives were lacking as well.

**19c. Response**: The current comment period provides the opportunity for the public to raise questions and to make comments. The Study will be revised to the extent possible to address specific issues raised.

**20. Doug Stewart – Pacheco/MTZ Homeless Outreach dated 12/27/11 (email)**

**20a. Comment**: Keep funding alive for Norcal Transitions.

**20a. Response**: Comment acknowledged.

**21. Eric Stern – Regional Center of the East Bay dated 12/27/11 (email)**

**21a. Comment**: MDHCD should not be dissolved, as one of the programs they fund, NorcalTransitions, provides vital support to people with disabilities.

**21a. Response**: Comment acknowledged.

**22. Maureen** Shea dated 12/27/11 (email)

**22a. Comment**: MDHCD should not be dissolved, as one of the programs they fund, Northern California Transition, has been a Godsend for my son, who has significant learning disabilities.

**22a. Response**: Comment acknowledged.

## 23. MDHCD dated 12/27/11

**23a. Comment**: CSA EM-1 does not and likely would not provide adequate public access to services needed by people living in the district, particularly the elderly.

**23a. Response**: EM-1 currently provides a range of services to the community as described in the Study, and is in partnership with MDHCD including programs specific to the elderly, such as Child and Senior Injury Prevention Programs, and working with senior nursing facilities and clinics to support and promote disaster preparedness. Other program partnerships with MDHCD which likely would be continued include: CPR-How to Save a Life Program in MDHCD Schools; Placement of Public Access Defibrillators (AEDs) in community locations throughout the MDHCD service area; "CPR at Home" Parties; Public Awareness campaigns. These programs could be expanded and augmented with other service priorities to address other specific needs in the community.

**23b. Comment**: The Advisory Board to the CSA EM-1 zone would not be elected or required to live in the zone.

**23b. Response**: The Advisory Board could include elected representatives, for example, “ex officio” members including city council members of cities within the zone.

**23c. Comment**: The Study states that CSA EM-1 would be able to provide services without any significant increase in current costs. What services would be provided and at what costs, and would the transfer be accompanied by a reduction in funding from the County? Would CSA EM-1 assume liability for MDHCD’s health insurance costs (referred to as “health care” in the comment)?

**23c. Response**: Please also refer to the response to comment #23a. County EMS has provided preliminary estimates that 0.5 to 0.8 staff position may be required, depending on the level and type of services provided. This staffing translates to a cost of approximately $40,000 to $60,000 annually. County EMS indicated that, without continuation of funding, current programs funded by and in collaboration with MDHCD would be discontinued. Additional programs funded by the new EM-1 zone would be required by law to be “supplemental” to existing County programs and limited to the benefit of the zone. CSA EM-1 would assume liability for the lifetime health benefits of the two MDHCD Board members, and would utilize reserves and/or property tax transferred from MDHCD to fund this liability.

**23d. Comment**: The City of Martinez does not contribute to the support of the MDHCD tax base and should be excluded from the calculation regarding appropriate successor.

**23d. Response**: Please refer to the response to comment #13a.

**23e. Comment**: The Draft Study references no contact from the consultant seeking any substantive contact with the MDHCD Board of Directors.

**23e. Response**: After initially contacting one member of the Board of Directors, the Consultant was informed that the Consultant was not to contact board members, but was to direct inquiries to the MDHCD attorney. In order to gain information in a timely manner, the Consultant subsequently directed inquiries to the MDHCD office secretary to forward to the MDHCD attorney and any other relevant parties for reply.

**23f. Comment**: 2011 projected expenditures differ from the report. Ongoing administrative costs will be included in 2012 budget to be approved on January 5th and presented to LAFCO at the November 11th hearing. The Interim ED position is for three months and will be at an hourly rate if services are required after three months.

**23f. Response**: The Final Draft Report will utilize MDHCD information currently available to update the budget numbers provided when the Draft Report was prepared.

**23g. Comment**: The Study includes legal fees in the category of Overhead and Administration, which suggests that the fees were not expended in the public interest. Excluding the fees changes the percent spent on Community Action from 26 percent to 43 percent after including the costs of litigation with other Community Action expenditures

**23g. Response**: The Study indicated that extraordinary expenditures in 2001 and 2002 were for legal fees, and that the category of Overhead and Administration included legal fees. The Final Draft Report will be revised to clarify that those fees were expended for litigation in furtherance of the mission of the MDHCD.

**23h. Comment**: The Draft Study does not address the disparity between the $250,000 property tax received by MDHCD and larger amounts received by other health care districts in Contra Costa County.

**23h. Response**: The property taxes received by health care districts varies depending on numerous factors, including the size and taxable value within the districts, the initial property tax allocations to each district following the implementation of Prop. 13, subsequent tax allocations and allocation factors, annexations or detachments to the districts, and property tax sharing arrangements with the County. The Study has not audited MDHCD property taxes and tax allocations.

**24. Rudy Jaime dated 12/27/11 (received by email 12/28/11)**

**24a. Comment**: The findings of the Study are repetitious of the last Grand Jury report, as if they were copied and pasted.

**24a. Response**: The Study cites the Grand Jury reports and briefly summarizes their general findings along with other relevant studies in Chapter 5; the findings of the Study were arrived based upon an independent analysis of available information, and does not rely on information or analysis contained in the Grand Jury reports.

**24b. Comment**: MDHCD should be allowed to continue and report to LAFCO. No other entity could fulfill the objectives of the MDHCD.

**24b. Response**: Comment acknowledged. The Study identifies options which could fulfill the objectives of the MDHCD.

**25. Kris Hunt dated 12/27/11**

**25a. Comment**: Dissolution and appointment of CSA EM-1 as successor may require additional expenses that may not be minimal, as indicated by the Study. A more realistic assessment is needed.

**25a. Response**: The Draft Study will be revised to include additional information about potential costs to EM-1 as successor.

**25b**. **Comment**: "Dissolution with appointment of successor only for the purpose of winding up MDHCD affairs" has the advantage of keeping the taxes in the area where they are collected and contributes to the welfare of the remaining entities.

**25b**. **Response**: Dissolution without a successor will increase tax revenues to all County entities by redistributing the MDHCD property tax apportionment. Over time, those entities that shared Tax Rate Areas with MDHCD will realize a greater share of increased taxes since MCHCD will no longer retain incremental growth in property taxes in those areas.

A·C·H·D
ASSOCIATION OF CALIFORNIA HEALTHCARE DISTRICTS

December 7, 2011

Lou Ann Texeira, Executive Director
Contra Costa Local Area Formation Commission
651 Pine Street, 6th Floor
Martinez CA 94553

Dear Ms. Texeira:

I am writing in response to the recently published assessment of the historic activities of Mt. Diablo Healthcare District and the four options listed as "possible changes of organization" for the Commission to consider. I believe there is a fifth option to be considered and I would characterize it as a modification of the status quo as represented by the recent/current actions being taken by the Board.

For the first time in quite some time, Mt. Diablo Healthcare District now has a fully constituted Board, currently chaired by Mr. Jeff Kasper, a well-known and respected community businessman. Under Mr. Kasper's chairmanship, the Board has quickly addressed one of the oft cited shortcomings of the District budget, that being health benefits for two board members. Understanding the importance of a business plan with appropriate milestones to measure performance against plan, the Board elected to engage Daymon Doss as an interim Executive Director to develop such a plan. It is my understanding that engagement will be for a period of three months.

Mr. Doss brings to the District a wealth of experience in health care management as a Registered Nurse and15 years as the Chief Executive Officer of Petaluma Healthcare District (www.phcd.org) a very successful Healthcare District by anyone's measure. I have known Mr. Doss for 6 years and have personally observed his interaction with boards of directors, community members, elected officials and the media. He is a very effective communicator; his actions are always thoughtful, and mindful of the need to continually demonstrate to various publics the value a Healthcare District brings to the community being served. In simple words, Mr. Doss well understands that a District works for the community it serves.

The Healthcare District model is alive and well throughout California with a total of 29 Districts functioning as Community Based Districts; meaning they do not provide in-patient hospital services. Much is to be gained by allowing the new Mt. Diablo Board and Mr. Doss the opportunity to work with the community to develop and implement a community benefit plan and I strongly encourage you to grant that opportunity.

Best personal regards,

Tom Petersen
Executive Director

Cc: J. Kasper, Board Chair Mt. Diablo Healthcare District
D. Doss, Interim Executive Director, Mt. Diablo Healthcare District
Senator Mark DeSaulnier
Assemblymember Susan Bonilla
D. McGhee, CEO Association of California Healthcare Districts

**Patricia.Frost@hsd.cccounty.us**
12/08/2011 05:03 PM

To: Lou Ann Texeira<LTexe@lafco.cccounty.us>
Cc: Patricia.Frost@hsd.cccounty.us, William.Walker@hsd.cccounty.us
Subject: Corrections to LAFCO report on Mt. Diablo and Dec 14th LAFCO meeting

Hi Lou Ann,

Thanks for your call today. Please find the following corrections/clarifications for the draft report.

On Page 6, third paragraph, the first sentence should state American Heart Association and Contra Costa Emergency Medical Services instead of American Red Cross and Contra Costa Public Health

On Page 19 after the last sentence I would like to recommend the following additional sentence to explain the value of the program. "The CPR kits were used to train all 9th grade students in the Mt. Diablo Unified School District. Over 3000 students per year for the last 2 years." The grant funds supported a program that was more than just giving away kits. All training was coordinated with our EMS community partners who volunteered their time or did this as part of their regular work. 100% of funds went to purchase of the kits.

