



BELL CANYON COMMUNITY SERVICES DISTRICT
30 HACKAMORE LANE
BELL CANYON, CALIFORNIA 91307

**Discussion of Municipal Service Review (MSR) /Sphere of Influence (SOI)
Process and Results**

As you may know, the Ventura County Local Agency Formation Commission (LAFCo) conducts an MSR/SOI review of special districts, such as the Bell Canyon Community Services District (BCCSD), every five years, and, at that time, reviews the operation of such special district during the prior five-year period. Because of the pandemic, the MSR process was postponed from 2020 (which was its normally scheduled five year cycle) to 2021, and, as a result, it was looking back at activity over the prior 6 year period rather than the normal 5 year review.

Because of the amount of misunderstanding, misrepresentation and just plain distortion that has been circulated by some members of the Bell Canyon Community for the inexplicable purpose of satisfying an apparent desire to harm the BCCSD and its value to the community, this short summary is necessary to correct that misinformation and mischaracterization. The issues raised by the draft MSR were numerous, and the process of resolving those issues was long and complex, so all questions that residents may have cannot be addressed in this short summary. But this summary is intended to provide a good start for those who truly do want to understand the most recent MSR and how the BCCSD Board decided to resolve that process in a way that fully protected the BCCSD and its future ability to benefit the Bell Canyon community. To the extent that any residents have any remaining questions with respect to the MSR, its interpretation or result, they are encouraged to attend a BCCSD meeting and provide the Board a chance to answer those questions or concerns.

The summary is organized as follows. First, it discusses the background, scope and posture of the original MSR/SOI review that was presented to the LAFCo Board on September 15, 2021. It then discusses the decision process used by the BCCSD in determining how to respond to the initial MSR/SOI and manage the review process. Following that, it summarizes the results that were achieved through the successful navigation of the MSR review, and concludes by outlining some of the next steps forward that the BCCSD will be taking in order to provide the Bell Canyon community with an even broader range of services than has ever been previously possible.

1. The Initial MSR/SOI Report

As noted above, the current MSR process was initiated in early 2021. That process was initiated by the Executive Director of LAFCo, Kai Luoma, reaching out to the General Manager of the BCCSD, Dennis Zine. Mr. Zine was asked to exclude the BCCSD Board from the process of initiating the MSR process and the collection of the data on which the MSR review and recommendation would be based. Mr. Luoma spent the ensuing approximately 8 months collecting data, interpreting that data, and drafting the proposed MSR/SOI findings and staff report for presentation to the LAFCo Board. At no time was the BCCSD given the opportunity to



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conduct a meaningful review of the draft report or to provide meaningful input on the conclusions that Mr. Luoma was reaching based upon his internal review process.

Approximately a week before the September 15 LAFCo hearing on the proposed MSR/SOI, the BCCSD finally received a copy of the proposed report and recommendations at the same time as it was provided to the general public. To say that the BCCSD Board was shocked and deeply concerned with the implications of the draft report and recommendations would be an understatement. The report raised a broad range of issues and concerns, covering everything from the adequacy of public notice and public access for purposes of compliance with the Brown Act public meeting laws, conflict of interest issues related to simultaneous service on both the BCCSD Board and the HOA Board by certain community members, and jurisdictional issues concerning the scope and authorization for numerous activities being pursued by the BCCSD over the prior 6 years, including traffic patrol, a park/trail improvement initiative, CERT/CPR training, BCCSD community events and acquisition of the Triunfo parcel located within the boundaries of the BCCSD. Further, the MSR report recommended (i) **elimination of all BCCSD powers** other than the ability to make waste collection charge payments to Waste Management, Inc., and (ii) placement of the BCCSD **on probation** for 6 months, at which time LAFCo would consider possible **elimination of the BCCSD**.

The MSR was surprising in part because some of the issues being raised (such as public access to meetings and provision of public meeting notice) were being handled in exactly the same manner during the last 6 years as they had been handled for the previous 20+ years when there had been no issue on this point with LAFCo. Similarly, although LAFCo was expressing concern with the “appearance of a conflict of interest” for Directors simultaneously serving on both the BCCSD and BCA HOA Boards, it was the BCCSD’s understanding that this point had already been addressed by the Ventura County District Attorney’s office (DA) and the State Fair Political Practices Commission (FPPC), both of whom determined that this potential conflict did NOT require a prohibition on simultaneous service of these two separate but overlapping entities.

