

Joe Serrano

From: Becky Steinbruner <ki6tkb@yahoo.com>
Sent: Sunday, July 30, 2023 9:09 PM
To: Joe Serrano
Cc: Nate Lackey; Larry Pageler; Scottsvalleyfire Info; Becky Steinbruner
Subject: Fw: Placing Branciforte Fire District Board ON NOTICE re: Potential Future Violation of California Voting Rights Act Regarding Reorganization Plan for Service With Scotts Valley Fire District

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Dear Santa Cruz County LAFCO,

I am forwarding the correspondence below to you for consideration at your August 2, 2023 meeting. Please provide this correspondence to all Commissioners as late correspondence.

For the reasons described below, I respectfully request that your Commission postpone any action regarding the Resolution RO 22-07 regarding the Reorganization of Branciforte Fire District and Scotts Valley Fire District.

Please acknowledge this message. Thank you.

Sincerely,
Becky Steinbruner

----- Forwarded Message -----

From: Becky Steinbruner <ki6tkb@yahoo.com>
To: Nate Lackey <natel@branciforte-fire.com>; Larry Pageler <larryp@branciforte-fire.com>
Cc: Tim Dodds <tim@happyvalleycc.org>; Marilyn Kuksht <kuksht112@gmail.com>; Pat O'Connell <pato@branciforte-fire.com>; Fareed Rayyis <fareed.rayyis@gmail.com>; Joe Serrano <joe.serrano@santacruzcounty.us>; Manu Koenig <manu.koenig@santacruzcounty.us>; Becky Steinbruner <ki6tkb@yahoo.com>
Sent: Sunday, July 30, 2023, 08:48:16 PM PDT
Subject: Placing Branciforte Fire District Board ON NOTICE re: Potential Future Violation of California Voting Rights Act Regarding Reorganization Plan for Service With Scotts Valley Fire District

Dear Branciforte Fire District Board of Directors,

I am hereby placing your Board ON NOTICE that if the Plan for Service regarding the Reorganization of Branciforte Fire District and Scotts Valley Fire District is not altered immediately to include transition of Scotts Valley Fire District to district-based elections for all seats on the Board, I will pursue legal action to uphold the Fair Voting Rights Act and take the matter to court, on behalf of Public Benefit for Branciforte Fire District residents and property owners.

I will seek an injunction against the LAFCO process of Reorganization and thereby halt the dissolution of the Branciforte Fire District and merger with the Scotts Valley Fire District until such agreement to alter the Plan for Service to include explicit language that will cause the Scotts Valley Fire District to initiate immediate transition to district-based Board elections upon completion of the LAFCO procedure of Reorganization.

The need for this action is clear upon reading the Santa Cruz County LAFCO Plan for Service.

Operations and Governance proposed by the Santa Cruz County LAFCO August 2, 2023 meeting agenda on page 7 of the Plan for Service (page 20 of the LAFCO agenda) describes that the existing Scotts Valley Fire District Board of Directors will continue to govern the Branciforte Fire District area once dissolved, will be responsible for forming a Branciforte Service Zone and will establish an Advisory Commission. The people of Happy Valley will have no meaningful voice in the matter, once the Reorganization is complete:

Management & Governance

*The reorganized Scotts Valley Fire Protection District will include all the territory currently within the boundaries of the Scotts Valley Fire District and all the territory currently within the boundaries of the Branciforte Fire District. **The District will be governed by a 5-member Board of Directors, elected at large from the entire district. The Board of Directors of the Scotts Valley Fire Protection District as composed at the time the reorganization is deemed complete will continue to serve until their individual terms expire, at which time the seats will stand for election.** Any registered voter within the reorganized district boundaries may file and run for an open seat on the Board.*

To avoid conflict with the California Voting Rights Act, SVFPD may consider transitioning to a system of elections by district in the foreseeable future following additional analysis.

Branciforte Oversight and Representation

The Scotts Valley FPD Board of Directors will establish a Service Zone encompassing the territory of the former Branciforte Fire Protection District, in accordance with Health and SafetyCode Section13950. The purpose of the Service Zone is to provide the community with accountability for the use of taxes, assessments, or fees collected solely within the Service Zone (Health and SafetyCode Section13955).

*Further, the **Scotts Valley FPD Board of Directors** will adopt a policy forming the Branciforte Advisory Commission and **will also appoint members of the Branciforte community to Commission** in accordance with Health and SafetyCode Section13956. The purpose of the Advisory Commission will be to review the finances, operations, and projects that directly benefit and/or affect theBranciforte community. The formation of the Branciforte Advisory Commission will be as soon as practicalafter the recordation of the reorganization. **Exhibit Fprovides the draft policy and bylaws for the proposed advisory commission.***

(See page 81 of August 2, 2023 LAFCO agenda packet: https://santacruzlafco.org/wp-content/uploads/2023/07/Aug-2023-Entire-Agenda-Packet_.pdf)

Clearly, there would be no incentive upon completion of the Reorganization for the Scotts Valley Fire Board to CONSIDER transitioning to a system of elections by district, and according to comments stated by Branciforte Fire District Director Marilyn Kuksht at the July 20, 2023, it is highly unlikely that the Scotts Valley Fire Board would do so.