On Table 2; p. 12 the chart attributes functions to CSA EM-1 that should be attributes to Health Services as the Board-designated LEMSA; e.g., coordination of EMS services, contracts for ambulance service. Further in that same table under the service categories, EM-1 has provided support for wellness and prevention programs such as child injury prevention under our EMS for Children program and Fall prevention activities under our trauma program. In the service category "other healthcare programs", EM-1 currently supports the Contra Costa Trauma System, High Risk Heart Attack (STEMI) System, Cardiac Arrest Programs and Stroke System.

CSA-EM1 provides for "Enhancements to the EMS System". The EMS system includes communities, hospitals, clinics, senior nursing facilities, dispatch, prehospital first responders and transport providers who work in concert to support an integrated system of response in emergencies and disasters. EMS is evolving to play an increasingly important role supporting health care programs and community health care initiatives that reduce as well as treat illness and injuries. We are part of the safety net of the health care system.

Finally, the report appears to give the impression that no staff increase would be required on the part of EMS to administer the district programs. Dr. Walker and I will be discussing prior to the LAFCO meeting on Dec 14th but without knowing more of what is involved I could not confirm that assumption is accurate.

Regards,

Pat Frost, RN, MS, PNP
Director Emergency Medical Services
Contra Costa Health Services
1340 Arnold Drive, Suite 126
Martinez CA 94553
Email: Patricia.Frost@hsd.cccounty.us
Phone: 925-313-9554
Personal Fax: 925-313-8389
MAIN: 925-646-4690
www.cccems.org

# CONTRA COSTA COUNTY CHAPTER

## CALIFORNIA GRAND JUROR'S ASSOCIATION

December 9, 2011



Michael McGill, Chair
And LAFCO Commissioners
651 Pine St , 6th floor
Martinez, Ca. 94553

Dear Commissioners,

At your December 14th meeting, you are scheduled to receive and consider a LAFCO-commissioned special study of governance options for the Mt. Diablo Health Care District (MDHCD).

The Contra Costa County Grand Juror's Association has reviewed the study, as well as the accompanying recommendations, and respectfully offers the following comments for your consideration.

First, we note that study's findings do not differ materially from those included in the reports on the MDHCD published four different Contra Costa County Civil Grand Juries. Those reports have been previously provided to LAFCO.

In their key findings, the Grand Juries concluded, as does the new LAFCO study, that the MDHCD has for many years provided minimal health care benefit to the community. The remarkably small expenditures have been historically inconsistent with the district's mission and totally out of proportion with its administrative overhead.

Second, the new study's primary recommendation to LAFCO, namely that the MDHCD be dissolved, is consistent with the recommendations included in the four earlier Grand Jury reports.

Given the important new authority extended to county LAFCOs by the state legislature to unilaterally dissolve obsolescent special districts, and the chronic condition of the Mt. Diablo Health Care District, our Association believes this is a critically important time for the commission to take swift action to dissolve a special district that has long since outlived its usefulness.

Sincerely,

Leslie Lea

Leslie Lea, President
Contra Costa County Grand Juror's Association
3414 Loreto Drive
San Ramon, Ca. 94583

**Carl Hutchins, Jr.**
**172 Kendall Road**
**Walnut Creek, California**
**94595-1113**
**carl.hutchins1@sbcglobal.net**



**December 11, 2011**

LAFCO
651 Pine street, 6th Floor
Martinez, Ca. 94553

Re; Mt. Diablo Health District

Gentle persons:

I am following a series of new articles written by Contra Costa Times columnist Lisa Vorderbruegen.

I don't think I have ever seen such arrogance by public officials wasting tax dollars.

The district has had no purpose since the sale of the hospital. It should have been disbanded years ago.

I urge you to act swiftly and end this farce.

Disband the organization and stop any further expenditure of precious tax money.

Sincerely,

Carl Hutchins, Jr.

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## DISSOLUTION DISCUSSION

The draft report on the dissolution of the Mt. Diablo Health Care District was released Sunday by the Contra Costa Local Agency Formation Commission. Opportunities for public participation include:

- A presentation of the report at LAFCO's Dec. 14 meeting at 1:30 p.m., 651 Pine St., Martinez.
- Read the full analysis of the Mt. Diablo Health Care District at www.contracostalafco.org.
- Send public comments to the commission through Dec. 26 to 651 Pine St., 6th Floor, Martinez, CA 94553.

speak, that it is time to shut down this district."

District Chairman Jeff Kasper has called a special meeting Wednesday to discuss the consultants' conclusions and to begin to prepare for the LAFCO's gantlet.

"I want to get my arms around the report and then make sure that everyone is on the same page," he said.

If the commission eliminates the district, it would be the first LAFCO-initiated dissolution of a public agency in Contra Costa.

In theory, the process has become easier under a new law that allows LAFCOs to dissolve districts without holding costly elections.

Among its options, the commission could dismantle the district and allow its tax revenues to be disbursed among the 217 other public agencies that receive a share of Contra Costa's $1.4 billion in annual property taxes.

Or it could choose a successor agency that would take on the district's assets, debts and duties.

No money returns to individual taxpayers in any case.

All landowners pay a percent tax on the assessed value of their properties, one agency taking a share of the taxes disappears and remaining entities divide the pool with one less player.

The consultant re-

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*— Ben Smith, who belongs to local Chapter 13.*

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an for Sons and

Daughters. "They just won't have a national organization. They've been encouraged to keep meeting as a social group, taking part in parades. Nothing will change. It is our vow that the sons and daughters, grandkids and great-grandkids will be lighting the beacon in their memory."

That's welcome news for Concord's John Egan, who was on the USS San Francisco the morning of Dec. 7, 1941. As far as he can determine, there has never been more interest in the attack on Pearl Harbor and its survivors.

"People are extremely patriotic," said Egan, who joined the Marines when he was 15 by lying about his age. "It's overwhelming. Kids come up shaking your hand, asking you to talk about the war. They treat us like we were royalty. I feel like, what the hell did I do?"

Egan wasn't able to do much during the attack. ship, headed for dry dock, offloaded its ammunition.

"All hell broke loose said. "We had no we to fire. We brought m guns up, and the w welded them into place

Farley's late father was on the USS Califo wasn't until she was a woman that she be hear stories she k should be passed do generations. Her catharsis began w was asked to answ questions about Pea bor for a girl who w a school project.

"He sat down at writer, and he typed umes of stuff," she sa she accompanied her a visit to the Arizona in Pearl Harbor. T said, he was appre Japanese tourists.

"They came u father and said,

MT. DIABLO HEALTH DISTRICT

# Analyst says dissolution makes sense



12/9/11

Please do put an end to this nonsense & get rid of this district. This has been a sham & rip-off for 10 years. It is exactly the kind of thing that makes taxpayers very suspicious about how our tax dollars are truly spent. Get rid of it!

Sincerely,

Michele Sheehan
CCC Taxpayer
584 MATTERHORN DR
WALNUT CREEK CA 94598

December 12, 2011

Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, CA 94553

Subject: Special Study: Mount Diablo Health Care District (MDHCD)
Governance Options

Dear Commissioners:

The Contra Costa Civil Grand Jury has issued four reports recommending that the MDHCD be dissolved. Since the last report was issued the Contra Costa Times has published ten articles about the district's questionable behavior and there have been four editorials recommending their dissolution.

When LAFCO commissioned the special study the district appeared to have enough reserves to cover their unfunded OPEB liability. In the last few months the district has spent more than $10,000 on an attorney, retained a part time executive director for $10,000 a month, and handed out more than $140,000 in grants. In less than three months they have blown through more than their annual budget in an attempt to make the district relevant.

This year legislation was passed making it possible for LAFCO to dissolve a special district without holding an election. The Special Study shows why and how dissolution should take place. It is time for LAFCO to do the responsible thing and not to just "kick the can down the road".

The Contra Costa Taxpayers Association, Contra Costa Grand Jurors' Association, and no doubt the current Civil Grand Jury are all paying close attention to what happens now that LAFCO has all the facts. These groups represents close to five-hundred registered voters who in all likelihood vote and perhaps influence other voters.

Respectfully,

Davis L Todhunter

Davis L Todhunter
510-232-9767
dltodhunter@comcast.net
Former Grand Juror
Member Contra Costa Grand Jurors' Association
Member Contra Costa Taxpayers Association

Davis Todhunter
7400 Cutting Blvd.
El Cerrito, CA 94530

# MT. DIABLO HEALTH CARE DISTRICT

1800 Sutter Street, Suite 385
Concord, California 94520

Tuesday, December 13, 2011

Michael R. McGill
Chairman, LAFCO
651 Pine Street, 6th Floor
Martinez, California 94553

Dear Chairman McGill,

The Mt. Diablo Health Care District is one of the most valuable public assets in Contra Costa County. The Health Care District Law of the State of California (Health & Safety Code section 32000, et seq.) grants the District extensive powers to provide direct medical care, offer an array of health and wellness services, and establish community partnerships that provide for the needs of the underserved.

While the final design of national and state health care reform is uncertain; it is clear that local government entities will have a significantly larger role in providing direct care. As a result, any proposal that might result in the loss of this irreplaceable community asset must be evaluated with appropriate thoroughness and deliberation.

The Draft Report of the Special Study: Mount Diablo Health Care District Governance Options, prepared by consultants retained by LAFCO, is dated Friday, December 2, 2011 and released on Sunday December 4, 2011.