Similarly, the community activities that LAFCo was now finding objectionable were conceptually indistinguishable from similar activities that had been conducted by previous BCCSD Boards over the previous 20 years, including funding of trail and community improvements and reimbursement of certain shared expenses with the HOA for community improvements or operation. Indeed, in the 2005 MSR, **a prior BCCSD Board had in fact been praised by LAFCo for its close coordination with the BCA HOA**, and the resulting efficiencies and benefits received by the community from that close cooperation. As stated in the 2005 MSR, which is a matter of public record, “The Bell Canyon Community Services District and the Bell Canyon Association share the same office and management staff. The District contracts with the Association for management services, avoiding redundancy....**The District is achieving management efficiencies through this shared arrangement with the community association**.” There are no other opportunities to share facilities with other public service providers due to the community’s isolated location and the fact that it is a private community.” (Quoted from Page 11 of the LAFCo approved 2005 MSR for the BCCSD).



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How could this be? How could it be that what was a few years prior a praiseworthy activity of the BCCSD for which it was being complimented had now become an activity for which LAFCo now wanted to criticize and even sanction the CSD? Clearly, there had been a major unannounced change in the legal position and expectations of LAFCo. While there had been a change in the management of LAFCo during this period, with Mr. Luoma being internally promoted to replace Kim Uhlich as the Executive Director of LAFCo, it did not seem right that a change in the executive staff of LAFCo should result in such a complete and fundamental change in the long-standing position of LAFCo with respect to the operations of the BCCSD. However, it was now clear that a change had in fact occurred and that the new direction being communicated to the BCCSD by LAFCo staff was now in direct and irreconcilable conflict with the prior direction and encouragement that the BCCSD has received from LAFCo.

The MSR/SOI was also deeply concerning because, not only was the BCCSD now being criticized for the same conduct that was formerly acceptable and even praiseworthy, but the BCCSD was being confronted with an existential threat to its continued operation. Since all of this information was received with only days to respond before the September 15, 2021 LAFCo hearing, at which staff's report and recommendations would be reviewed and acted upon, the BCCSD was being put in an unfair and impossible position.

Boxed into this unworkable position, the BCCSD requested an extension to the September 15 hearing so that the BCCSD would have time to digest and analyze the report and prepare a response. That request was denied. At that point, the BCCSD had no choice but to prepare a short summary of its numerous objections to the draft MSR and LAFCo's inexplicable and complete reversal in its historical position. Having quickly pulled together the best response it could on short notice, the BCCSD also made the most forceful presentation it could to the LAFCo Board to give it a sense of the precipitous actions of LAFCo staff and the serious questions raised by the legal reasoning and factual assessment adopted by LAFCo staff in its draft report and recommendation.

Although it was a long shot that the BCCSD would receive any help from the LAFCo Board, since governmental boards routinely support their staff recommendations and override any objections to staff's conclusions, the BCCSD did reach the ear of enough of the LAFCo Commissioners to cause them pause and to express their concern with the proceedings. As a result, LAFCo declined to adopt the report drafted by its staff, and continued the hearing on the matter for 6 months in order to allow LAFCo staff and the BCCSD Board to resolve their differences and return to the LAFCo Board with a constructive proposal on how to resolve the matters that had been raised by LAFCo staff. The BCCSD Board considered this a major victory. Instead of being required to defend itself where it had only days to prepare its written response and only 10 minutes to present its case in response to a report that had been the result of months' of effort and research by LAFCo staff, the BCCSD would now have an opportunity to more fully review the objections being raised by LAFCo staff and, perhaps most importantly, have an



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opportunity to meet with LAFCo staff and approach the issues in a solution-oriented rather than adversarial manner.

2. The Subsequent Meetings with LAFCo Staff and the Preparation of the BCCSD February 25 Proposal

Promptly following the September 15 LAFCo hearing, the BCCSD prepared a more detailed and thorough analysis of the draft LAFCo MSR than was possible in the few days between receipt of the original MSR and the September 15 hearing. That more complete and detailed response was delivered to LAFCo under cover of the BCCSD letter dated November 4, 2021. This letter is a matter of public record and has been posted on the BCCSD website.

Following this letter to LAFCo, representatives of the BCCSD (Pam Lee, legal counsel, and Dennis Roy, BCCSD President) met twice with LAFCo staff (Mr. Luoma, and LAFCo legal counsel Alberto Boada) in December 2021 to discuss the LAFCo draft MSR and the legal and factual concerns that the BCCSD had with that draft report. What became apparent to the BCCSD representatives from these meetings was that LAFCo staff was not open to modifying the conclusions it had already reached without input from the BCCSD. Indeed, as early as September 29, 2021, Mr. Luoma informed the BCCSD that, after initial review of the BCCSD concerns, LAFCo's position remain unchanged, "Based on the available information, we have determined that the draft MSR does not appear to contain significant factual inaccuracies, and substantive revisions to the draft MSR are not warranted at this time."