Although the Draft Report is thirty-four (34) pages in length (not including attachments), the Report does not include any written submission from the District, any oral or written interviews with any member of the elected Board of Directors, any oral or written interview with the interim Executive Director, any explanation from the District regarding its prior governance challenges or its financial plans, and no information about the District's new programs and services that will be implemented in as soon as sixty (60) days. **As presently presented, the Draft Report is incomplete.**

Mt Diablo Health Care District ("MDHCD" or the "District") will use its own resources to provide the materials and information that are required in the preparation of a complete final report.

Although the District's detailed analysis of the Draft Report is ongoing, the District will, at a minimum, provide the following materials and information for the final report:

1. The written views and comments of Mr. Jeff Kasper, new chair of the MDHCD Board of Directors, about his vision for the District. Mr. Kasper was appointed as a Director of the District by the Board of Supervisors in June 2011. His business savvy and his dedication to helping the medically underserved in his community have already fundamentally changed the governance of the District.

2. The written views and comments of Mr. Daymon Doss, the new interim Executive Director of MDHCD will be submitted. Mr. Doss has a reputation for being one of the most knowledgeable Health Care District chief executives in California. His expert understanding of District business operations, health and wellness program development and multiple District and medical provider collaborations will prove invaluable to the District.

3. The District's submission will include the new MDHCD Strategic Plan that provides a one-year business operations and health services timeline and roadmap for the District.

4. The revitalized role of MDHCD in the communities it serves cannot be accurately assessed by reviewing only historical information. An adequate study of the public value of MDHCD to its communities and to all of eastern Contra Costa County must include an analysis of the District's capacities and its achievable plans.

The California Government Code sections 56375 et seq., which establish and regulate the reorganization functions of LAFCOs, contemplate the adoption of standards and procedures for the evaluation of proposals and service plans. The Draft Study does not present or reference the standards and procedures that will be used in evaluating the Study. **The District courteously requests copies or location reference for the standards and procedures that LAFCO will apply to the Draft Study and the final study.**

The Mt. Diablo Health Care District has been fundamentally revitalized by the individual commitment of its new Directors and the new majority on its Board of Directors. A new Executive Director now provides the executive skill needed to transform a new strategic vision into urgently needed services.

The District is entitled to a reasonable period of time to contribute its own information and insights to a final report. **The Mt Diablo Health Care District request that action upon this Special Report be taken up no sooner than January 11, 2011 and that the public comment period remain open until at least January 25, 2011 .**

Respectfully submitted,

Jeffrey S. Kasper
Chairman, Mt. Diablo Health Care District

**C.C. Lou Ann Texeira, Executive Officer, LAFCO**

alan smith
<alanbsmith@sbcglobal.net>
12/13/2011 02:08 PM

To ltexe@lafco.cccounty.us
cc
bcc
Subject Mt. Diablo Heath Care District

History: This message has been replied to and forwarded.

To Lafco Commissioners.

Please accept this as my request that you disband the Mt. Diablo Health Care District.

For years the board has tried to justify its receipt of tax funding,but really accomplishes nothing. It is a disgrace to local government. It spends its resources on lawyers and staff to do nothing.

The tax on our house should be discontinued. Or if that is not possible it should be shifted to support the county hospital.

Thank you

Alan Smith
4823 Boxer Blvd.
Concord CA 94521
925.825.5575

"kay"
<leeandkay@astound.net>
12/13/2011 03:21 PM

To <LTexe@lafco.cccounty.us>
cc
bcc
Subject Mt. Diablo Health Care District-Special Study

Dear Commissioners:

I have been following the situation of shutting down the district for over a year and am appalled that the district is still under review. As reported in the Contra Costa Times, four grand juries and the Contra Costa Taxpayers Assoc have recommended that it be eliminated. What more documentation do you want?

The 10/31/11 and 12/1/11 Contra Costa Times editorials detailthe money that is being wasted. How can LAFCO continue to ignore the facts? I wonder what are they getting out of this by delaying and more delaying? I think it is a slap in the face of all the taxpayers and criminal. I would have thought that something would have been
learned from the banks.

Sincerely,

Kay Ready

CONTRA COSTA COUNTY LAFCO
651 Pine Street
Martinez, CA


Attention: Lou Ann Texeira

December 19, 2011

Regarding: Mt. Diablo Health Care District

Dear Commissioners and Ms. Texeira;

I have read you spent $25,000 on a Study of the District.

I came to this country because of the freedom to vote. I certainly hope you will not take away the opportunity for me to vote for the Directors of the Mt. Diablo Health Care District. **My vote is more valuable than money.**

Why would anyone be upset because they hired an attorney or an Executive Director; don't you, the cities and the Board of Supervisors have staff at each meeting?

I am happy they now have help, leave the District alone so it can concentrate on serving the community.

Sincerely,

Erma Abelarde

Erma Abelarde
5466 Roundtree (E)
Concord, CA 94521

Dec. 19, 2011

Contra Costa
Local Agency Formation Commission
651 Pine St., 6th Floor
Martinez, CA 94553

Commissioners:

I urge you to disband the Mt. Diablo Health Care District with all due haste.

This agency has served no purpose for several years, other than to provide certain benefits to those serving on the board. Even now, one former member of the board is claiming to have given up those benefits although it is my understanding that, in fact, the agency is reimbursing the current provider of those benefits, at lest in part.

It is disturbing that this agency has for so long been allowed to use public funds to their own benefit, while providing no visible or useful services. A criminal investigation may be in order.

No replacement agency need be formed. The funds formerly allocated to this agency should either be reallocated to Contra Costa Emergency Services or divided among other public agencies funded by property taxes.

Again, I urge you to act quickly in this matter, as the agency's directors seem determined to empty the coffers before the funds can be used for the general good.

Sincerely,

Wanda M. Peets

Wanda M Peets
50 Jean Dr.
Concord CA 94518

CITY OF CONCORD
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Concord, California 94519-2578
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December 22, 2011

Chairman Michael R. McGill
Contra Costa County Local Area Formation Commission
651 Pine Street, 6th Floor
Martinez, California 94553

Subject: Comments on Draft Report – Special Study: Mount Diablo Health Care District Governance Options

Dear Chair McGill and Members of LAFCO:

This letter is submitted in response to the Draft Report which was recently released by your agency titled "Special Study: Mount Diablo Health Care District Governance Options." As the ad hoc committee authorized and appointed by the City Council, we are responding to the Report on behalf of the City of Concord.

This letter is organized as follows: first, an identification of supplemental information for the Report, and second, recommendations to LAFCO if your agency proceeds with dissolution of the Mount Diablo Health Care District (MDHCD).

Supplemental Information

1. **The assessed values of the City of Martinez should not be considered, as these areas do not contribute tax revenues to MDHCD. Those portions of Unincorporated Area not contributing tax revenues to MDHCD should also be excluded.**

In the discussion of MDHCD's property tax revenues, the Report notes (beginning on page 15, and continuing to page 16) that "substantial areas within the MDHCD boundaries do not contribute incremental increases in property tax growth (or decline) to MDHCD." It goes on to note "A review of Tax Rate Areas (TRAs) within the MDHCD show that substantially all of the TRAs within the City of Concord contribute incremental property tax to the MDHCD…" and further "…none of the TRAs within the City of Martinez contributes, nor do certain unincorporated areas to the east of Martinez."

However, in Table 3 (page 13) the assessed values of Martinez and Unincorporated areas are included, implying that these values are relevant to the discussion of potential alternatives which are later considered (and recommended) in the Report. We believe that any discussion of potential alternative courses of action in the event of MDHCD's dissolution should begin with an accurate understanding of who is paying for the services now provided by MDHCD. Further, we believe that the conclusions and recommendations in the Report significantly understate the overwhelming contribution of Concord's taxpayers towards MDHCD's property tax revenues, which may in fact be as much as 71% of such revenues, when assessed values for Martinez and Unincorporated Areas are excluded.

2. **The report incorrectly concludes that the City of Concord could not be named a successor agency for the purpose of continuation of MDHCD services, and fails to adequately consider the ability of the City of Concord to form a Subsidiary District for Health Care services.**

The Report (beginning on page 29, continuing to page 30) states "Given that the boundary of MDHCD extends significantly beyond the City of Concord boundaries, the City *could not* be named the successor agency for the purpose of continuation of MDHCD services" [emphasis added].

We believe this statement is incorrect. The City of Concord could, in fact, continue to provide the services now provided by MDHCD within the boundaries of the City of Concord, as a Subsidiary District, utilizing only those property tax revenues generated by Concord taxpayers, and could serve as the successor agency to MDHCD without the revenues generated by the other cities and unincorporated area. Given that the overwhelming majority of property tax revenues to MDHCD are contributed by Concord taxpayers, the Report should discuss the potential advantages and disadvantages of this option.

3. **The report fails to address the potential transfer of the John Muir Medical Center, Concord facilities, as provided for in the Community Benefit Agreement (CBA) between the MDHCD and John Muir Health (JMH).**

Although the Report references the CBA in several places, it fails to address one of the most important concerns of the City of Concord concerning the CBA; namely, the provisions in Article 8, Section 8.1 of the Agreement (attached) which allow for termination of the Agreement with one hundred eighty (180) days notice prior to the expiration of any term, the earliest of which is December 31, 2049. In accordance with the provisions of Section 8.9 of the CBA, this could lead to the transfer of the land and hospital facilities of the John Muir Medical Center, Concord campus to the successor agency. The Report should address options to resolve this issue through the dissolution process, including removal of these provisions given the substantial investment which has been made by JMH in the City of Concord since 1996.

4. **The report improperly concludes that the City would not fully represent the interests of all current MDHCD residents with respect to the CBA.**

During the discussion of Successor Agency options on page 29, the Report states "The City could replace MDHCD as party to the CBA; however, the City only represents 58 percent of the population of the MDHCD and *therefore would not necessarily be in a position to fully represent the interests of all current MDHCD residents"* [emphasis added].

We believe that this conclusion is not justified, and is incorrect. As noted above, we believe that a proper accounting of property tax revenues would indicate that as much as 71% of the property tax revenues to MDHCD are paid by Concord taxpayers. We further note that, although Concord's population constitutes 58% of the MDHCD area, many of the adjacent unincorporated areas as well as Clayton are effectively served by the City of Concord's services, businesses and institutions. As the community which hosts the major facility providing comprehensive health care services within the MDHCD area – the Concord campus of the John Muir Health system – the City of Concord is uniquely motivated and qualified to represent the interests of the MDHCD, if it is dissolved. Further, no other entity – including County Service Area EM-1 – would be as impacted by the failure to properly oversee the CBA as the City of Concord.

Recommendations to LAFCO if it proceeds with dissolution of MDHCD

The City of Concord offers the following recommendations in the event that LAFCO proceeds with dissolution of MDHCD, and requests that these recommendations be addressed in the study prior to a decision by LAFCO:

1. **The City of Concord, rather than CSA EM-1, should be designated as the successor agency to MDHCD.**

The City of Concord has many concerns about the recommendation to designation CSA EM-1 as the successor agency to MDHCD. We do not believe that a successor entity which is effectively controlled by the County Board of Supervisors will necessarily advocate for the interests of the former District, given the many fiscal challenges and pressures facing the County. We are also concerned that a successor agency whose primary focus is emergency medical services will inevitably focus the distribution of funds to these types of services when other community needs may be present. Further, we do not believe that an advisory board (as suggested in the Report) will necessarily lead to the most appropriate distribution of the funds (in fact, the Report notes that LAFCO cannot enforce the ongoing use of a zone for distribution of funds or advisory board).

With a significant majority of the population and property tax revenues derived from the City of Concord, we believe that the City of Concord should be designated as the successor agency to MDHCD, for the purposes of continuing to distribute funding for health services in the boundaries of the City of Concord. This could be accomplished

through the creation of a subsidiary district encompassing the City of Concord's boundaries.[1] We are experienced in distributing local, state and federal funds annually to non-profit community organizations through our hard-working Community Services Commission, and it would not be a challenge to add distribution of the former MDHCD revenues to the Commission's duties.

2. **As a condition of the dissolution, the CBA with JMH should be redrafted, replacing MDHCD with the City of Concord, and assigning oversight of its provisions to the City of Concord.**

We believe that the CBA is an important agreement, and that elements of the CBA should be preserved in the event that MDHCD is dissolved. Therefore, as a condition of dissolution, we believe that LAFCO should direct that the CBA be redrafted, replacing MDHCD with the City of Concord. We believe that the City of Concord is the most appropriate entity to assume oversight of the CBA, given the fact that Concord is the location for the major health care facility serving the population of the MDHCD, the City of Concord bears the primary burden of providing municipal services to the facility, and the City of Concord incurs the impacts of the facility on local traffic, streets and other infrastructure, despite receiving virtually no property tax revenue from the facility. In contrast to the MDHCD Board, the City of Concord and its staff has had a long-standing, productive and positive working relationship with JMH, and has a stronger motivation to maintain a cooperative relationship with JMH than any other potential successor entity.

3. **As a condition of the dissolution, the CBA should eliminate any provisions which would cause the Concord facilities (land and buildings) to be transferred back to any successor entity.**

The provisions in the CBA allowing for the potential transfer of the land and buildings of the John Muir Medical Center, Concord campus to a successor entity are extremely problematic to the City of Concord. At the outset, it should be noted that there is a significant legal issue which casts the enforceability of this provision in doubt. There is no deed restriction or other evidence in the chain of title to the transferred properties which would implement the provisions of Section 8.1 of the CBA. More critically, the City is concerned that uncertainty about the future title to the land and buildings could cause JMH to refrain from further investments in the facilities. Further, given the significant physical footprint of the JMH facilities in Concord – along with the numerous adjacent medical office buildings which are related to the existence of those facilities in Concord – the prospect of a closed, potentially deteriorated facility in the center of our community is simply unacceptable. While the provisions of Section 8.1 of the CBA may have made sense at the time of the merger of MDHCD's facilities with JMH, they no longer are needed, particularly given the major investment in new buildings and

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[1] If LAFCO is concerned about the loss of other entities' property tax revenues – primarily Pleasant Hill's – it could similarly approve the creation of a subsidiary district for Pleasant Hill, an action which in combination with the Concord subsidiary district would preserve as much as 98% of the former MDHCD property tax revenues.

equipment made by JMH within the past 3 years. We believe that these provisions should be eliminated in a redrafted CBA between JMH and the City of Concord.

4. **As a condition of the dissolution, the CBA should designate 3 of the 5 seats previously appointed by MDHCD on the Community Health Fund for appointment by the City of Concord.**

The City of Concord believes that continuation of the Community Health Fund (CHF) is an important part of providing for the health care needs of residents in Concord. We urge LAFCO to require, as a condition of dissolution, that the CBA be redrafted to designate the City of Concord as the appointing body for 3 of the 5 seats on the CHF. This recommendation reflects the City's predominate role in hosting the John Muir Medical Center, Concord campus, as well as its representation of nearly 70% of the population of the MDHCD area that includes the City and the adjacent unincorporated areas which are effectively served by the City of Concord's services, businesses and institutions.

The City of Concord appreciates the work of LAFCO to address this important issue, including provision of the funding necessary to prepare the Report. We look forward to having a significant role in your upcoming decision regarding MDHCD, and to continuing a dialogue with the LAFCO Board during the upcoming process. Thank you again for giving us the opportunity to respond to the Report.

Respectfully,

Daniel C. Helix
Councilmember

Laura M. Hoffmeister
Councilmember

cc: Concord City Council
Supervisor Karen Mitchoff

## ARTICLE 8
## TERM AND TERMINATION

**8.1** **Term**. This Agreement shall be effective until December 31, 2049, and shall thereafter automatically renew for three additional successive 50-year terms, unless and until either Party gives the other Party one hundred eighty (180) days written notice prior to the expiration of the immediately preceding 50-year term of such Party's intention not to renew this Agreement, subject to the termination provisions of this Agreement.

**8.2** **Pre-Closing Termination**. System and District Board, on behalf of District, shall each have the right to terminate this Agreement upon thirty (30) days written notice if the Closing shall not have occurred by June 30, 1997.

**8.3** **Post-Closing Termination by District Board**. After the Closing Date, District Board, on behalf of District, shall have the right to terminate this Agreement in the event of the following:

(a) Failure by System to comply with Sections 7.1, 7.2, 7.3 or 7.4 of this Agreement and such failure is not cured after written notification of such failure is delivered by District to System and the provisions of Section 8.5 are complied with;

(b) The appointment of a receiver to take possession of System, or of System's interest in Hospital or System's operations;

(c) System commences a voluntary case or other proceeding under any bankruptcy laws, to the extent such a termination right is enforceable; and

(d) An involuntary case or other proceeding is commenced under the bankruptcy laws, and such involuntary case or other proceeding remains undismissed and unstayed for a period of 90 days, to the extent such a termination right is enforceable.

**8.4 Post-Closing Termination by System**. After the Closing Date, System shall have the right to terminate this Agreement in the event of the following:

(a) Facility upgrade cost to System with respect to Hospital in any 12-month period in excess of Fifteen Million Dollars ($15,000,000) over the amount which is covered by insurance, if any, or such cumulative costs of Thirty Million Dollars ($30,000,000) over any 36-month period. Any estimated costs to upgrade or repair the facility to comply with current or reasonably anticipated codes shall be included in the year such costs can reasonably be assessed, regardless of whether or when such repairs or upgrades are actually made;

(b) System, as a whole, has operating expenses (including depreciation and interest) in excess of operating revenues (**"Operating Losses"**) of more than Eight Million Dollars ($8,000,000) for each of two (2) consecutive fiscal years, determined in accordance with generally accepted accounting principles;

(c) System, as a whole, sustains Operating Losses over any three fiscal years of more than Sixteen Million Dollars ($16,000,000), determined in accordance with generally accepted accounting principles;

(d) Breach of any one or more the representations and warranties of District contained in this Agreement which results in Damages to System of more than Five Million Dollars ($5,000,000) for any individual breach or Ten Million Dollars ($10,000,000) in the aggregate; or

(e) On or after January 1, 2004, with or without cause, by two-thirds (2/3) or greater vote of the System Board.

**8.5 Notice and Right to Cure**. As a condition to pursuing any remedy for an alleged breach, default or failure of System under this Agreement, including District's right to terminate this Agreement pursuant to Section 8.3(a), District Board shall provide written notice of any such alleged breach, default or failure and shall specify in detail the alleged event of breach. System shall have ninety (90) days after receiving such notice in which to cure the default; provided, however, that if the default cannot be cured with such ninety (90) days, System shall provide evidence to District that demonstrates that System is taking reasonable actions to cure the default in a timely manner. Such evidence shall include a

time schedule for curing the default, and System shall comply with such time schedule. District may proceed with those remedies set forth in Section 8.6 if System does not comply with the time schedule or, if at the end of the ninety (90) day cure period, System has not cured the default or has not provided the required evidence.