As a result it was clear that the LAFCo position had not changed and was not going to change regardless of any input provided by the BCCSD, and that the BCCSD was faced with a critical strategic decision on how to proceed. Should BCCSD continue to try to fight over the accuracy of each factual and legal position being asserted by LAFCo staff, or should BCCSD take a step back and try to focus on what was important versus what was not worth fighting about, what made a material difference to the effectiveness and future of the BCCSD versus what was only minor and not critical to that future? That is, should the BCCSD pursue an adversarial path with LAFCo staff and focus on who was "right" and who was "wrong" about each factual and legal difference in position, or should it focus on the larger strategic picture and accomplishment of its broader objectives and goals rather than trying to "score points" on each item of disagreement?

To the BCCSD, this was an easy decision. We were dealing with an administrative agency that held all of the cards. We knew that 9 times out of 10, public boards ultimately follow the recommendations of their staff, and that, even if we were to challenge that determination in a courtroom, 9 times out of 10 courts defer to the administrative agency that has primary responsibility for the interpretation and application of their statutory responsibilities. Under those circumstances, it was obvious to us that an adversarial approach would be a risky long-shot that, in a worst case scenario, could jeopardize the very existence of the BCCSD, and that a more non-confrontational and cooperative approach would be the better path.



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It was also apparent to us that there was much more benefit to be achieved by trying to create a reset with LAFCo staff that would allow us to prospectively work together toward mutually accepted objectives, rather than arguing over past conduct in a process that would do nothing to further the broader objectives of the community. Accordingly, BCCSD prepared a second response to LAFCo, which was sent on February 25 and which is also a matter of public record and posted on the BCCSD website. That letter, our subsequent discussions with LAFCo staff, and the final BCCSD letter sent to LAFCo on March 15 (prior to the final LAFCo hearing on March 16) all made clear that, **rather than continuing to argue about past conduct and differing legal understandings and factual disagreements, the BCCSD was only interested in finding common ground on how it can operate going forward in a manner that meets the new interpretations and requirements of LAFCo staff while also preserving (and in fact expanding and enhancing) the effectiveness and powers of the BCCSD.**

Clearly, this was the correct strategic approach and clearly it proved successful. In response to the BCCSD's February 25 proposal, LAFCo staff accepted each and every resolution recommended by the BCCSD. Wherever possible, consistent with preservation of BCCSD powers and effectiveness, that resolution involved accepting the LAFCo position where we felt we could work with that position. In some cases it involved agreeing to LAFCo positions or requirements that went beyond what would be "legally required" if we were approaching this in an adversarial manner. But we were not trying to approach this in an adversarial manner and we were not trying to score debating points. We were not interested in "winning a battle" only to "lose the war". We were focused only on what was best for the BCCSD and what was best for the community. And that is what we achieved.

3. The Results of the MSR Review

Since the LAFCo hearing on March 16, Bell Canyon has been inundated with alarmist characterizations of the MSR circulated by the usual community gadflies who see conspiracy, misconduct, and disaster everywhere they look. It is an old and tired story at this point that apparently will continue indefinitely, given the seemingly bottomless well of pettiness, vindictiveness, anger, and destructiveness from which it springs. But an objective summary of the facts makes it clear that this disinformation and distortion is nothing more than that. Most simply, let's look at the situation that the BCCSD was presented with and let's look at how this has been resolved.

a. The Situation that was Presented to the BCCSD

The situation presented to the BCCSD was a draft MSR/SOI prepared without BCCSD input or discussion and presented to the BCCSD as a fait accompli proposing the following:

- A. That all BCCSD powers, other than payment to Waste Management for trash removal, be terminated.
- B. That the BCCSD be placed on probation; and



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C. That LAFCo staff be instructed to consider the dissolution of the BCCSD.

b. The Result Which Was Achieved.

Now that the MSR process has been completed, where does the BCCSD stand? That result is as follows:

- A. The BCCSD has retained **ALL** of its powers;
- B. The BCCSD was **NOT** placed on probation;
- C. The BCCSD has been cleared to immediately proceed with one of its two most important objectives---acquisition of fee title to the Triunfo surplus parcel that controls the **ONLY** means of access to the Bell Canyon Creek Park (Note that LAFCo staff initially objected to the BCCSD proceeding with this acquisition and in fact notified the Triunfo Sanitation District of that objection and effectively cut off the BCCSD's negotiations to acquire that surplus parcel; Now LAFCo staff has confirmed that the BCCSD may immediately proceed with that acquisition and LAFCo has no further objection to that action by the BCCSD);
- D. The BCCSD and LAFCo have also agreed on a process for the BCCSD to proceed with its other major initiative, the improvement of the Bell Canyon Creek Park, subject to the BCCSD successfully activating its powers to engage in the construction of recreational facilities (Note that the BCCSD already has the power to provide recreational events to the community, but LAFCo's position was that construction of recreational improvements (as opposed to provision of recreational events) was a distinct latent power that needed to be separately activated by the BCCSD with LAFCo's approval before the BCCSD can proceed with the park lease and the park improvements; the BCCSD is fine with that determination by LAFCo since it is providing a potentially clear path forward, and the BCCSD is happy to go through a process of **FURTHER EXPANDING THE RANGE OF SERVICES THAT THE BCCSD CAN PROVIDE TO BELL CANYON** with LAFCo's support;
- E. There is no further action contemplated by LAFCo with respect to exploration of the dissolution of the BCCSD or any alternative mechanism for the provision of the services provided by the BCCSD.