**8.6 District's Remedies.** In the event of System's default and failure to cure after compliance by District with the terms of Section 8.5, District Board, on behalf of District, may, in addition to other rights afforded by law:

(a) Continue this Agreement in full force and effect (for so long as District does not terminate System's right to possession of the District Assets), and District shall have the right to enforce all rights and remedies under this Agreement, including a suit for specific performance; or

(b) Terminate this Agreement and System's right to possession of the District Assets, and may require System to provide an accounting and relinquish all title to and control of the District Assets.

**8.7 Termination Disputes.** In the event of any dispute regarding or relating to the termination of this Agreement by District Board, on behalf of District, this Agreement may not be terminated unless and until such dispute has been finally adjudicated.

**8.8 Permissible Terminations.** Except as specifically set forth in this Article 8, neither Party shall have the right to terminate this Agreement. Any termination of this Agreement not in accordance with all of the terms and provisions of this Article 8 shall be null and void, and shall have no legal force and effect.

**8.9 Transfer of District Assets Upon Termination.** Upon termination of this Agreement in accordance with this Article 8, including Section 8.7, System shall transfer to District all assets transferred to System by District pursuant to this Agreement, and all assets accumulated by System during the term of this Agreement arising out of or from the operation of the transferred assets in accordance with Section 32121(p)(2)(A)(iii) of the California Health & Safety Code. The Parties acknowledge and agree that, in such event, System shall transfer to District: (a) the Hospital Land; (b) the Hospital Building; (c) all other tangible real and personal property that constitutes part of the District Assets (including improvements to such property); and (d) an amount, by wire transfer, equal to the sum of the following:

(i) an amount equal to that percentage of Net Assets of System as of the termination date equal to the percentage of Net Assets of both System and District that District owned as of the Closing Date; for this purpose, Net Assets shall mean the book value of all assets, other than property, plant and equipment; less

(ii) if the bond indebtedness of the District has been integrated with that of the System, an amount equal to that percentage of the Liabilities of the System as of the termination date equal to the percentage of Liabilities of both System and District owed by District as of the Closing Date; for this purpose, Liabilities shall mean the book value of all liabilities, including long-term indebtedness; or

(iii) if the bond indebtedness of the District has not been integrated with that of the System, an amount equal to that percentage of Net Liabilities of the System as of the termination date equal to the percentage of Net Liabilities of both System and District owed by District as of the Closing Date; for this purpose, Net Liabilities shall mean the book value of all liabilities, not including bond indebtedness.

In addition, if subsection (iii) applies, System shall transfer back to District, and District shall assume, all the original bond indebtedness of District.

In no event shall District owe System any amounts under this Subsection (d).

In the event of any termination under this section, System shall execute, acknowledge and deliver to District a proper instrument in recordable form, releasing and quitclaiming to District all right, title and interest of System in and to such property.

**8.10 Holding Over.**

(a) If System, with the knowledge and written consent of District, remains in possession of all or part of the real property included with the District Assets after the termination of this Agreement, and after any court disputes and appeals over such termination have been finally determined, such holding over shall be on month-to-month basis and shall not constitute a new agreement with respect to the District Assets. In such event, System shall pay District an amount equal to 2 percent per month (prorated on a monthly basis) of the value of the District Assets from assets of System which are to be retained by System until such time as the District Assets are returned to District. Nothing contained herein shall be construed as a consent by District to the occupancy or possession of the District Assets by System after termination.

(b) If System, without District's written consent, remains in possession of all or part of the District Assets after the termination of this Agreement, System shall, in addition, be liable to District for all detriment proximately caused by System's possession, including attorneys' fees, costs and expenses and claims.

**8.11 District's Right to Cure Default.** In the event System shall fail to pay and discharge (or cause to be paid and discharged), when due and payable, any tax, assessment, or other charge upon or in connection with the District Assets, or any lien or claim for labor or material employed or used in, or any claim for damage arising out of the repair,

maintenance and use of the District Assets, or any judgment on any contested lien or claim thereof, or any insurance premium or expense in connection with the District Assets, or any claim, charge or demand which System has agreed to pay or cause to be paid under the covenants and conditions of this Agreement, and if System, after written notice from District, shall fail to pay and discharge the same, then District may, at its sole option, pay any such tax, assessment, insurance expenses, lien, claim, charge, or demand, or settle or discharge any action therefor, or judgment thereon. All costs, expenses, or other sums incurred or paid by District in connection with such action shall be paid by System to District together with interest equal to the prime rate of Bank of America (or a successor) from the date incurred or paid. All amounts owing by System hereunder shall be added to the District Assets due District on termination.

Edi Birsan
<edibirsan@astound.net>
12/24/2011 04:47 PM

To LTexe@lafco.cccounty.us
cc
bcc
Subject Response to Mt. Diablo Health District Report

History: This message has been replied to and forwarded.

Attached is an article as part of my public comment on the report.

I repeat my Position that the Report is incomplete.
The fact that Martinez does not pay into the district is cause for IMMEDIATE removal of Martinez from the District. That results in the elevation of Concord as a +70% primary city as the successor for dissolution.

Further the total failure of LAFCO to correct or initiate and follow up with corrective measures is an indictment on LAFCO. If LAFCO's members defense is that most of them just got there, then that is the same situation with the new Board of Health Care District that has three new members. The major difference is that in the last 6 months the new Health Care Board has taken direct action on all the issues of the past ten years whereas the LAFCO Board has shown no leadership or direction in fixing the Board.

The decisions of the Health Board to hire a lawyer and an Interim Manager still remains as issues that I take great exception to. However, those decisions are not systemic problems they are specific errors in policy that can be made by any successor district under the current LAFCO rules.

The systemic reasons to remove the District to the City of Concord is that:
1. LAFCO has shown a total inability to correctly manage the District and has shown none of the ability and tools to correct any errors in policy or decision that the District has made.
2. The inherent administrative costs of an election *Even after the twenty to twenty five thousand dollar amount is removed for running a Martinez portion of the Election, does not justify the existence of the board on the issue of its operation vs administrative costs.

Placing the successor district into something such as the Ambulance District corrects non of the issues, does not preserve the good aspects of the District and its relations with the John Muir Charity Health Fund or the future rights on the CONCORD hospital, but only opens up for further abuse of the existing funds and any future diversions towards areas of government far removed from the intent of the original agreement or the will of the people of Concord and its environs that established the District.

Edi Birsan
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950 Alla Ave,
Concord, CA 94518
510-812-8180 (cell)

# Outrage at LAFCO, MDHCD: Get the Story Right

Posted on **December 19, 2011** by **Edi Birsan**

The continuous political drumbeat in favor of the dissolution of the Mount Diablo Health Care District has the right finale but the totally wrong beat. There is plenty of outrage but it has been incorrectly focused and that in it self is outrageous.

I learned this week that the City of Martinez that is about 25% of the district by population does NOT pay into the district. This means that for years the people of Concord and Pleasant Hill have been paying for the costs of an election to be held in Martinez for the District Directors to the tune of between $20,000 to $25,000 each held election.

So Martinez plays and Concord pays. Further, that Martinez should be included for free in the Districts health grant target is a further outrage to those who pay for the district. That this has been allowed to continue for years unaddressed points to the incompetence of both the District and the LAFCO Board that is authorized to adjust districts. Regardless of the fate of the district this must IMMEDIATELY be addressed and Martinez removed from the District.

In looking over the charges leveled at the District the dominant ones have been:

1. Of the money they spent, it is mostly on administration and health care benefits to two of its members.
2. For years up until the new board members this year, they did not spend any significant money on health care issues in the district.
3. MDHCD has ignored issues of 4 Grand Jury complaints until this year.

However, not a single one of these is an issue that supports dissolution and assignment to another district. Each of these is a display of incompetence that can be easily duplicated in any successor agency. Errors and continuous neglect of duties is something that you fire people for. Repetitive long-term problems are reasons to fire the overseers of this: which is LAFCO. Totally deflected in the review of the Grand Jury reports is that it is LAFCO's responsibility to make sure that its districts are working right. LAFCO needs to be fired as well. LAFCO's inability and inattention for a decade (at least) is reason to remove the district from their overview since all the above being allowed to continue is a systemic problem of incompetence of the structure.

Looking at the real reasons for dissolution we have the following:

1. The election cost is out of line with the revenue of the district. Even after adjusting for the Martinez rip-off the cost of electing a board is just too high for the revenue.

2. The systemic problem of lack of functioning oversight by LAFCO that clearly has too many Special Districts to deal with can only be solved by its removal.

3. That LAFCO not only lacks the will to do the oversight, but also lacks the tools to force change, other than dissolution is also a systemic problem that can be resolved by dissolution.

However, let us not forget the positive things that needs to be preserved in this whole Theater of the Outrage:

1. The appointment to the Charity Health Foundation of 5 board members that give out $1 million a year to the district. (That district now needs to exclude Martinez).

2. The Legal relationship to the Concord hospital in the event that John Muir goes to close it or walk away. Remember that 40 years is a long time, and no matter what the investments now, health care is changing dramatically now and we cannot be sure that it will exist in the same profit-loss environment 40 years from now. Companies are walking away from hundreds of millions of dollars of investment or collapsing after decades of success.

3. The $240,000 a year that is part of the tax revenue that is suppose to go to health projects should continue. If the district is dissolved without this being addressed then the money may be channeled to the other special districts.

4. The $800,000 cash in the bank, that accumulated over the years because they did not spend it on health care projects needs to be spent on exactly what we wanted in the first place: health care projects.

One of the great fears with the voracious cash strapped County is that they will funnel the district into some semi defunct 'Ambulance District' and then declare as their health project the payment of pension liabilities for some Fire Chief who has retired at a spiked pension that is more than he made when in the Fire Department (remember that the Fire Department functions mostly to respond to emergency health calls than it does to actual fires.)

I believe that if we are going to get this right that we should do the following:

1. Dissolve the District and remove it from LAFCO

2. Assign the "Successor organization" the City of Concord

3. That the Rights of the District should also be assigned for the Concord hospital agreement.

4. Concord should appoint 4 of the 5 members to the Charity Health Board and the City of Pleasant Hill should appoint one. These five members constituting the Health Commission for the area.

5. The funds that are currently there now should be transferred to a special fund to be spent on the district by the appointees in 4 above.

6. That the yearly funds designated to go to health care should be assigned to the commission and that the by laws and agreement to establish this commission should include provisions that:
a. not more than 10% can be allocated to administration
b. that all grants need to be approved by the Concord and Pleasant Hill City Councils
c. that no binding agreements are allowed to be made by the commission without the Cities Council's consent.

Dissolution should only be a response to systemic problems and while dissolution is recommended, we have to get the reasons and the real blame right.

**RELATED POSTS:**

- AB-912 enables LAFCO to target Mt Diablo Health Care District
- Concord City Council forms ad hoc committee to reply to LAFCO re Mt Diablo Health Care District dissolution
- Supervisor Mitchoff calls Mt Diablo Healthcare District action outrageous
- LAFCO findings damn Mt Diablo Health Care District
- Grand Jury calls for dissolution of Mt Diablo Health Care District…for the fourth time!

This entry was posted in **POLITICS** and tagged **City of Concord**, **dissolution**, **health care**, **lafco**, **mt diablo health care district**, **parcel taxes** by **Edi Birsan**. Bookmark the **permalink**.

**jweber1281@aol.com**
12/26/2011 04:58 PM

**To:** LTexe@lafco.cccounty.us
**Cc:**
**Subject:** Against proposed dissolution of Mt. Diablo Health Care District

December 26, 2011

Comment regarding dissolution of the Mt. Diablo Health Care District
From Joan Weber, R.N.

As a retired RN from Mt. Diablo Hospital, and an activist at the hospital, as well as someone who has attended the public meetings of the Mt. Diablo Health Care District years before and after the merger with John Muir Hospital, I am very opposed to any action dissolving the Mt. Diablo Health Care District. There are compelling reasons why the MDHCD should remain in effect and its elected Board intact .

1. The Community Benefit Agreement which merged the above mentioned hospitals in 1997 contains key provisions for which the MDHCD Board clearly must continue to accept the ongoing responsibility to monitor. There are provisions for the possible reversal of the merger agreement which either John Muir Health or the MDHCD could initiate that would revert the Mt. Diablo Hospital back to the MDHCD's responsibility to administer. The appointment of a successor agent to accept this responsibility clearly would not have the same taxpayers' interest as well as the interest of the health care needs of those taxpayers at heart. The reversal of a hospital's administrative responsibility has already occurred with at least two Health Care Districts in the Bay Area – Doctors San Pablo (West Contra Costa Health Care District with Tenet Health Care), and Marin General with Sutter Health Care (Marin Health Care District).

2. Responsibility for appointments to the Community Health Fund Board which was formed as a condition of the CBA would also be taken away from the MDHCD and could possibly jeopardize the CHF's existence and its commitment to meeting unmet health care needs in the community by grants to nonprofits for that purpose (at least 1 million dollars a year from JMH).

3. In spite of a proposed successor organization/advisory board to accept ongoing oversite of the CBA, it could become a political issue and jeopardize the tax funds still collected from the taxpayers in the MDHCD with no real assurance those tax funds would be used for unmet health care needs in the community. The proposed dissolution of the MDHCD has already become a hot political issue, judging by the contentious public meetings (against Board, staff, and consultants) and all the ensuing media attention, blogs, etc. The tax funds collected could then possibly be allocated to other special districts which have nothing to do with unmet community health care needs.

In conclusion, I am opposed to the dissolution of the MDHCD. The MDHCD board is at present actively engaged in using their taxpayer funds for the benefit of the community and are dedicated to fulfilling their responsibilities for which they were elected to that Board.

Sincerely,

Joan Weber, R.N.
569 Rock Oak Rd.
Walnut Creek, CA. 94598
Phone 925 933 3346, Email Jweber1281@aol.com

Linda Waters
<lucipee@sbcglobal.net>
12/27/2011 08:27 AM

To "LTexe@lafco.cccounty.us" <LTexe@lafco.cccounty.us>
cc
bcc
Subject Mt. Diablo Health Care District

To: LAFCO

I live in the city of Pleasant Hill, in the MDHCD, and have read the LAFCO special study on the dissolution of the health care district and agree that the MDHCD should be dissolved with CSA EM-1 appointed as successor.

Thank you,

Linda Waters
Sent from my iPad

"Dildine, Doug"
<DDildine@dvc.edu>
12/27/2011 12:05 PM

To <LTexe@lafco.cccounty.us>
cc <ksibl@lafco.cccounty.us>, <sande@cc.cccounty.us>
bcc
Subject Comments - MDHCD Governance options

History: This message has been replied to and forwarded.

Comments attached -12-27-11

Yours,

Douglas Dildine
Adjunct Professor
Performing Arts Department
Office: PA122

SUPPORT LOCAL ARTS!


Local Agency Formation Commission.docx


Local Agency Formation Commission.pdf

Local Agency Formation Commission;

As a nearly life-long resident of the district in question, I appreciate the opportunity to address the commission on the subject of the Mt. Diablo Health Care District governance options.

My serious concerns are in reaction to the last commission meeting which introduced a report that did little to justify the idea of dissolving the current MDHCD board. That LAFCO has the power to dissolve the current district should not be a sanction to go forward and do so.

Although the past can be an albatross for any company, agency, county, state or country for that matter --- it is imperative that dissolution not move forward unless: 1) MDHCD shows no inclination to improve its organizational structure, community services, and fiscal stability. Or, 2) a solid plan is in place to provide a feasible and realistic alternative governance structure --- which is approved by the voters.

The report does not seriously address MDHCD's reorganizational plan nor does it offer any feasible alternative since neither the City of Concord nor the ambulance company in question have shown any interest in taking over the responsibility or are currently prepared to do so.

This leads one to believe that dissolution is proceeding without the necessary due diligence to seriously consider either the reorganization of the current district, or the establishment of a superior alternative governance structure.

Without viable alternatives, dissolution now is premature. The argument that the history of the MDHCD is reason to dissolve is illogical. Given that the current MDHCD Board is able to restructure, as it appears they are doing – reduce their liability, which appears they have done – and, develop a sustainable plan to provide health related services to their community, which it appears they are in the process of doing --- it seems counterproductive to interfere via dissolution.

It seems we are in a time when tearing down institutions is the expedient solution, rather than making the commitment to becoming involved to revitalize our community resources --- which is the real challenge. If LAFCO tears down the current MDHCD which is now taking responsibility for its mission to the community – can LAFCO ensure it has performed due diligence to the community? Please consider not dissolving MDHCD because of its past – but support the hope that it is working to create today.

Douglas Dildine
3560 Wren Avenue
Concord CA 94519
ddildine@dvc.edu

"Gold, David A."
<DGold@mofo.com>
12/27/2011 12:22 PM

To LTexe@lafco.cccounty.us
cc Nancy.Olson@johnmuirhealth.com
bcc
Subject Mt. Diablo Health Care District: Comments to EPS Draft Special Study

History: This message has been replied to and forwarded.

<<CK SIGNED LAFCO letter.pdf>>
Lou Ann,

On behalf of our client John Muir Health, we are providing the attached comment letter dated December 22, 2011, from Cal Knight, the President and CEO of JMH. This letter responds to the Draft Special Study prepared by EPS entitled "Mt. Diablo Health Care District Governance Options".

It would be greatly appreciated if you would reply to this email to confirm receipt today as our client would like to ensure that this letter has been properly submitted within the specified deadline.

I hope you are enjoying your holidays and thank you in advance.

David

David A. Gold
Partner | Morrison & Foerster LLP
425 Market Street | San Francisco, CA 94105
T: 415 268-7205 | F: 415-276-7361 (Direct)
Walnut Creek Office: 925 295-3310 | C: 925 998-3991
email: dgold@mofo.com



CK SIGNED LAFCO letter.pdf

JOHN MUIR HEALTH

1400 Treat Boulevard
Walnut Creek, CA 94597-2142

*A not-for-profit organization*

December 22, 2011

Chairman Michael R. McGill
Contra Costa County Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, California 94553

Re: Comments on Draft Special Study: Mount Diablo Health Care District Governance Options

Dear Chairman McGill and Commissioners:

We are submitting this letter in response to the Draft Special Study released by LAFCO on December 3 to provide you with information about the position of John Muir Health. This letter provides additional background for your consideration.

Since 1997, John Muir Health's relationship with the Mt. Diablo Health Care District (District) has been governed by the merger agreement that brought together John Muir Medical Center, Walnut Creek and Mt. Diablo Medical Center (now John Muir Medical Center, Concord). Under the Community Benefit Agreement (CBA), the District transferred its health care assets, including the land and hospital building, to John Muir Health for an initial term through 2049.