Frankly, the facts speak for themselves, and the time and effort put into preparing this explanation never should have been necessary but for the uniquely destructive and unfair behavior of a marginalized and perpetually disgruntled minority of this community.

4. Where Do We Go From Here

As noted above, two of the major initiatives contemplated by the BCCSD for the benefit of the community are (1) the acquisition of fee title to the Triunfo surplus parcel, and (2) improvement of Bell Creek Park with a variety of new improvements and available activities.



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As you may already know, the Triunfo surplus parcel is currently located within the gated community and connects Bell Canyon Road to the Bell Creek Park. Although the CSD currently controls this parcel through a lease with the Triunfo Sanitation District, it would obviously be much better if the community is able to **permanently** secure control of this property providing the **only means of vehicular ingress and egress** to this critical park amenity serving the Bell Canyon community and its children. At the current time, there is the possibility that we may be able to arrange for transfer of this property to the BCCSD. The discussions are still preliminary and nothing is assured yet, but because of the successful resolution of the MSR the BCCSD has been authorized to immediately resume these discussions and we have already been in touch with the representative of the Triunfo District to discuss next steps. We hope to have good news to share with the community on this front in the near future.

As to the park improvements, the next step will now be to prepare and submit our application for activation of the latent power relating to park acquisition and improvement. The Board of the BCCSD has already authorized the submission of an application for activation of this latent power and the BCCSD legal counsel has initiated that process. LAFCo is on notice that this application will be forthcoming and LAFCo staff has agreed to assist in coordination of our request and has provided initial guidance on that process. At the last hearing before LAFCo on March 16, at least one of the Commissioners made it a special point to note that, in connection with our application for the park improvement power, we should consider whether there is any other powers that we may want to request in order to more effectively serve our community. The BCCSD will be discussing that possibility at its March 28 hearing. The activation of the latent park improvement power, the creation of a new lease for the park property, and the planning and implementation of park improvements is obviously a much more complicated and long-term process than something like the acquisition of the Triunfo parcel, but we will keep the community updated on that process as it progresses.

5. Some Final Thoughts

There is one final matter that must be corrected before closing this discussion. Among the many complaints and charges made by certain members of the Bell Canyon Community have been statements to the effect that “money is missing” from the BCCSD and that there has been “misappropriation of funds” and other similar malfeasance. Nothing could be further from the truth. **There are no missing funds. Every penny of every dollar is accounted for in audited financial reports prepared by an independent CPA that are a matter of public record and open to public review.**

Yes, there were comments in the MSR concerning the manner of preparation of the BCCSD financial statements and the difficulty that LAFCo staff had in tracking the reallocation of certain funds budgeted or labeled for one purpose that were included as part of a larger category of legitimate purposes. But this is a technical point about the clarity of financial records. **This does not mean that the money somehow disappeared---it just got spent in a different way or is included under a different category---and it is all accounted for.** If anyone would like to



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conduct a forensic audit of the BCCSD records at their expense, they are welcome to do so. But the BCCSD has already demonstrated that no funds are missing or unaccounted for by independently audited financial statements prepared by an independent CPA. These demands by the disgruntled minority are just nonsense and should be treated as such.

The BCCSD and its Directors have been very unfairly treated by a vocal minority of this community. Unfortunately, that is not a unique occurrence. It is this same disgruntled minority that is constantly attacking your HOA and its Board. These actions are harmful not just to those directly involved, but are also destructive of the broader community they purport to protect. It is hard to fathom the purpose of this destructive behavior or to consider the source of its origin. But it really must stop. The BCCSD's way of trying to see that happen is to largely ignore these endless and baseless attacks. Responding to this sort of thing only brings the gadflies the attention that they are seeking. The best reaction to behavior of this nature is none. So when you see attacks on your BCCSD in social media or other forums and you do not see any response from the BCCSD, understand why that is. If any members of the community have any sincere questions concerning the matters discussed above or any other aspect of the MSR/SOI process, we would be pleased to respond to questions or comments at the next BCCSD Board meeting.