Under the CBA, John Muir Health also established the John Muir/Mt. Diablo Community Health Fund. From 1997, the year the Community Health Fund was formed by the merger, through 2011, the Fund has granted more than $21 million in John Muir Health community benefit dollars into local community-based health projects. Regardless of the District's future, John Muir Health will continue to honor our commitment under the CBA to the Community Health Fund to provide at least $1 million annually to be used for community grants.

We trust that the Commission's decisions will be guided by what is best for the communities located within the current boundaries of the District. Until the Commission resolves otherwise, we will continue to abide by the terms of the merger agreement and work cooperatively with the District or its successor.

**John Muir Health's Investment in John Muir Medical Center, Concord**

Since taking over its operation in 1997, John Muir Health has invested in excess of $325 million in John Muir Medical Center, Concord, demonstrating our commitment to supporting the health of Concord residents and the communities served by the District. The $212 million Hofmann Family Patient Care Tower opened in November 2010. *U.S. News & World Report* recently

published its metropolitan area hospital rankings, naming John Muir Medical Center, Walnut Creek and John Muir Medical Center, Concord the best in the East Bay and #2 and #3, respectively, out of all 45 hospitals in the San Francisco metropolitan area.

**John Muir Health's Community Benefit Contributions**

In 2010, John Muir Health provided $39.2 million in community benefit programs and services to communities in Contra Costa County. From 2008-2010, JMH's Community Benefit contributions were more than $110 million. Last year, 82 percent of John Muir Health's community benefit activities were specifically targeted to those individuals and families who experience social and economic barriers that preclude their access to necessary health care services.

John Muir Health keeps abreast of current health issues of importance to the community through active participation with various community-based organizations. These sources of information provide information regarding community health status and also help identify emerging needs in the areas we serve.

**Opportunity for Input**

If LAFCO orders anything other than maintaining the status quo, we also request that John Muir Health have an opportunity to provide input on the potential terms and conditions to be placed on such change of organization, especially insofar as they may affect our current and future obligations under the Community Benefit Agreement. Our interest is in what is best for health care for the communities served by the District and as a result believe we can provide valuable input into such terms and conditions.

Very truly yours,

Cal Knight
President and Chief Executive Officer

**Claire Yragui <claire@norcaltransitions.com>**
12/27/2011 01:37 PM

**To:** LTexe@lafco.cccounty.us
**Cc:**
**Subject:** Mt Diablo Healthcare District

Dear Lou Ann Texeira and Honorable Council Members

I am submitting these letters in support of Mount Diablo Healthcare District. Our organization is doing a Pilot project under South Asian Behavioral Health Foundation and MDHCD has provided a grant to support the project.

I believe that the Mount Diablo HealthCare District should **not** be dissolved they are providing much needed support to community programs. These are terrible economic times and the community needs the support that MDHCD is providing. I believe that the Loss of representation by a locally-elected Board would be a huge loss to the community. The leadership of Grace Ellis and Jeffrey Kasper has been very important to our development of this program.

The Draft Report stated the City of Concord as a possible successor agency because they represented 59% of the total population, but did not represent the total population of the MDHCD, so they were considered as a less desirable option. The City of Concord had several concerns in their letter to you. Mt Diablo Medical Center is located in Concord, the allocation of grant funding and the fact that MDHCD has 5 seats on the foundation which allocates the grant funding. They were upset with such a short period of time to respond to this Draft report so they could fully respond. I agree with their assessment, they want to be considered in these proceedings but need more time to respond in full.

I thought the Draft report was lacking in detail and the alternatives were lacking as well. LAFCO should maintain the status quo and set up a set of standards that they think are necessary for it to continue. They have been providing services through the CPR Anytime program and instituting standards so that more money is allocated to community programs.

Thank you for taking the time to read this letter.

--
Claire Yragui
Executive Director
NorCal Transition Services
PO Box 1110
Concord, CA 94522
925-395-6687
925-807-5188

clairey@norcaltransitions.com Doug Stewart LAFCO.jpg Eric Stern LAFCO.jpg Maureen Shea LAFCO.jpg

RE: Fwd: Fw:

NCTS

doug@homelessoutreach.net

Dec 16 (11 days ago)

to me

Lafco

My name is Doug Stewart Founder of Pacheco/MTZ homeless Outreach I have been serving the homeless community since 2004 in Contra Costa County. I believe if funding to Norcal Transitions stops it would be a lose for the agencies and clients that use their services . I urge you to keep funding alive for them it is greatly needed .

Sincerely

Doug Stewart

Eric Stern estern@rceb.org

9:38 AM (20 hours ago)

Dear LAFCO,

I have worked for the Regional Center of the East Bay for ten years out of our Concord Office. RCEB is a state funded non-profit that provides case management services to over 14,000 people with developmental disabilities across Contra Costa and Alameda Counties. As a service provider for people with Developmental Disabilities, I depend on community partners in our area providing crucial supports such as disability benefits counseling and advocacy, advocacy in the schools, and job and housing placement support.

I wish to express my opposition to the discussed dissolution of MDHCD. One of the programs they fund, NorcalTransitions, provides vital supports to people with disabilities.

Sincerely,

Eric Stern

RCEB Case Manager, Child and Adolescent Unit

2151 Salvio St., # 365, Concord, CA 94520

925-691-2320, estern@rceb.org

Subject: LAFCO Letter

From: maureen shea (maureen_shea@yahoo.com)

To: rudenessjaime@yahoo.com;

Date: Thursday, December 15, 2011 6:25 PM

TO: LAFCO
From: Maureen Shea
Date: December 15th, 2011
RE: Please do not dissolve MDHCD

Please do not dissolve MDHCD.

Northern California Transitions is doing tremendous work with the disabled, the homeless & Vets.

Northern California Transition has been a Godsend for my son Jeremy, who has significant learning disabilities.

They do great work.

Please reconsider your recommendation to dissolve.

Maureen Shea
63 Margrave Ct.
Walnut Creek, CA 94597
(925) 932-0844

MT. DIABLO HEALTH CARE DISTRICT

# Regarding Special Study of the Mt. Diablo Health Care District Governance Options

## Comments and Questions by the Mt. Diablo Health Care District

**Prepared for:**

**Contra Costa LAFCO**

December 27th 2011

**Mt. Diablo Health Care District**
1800 Sutter Street, Suite #385
Concord, California 94520

**Office** 925.609.8599
**Fax** 925.609.8949



Tuesday, December 27, 2011

Chairman Michael R. McGill
Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, California 94553

**Subject**: Mt. Diablo Health Care District Comments and Questions Regarding Special Study - Mt. Diablo Health Care District Governance Options

Dear Chairman McGill and Members of LAFCO,

The Mt. Diablo Health Care District (MDHCD) Board appreciates the opportunity to submit their comments and questions regarding the Special Study authorized by Contra Costa LAFCO.

**Purpose of the Study**

It is stated that LAFCO in response to past and ongoing community concerns initiated the Special Study.

While it true that the MDHCD has been the subject of Grand Jury Reports on four occasions it also true that we have always responded to their comments and recommendations.

These responses to their recommendations may not have been satisfying and thus the repeat assertions taken up by new Grand Juries.

As you know Grand Jury reports may be initiated by individuals on the jury, or interested parties from the community. The MDHCD does not have the opportunity to respond during the report creation and has no way to inform the sitting Grand Jury. The request for report is held in secrecy and no one knows the origin of this call for report.

It is widely published that the Contra Costa Tax Payers Association believes that we are no longer a valuable asset to the community. On multiple occasions members of the Association have identified themselves and a few of them their roles as former members of the Grand Jury. They speak with clarity and conviction about their desire to "shut this place down".

It does not take that many people who have a determined goal to create the perception that an organization should not be allowed to continue.

The Mt Diablo Health Care District acknowledges these areas of concern and is dedicated to addressing them and continuing to create a vision that enhances Contra Costa County.

**Determinations Required to Dissolve or Consolidate Districts**

When LAFCO initiates an action to dissolve a District, GC 56881(b) requires that the resolution making the determination include both of the following determinations:

a. Public service costs resulting from the dissolution would be less or substantially similar to the costs of alternate means of providing the service.
b. The dissolution would promote public access and accountability for the community service needs and financial resources.

The financial analysis required by the first determination can be addressed separately. However, it is respectfully submitted the CSA EM-1 does not and likely would not provide adequate public access or, in many cases, any meaningful access to the services needed by the people-particularly the elderly—living in the District.

Simply stated, the commitment to the underserved demonstrated by the new MDHCD Board of Directors will not be replicated by the non-elected County employees.

a. There is no other mechanism available to provide these services to THIS district. The cost is but one part of this condition, the ability to provide these services does not exist in any other agency.

b. Promotion of public access could not be accomplished by another agency which does not have the legislative authority to reach out to multiple areas of the health community. Transferring monies to another agency without the capacity to provide these services does not meet the requirement for this section.

**Dissolution with appointment of CSA-EM-1 as successor**

The Draft Study contemplates the creation of (1) an alternative structure relying on county Health Services for administrative oversight. (2) a zone to assure the appropriate use of funds for health care services, and (3) advisory board of "knowledgeable professional" to oversee the delivery of health services within the zone. None of the individuals involved in the process would be elected or would even be required to live in the zone.

The focused health needs decision-making of elected representatives would be replaced by the generalized oversight by less involved and less immediately responsive County employees.

We have heard from community members, and it is repeated in the report, that the transfer of responsibility of the MDHCD to a successor such as the creation of a zone within CSA EM-1 would be able to provide services without any significant increase in current costs.

**What services could be provided? What are the costs associated with this transfer? Would there be a corresponding reduction of funding of this successor from the County? Are they prepared to assume liability for health care?**

The process of determining the appropriate successor, if any, also raises several questions with the MDHCD Board. As it is often stated that the City of Martinez does not contribute to the support of the MDHCD tax base, why are they included in the calculation regarding appropriate successor?

**The MDHCD board believes that the next step in its ongoing process is to initiate a request to LAFCO for a change in the SOI and to determine if the City of Martinez should be dropped.**

**Process**

We thank the LAFCO staff and the special study team in clarifying the process that will be used for this effort. Lou Ann Texeira was very helpful is assisting us in understanding the exact timeline.

The Draft Study references no text, email or personal phone call from the consultants seeking any substantive contact with the MDHCD board of Directors.

The absence of any meaningful commentary on the vision and strategic objectives from the MDHCD board of Directors renders this Draft Study incomplete. Appropriate public process cannot include making recommendations regarding the future of any public entity without detailed consultation with the retained and elected representatives responsible for the entity. It is our understanding that a single MDHCD Board member did contact the consultants and give a personal view of the MDHCD. This is not a thoughtful and through review of the organizational leadership and its vision.

**Inventory of the District**

This is an area of significant concern for the MDHCD Board. The fund balance for the last three years and the projected 2011 fund balance are listed below:

2008 $657,139.00 actual from audit
2009 $855,384.00 actual from audit
2010 $833,946.00 actual from audit
2011 $787,707.00 November actual and December projected.

The Interim ED position is for three months and has had significant public notice. This is not a $120,000.00 expense to the budget. If there is need for this consultant after three months it will be at an hourly rate and noticed in a public meeting. The on going administrative costs are being developed and will be included in the 2012 budget to be approved on January 5th by the MDHCD board. These numbers will be shared with LAFCO at the November 11th hearing.

Statements made at the LAFCO public meeting by community members and supported by this report would indicate a much greater expense. **The public image of an agency spending out of control fits the theme that is presented by those who wish to close MDHCD, but not the reality.**

The MDHCD would welcome the opportunity to meet with the Special Report staff to review these numbers and assist them in understanding the actual cost incurred for 2011.

**Funds Allocated to purposes other than Health Care.**

Legal fees have represented a significant part of the spending for the MDHCD over the last decade and specifically the legal battle over the closure of the OB unit at Mt. Diablo Hospital.

These are categorized as non Community service or non Health related even though the expenditure for the action was to save health services.

It is convenient to categorize these expenses as frivolous or as unnecessary. However in the moment of the event it garnered considerable community support. The **Contra Costa Times** supported this action editorially in 2001 and reported on it regularly**. It is not accurate to represent this expense as not in the public's interest.** If you take into account these expenditure's then the actual total spent on community support and health care moves from 26% to 43%.

**The MDHCD requests that the special report staff consider a reclassification of the legal fees for the closure of the OB unit at Mt. Diablo Hospital into a separate category. To not acknowledge the community importance of this legal expense and to combine with simple operational overhead gives a false sense of the effort.**

**Public Access to the District**

The MDHCD is very transparent with its entire agenda and financials posted to their web site. The last three years of its audited financials are posted on the website.

This is not an agency that is trying to hide its actions or its strategic plan. In addition the grants program is very accessible on the web site as is the criteria for selection and the granting process currently in place.

**Property Tax Revenues**

The central challenge facing the MDHCD is the present lack of adequate property tax revenues to fulfill its healthcare mission. In the current fiscal year, the District is expected to receive $250,000 as its allocated share of the property taxes paid by most people living in the district. MDHCD receives significantly less in property taxes than other health care districts in Contra Costa County. **The Draft Study does not address the causes(s) of this critical disparity.**

**Summary**

The Special Study commissioned by LAFCO at a cost of $23,000 is not a complete and thorough review of all of the questions that need to be addressed in this process.

We would request that the LAFCO of Contra Costa hold to its schedule of a five year review due in August of 2012. This review will show that in almost all cases the MDHCD has addressed the recommendations of the Municipal Service Review conducted for LAFCO by the Dudek and the Abaris Group in August of 2007.

The MDHCD would engage with LAFCO to review its SOI and determine the actual size and scope of its boundaries. This will allow the MDHCD to increasing understand who its serves and for LAFCO to have accurate information in its decision making process.

Once dissolved this very special form of governance will be lost to the citizens of the District. The wisdom of special districts and especially community based health care districts is the ability to sharpen the focus of care to those who are not included in our larger health care systems.

Let's not act in haste to satisfy those who do not fully understand what they will be losing.

Respectfully,

Jeffrey S. Kasper
Chairman

Roy Larkin
Secretary/Treasurer

C.C. Lou Ann Texeira

Rudy Jaime
<rudy@norcaltransitions.com
>

12/27/2011 08:53 PM

To LTexe@lafco.cccounty.us
cc
bcc
Subject Mount Diablo Healthcare District

History: This message has been forwarded.

December 26 2011
To: LAFCO
Re: Mount Diablo Healthcare District
To The Commission:
I as a Concord resident and active community member would like to express my concern for the findings that LAFCO found on MDHCD. The findings were done carelessly, quickly and are repetitious findings from last Grand Jury report, it's like they copied and pasted.
The Draft report of the Special Study stated half truths and are not doing their due diligence on any of the items listed in their Draft report. MDHCD has funded many non-profits recently and it is for the good of the district and the consumers who are benefiting by the resources offered.
Jeff Kasper offers new leadership on the Board and the Board has made many welcome changes to make sure they are fulfilling their Mission and goals. As for the past Grand Jury reports, the Board has tried to meet the past concerns of LAFCO and the Community.
I agree with the City of Concord that more time should be given in order to make a measured, rather than hasty decision. The City of Concord had serious concerns about its interest and why LAFCO was moving so quickly and during the Holidays while everyone is busy or on vacation. It doesn't seem fair.
MDHCD is a public trust and very valuable to the community. I believe that the community would be hurt if you were to dissolve MDHCD. I believe that the decision to allow MDHCD to continue and report to LAFCO would be a good resolution. No other entity could fulfill the Mission and Objectives that the MDHCD delivers.
The public wanted MDHCD to oversee the Hospital and has a fiduciary responsibility to make sure that the funds it oversees goes to the community mandate to serve underinsured and uninsured individuals and family. We are in uncertain economic times and with the veterans set to return and Obamas

healthcare law being rolled out, I think we need to keep the MDHCD intact.
In closing you need to look at potential law suits, either between MDHCD and John Muir Hospital on the property, or law suits toward LAFCO that would be more wasted tax payers money.
I respect LAFCO role of accountability with Mount Diablo Healthcare District and think that you have addressed community concerns about MDHCD in the past and I believe you should continue to oversee MDHCD's role in the community.
Best regards:

Rudy Jaime
NorCal Transition Inc
1425 A Bel Air Drive
Concord, CA 94521
925-478-9068
rudy@norcaltransitions.com

Contra Costa Taxpayers Association

P.O. Box 27, Martinez, CA 94553 ▪ 925-289-6900 ▪ krishunt@cocotax.org ▪ www.cocotax.org

December 27, 2011

Ms. Lou Ann Texeira
Executive Officer
Contra Costa Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, CA 94553

RE: Comments on the **Draft Report** Special Study: Mount Diablo Health Care District Governance Options

Dear Ms. Texeira:

First, I would like to compliment the consultants for their work on the Mount Diablo Health Care District special study. It is both informative and accurate. CoCoTAX has been actively monitoring MDHCD for over a year so the consultants' efforts are particularly impressive having such a short time to assess the district.

In May of this year, we came to LAFCO with a request to initiate dissolution of the MDHCD. CoCoTAX had come to the same conclusion that three (now four) separate Contra Costa County Grand Juries had, but dissolution needed an advocate. It was a role we gladly assumed with the help of a number of former grand jury members. LAFCO has expertly handled this issue and now the critical decision point has been reached.

The draft study set out several alternatives and our analysis is based on a desire to see that taxpayer dollars be spent most effectively. As was noted in the study, the total tax is relatively small, amounting to a little over a dollar per year for each of the 204,700 residents. This means that the option selected should reduce administrative expenses so as to maximize the impact of tax dollars. We therefore make the following comments:

- We agree that the status quo option is not an acceptable alternative. While the MDHCD board is finally making some long awaited changes, they have only done so under pressure and the majority of the board has supported the same bad decisions including the retention of an attorney who has ridiculed LAFCO, the LAFCO special study process, the press, and the four grand juries.
- For the district consolidation/new district option, we agree with the consultants' assessment that this would not be politically viable.
- From a taxpayer perspective, the "Dissolution with appointment of successor only for the purpose of winding up MDHCD affairs" has the advantage of keeping the taxes in

the area where they are collected and contributes to the welfare of the remaining cash strapped governmental entities.

- The "Dissolution with appointment of successor for continuing service" option assumes there are minimal expenses involved for CSA EM-1 operations and other County staff should they become the "successor" agency. When the option mentions staff that could be required to deal with the advisory group, the monitoring/distribution of funds, perhaps sitting on the John Muir Community Health Foundation committee or dealing with those who might sit on that committee, etc. this could involve a large amount of staff time. A more realistic financial assessment is needed.

We realize that dissolution of a special district is a new process for LAFCO and this report is very helpful in framing the pros and cons of the various alternatives.

Sincerely,

Kris Hunt

Kris Hunt
Executive Director
Contra Costa Taxpayers Association