Happy Valley residents and property owners will effectively lose their representation in the governance of their fire protection district because current at-large Scotts Valley Fire Board elections would favor the interests of the larger number of Scotts Valley Fire voters.

The smaller disadvantaged population of the dissolved Branciforte Fire District voters would not have an equal ability to gain a member on the Board to ensure their interests would be well-represented on the Scotts Valley Fire Board after the Reorganization is complete.

Furthermore, "Exhibit F" information in the August 2, 2023 LAFCO agenda packet regarding the proposed Branciforte Advisory Commission Draft Policy and By-Laws has never appeared on the Branciforte Fire District Board agenda for public discussion with the affected property owners and

residents. (page 112 of LAFCO agenda). https://santacruzlafco.org/wp-content/uploads/2023/07/Aug-2023-Entire-Agenda-Packet_.pdf

Chief Lackey failed to even notify the many residents gathered at the July 20, 2023 District meeting that LAFCO would be meeting August 2, 2023 to discuss and approve the final Resolution regarding the Reorganization efforts. He instead said there was "nothing really to report because we've been focused on the Special Benefit Assessment ballots."

It is unacceptable that the Happy Valley residents and property owners will have NO voice in the appointment of the proposed Advisory Commission members who would supposedly provide oversight of their tax monies, Measure T monies and use of other assets to benefit the dissolved Branciforte Fire District area.

Instead, the power would be solely in the hands of the Scotts Valley Fire Chief to be responsible for recommending to the Scotts Valley Fire District Board whom to appoint to the Advisory Commission:

Membership.

*(A) The Commission shall consist of five members, residents of the Branciforte Service Zone (former territory of the Branciforte Fire Protection District), **appointed by the Board of Directors.***

*(B) **Prospective members shall submit a letter of interest to the Fire Chief. The Fire Chief shall recommend members for appointment by the Board of Directors***

THEREFORE, as a concerned member of the Public with friends in the Branciforte Fire District who will be significantly and potentially adversely affected by the complete loss of representation in matters of governance and operations under the current LAFCO recommendations and Plan for Service, I am compelled to take legal action if there is no explicit requirement for the Scotts Valley Fire District to immediately begin transitioning to district-based governance elections, under the California Voting Rights Act, and to provide that the members of the proposed Advisory Commission are selected by vote of the Branciforte Fire District property owners once the District is dissolved.

I use the following as legal support and cause for Declaratory Relief:

1) The people of Happy Valley will be placed at unfair disadvantage in future representation of their former Branciforte Fire District assets, monies and representation after their District is dissolved and they will no longer have representatives they have elected or that would fairly represent their area of the new Scotts Valley Fire boundaries.

*To' plead a cause of action for declaratory relief, Plaintiff must plead the following elements: (1) person interested under a written instrument or a contract; or (2) a declaration of his or her rights or duties (a) with respect to another or (b) in respect to, in, over or upon property; and (3) an actual controversy. ([CCP § 1060](#); [Ludgate Ins. Co. v. Lockheed Martin Corp. \(2000\) 82 Cal. App. 4th 592, 605-06, 98 Cal. Rptr. 2d 277](#); [Bennett v. Hibernia Bank \(1956\) 47 Cal. 2d 540, 549, 305 P.2d 20](#); [Stonehouse Homes v. City of Sierra Madre \(2008\) 167 Cal.App.4th 531, 542, 84 Cal. Rptr. 3d 223](#) ("**For declaratory relief, the party must show it has either suffered or is about to suffer an injury of 'sufficient magnitude reasonably to assure that all of the relevant facts and issues will be adequately presented.'**"); [Pellegrini v. Weiss \(2008\) 165 Cal.App.4th 515, 529, 81 Cal. Rptr. 3d 387](#) ("The question whether declaratory relief is appropriate in a given case is addressed to the trial court's discretion.").)*

2) The residents and property owners of the Branciforte Fire District will be placed at significant and adverse economic and representational disadvantage after the Reorganization is complete unless Scotts Valley Fire District transitions immediately from at-large Governance to district-based Governance.

They are a disadvantaged community, as defined by Water Code 79505.5, and their votes for representation will be overwhelmed by votes of existing Scotts Valley Fire District voters who are not familiar with or understand the Happy Valley Community needs and/or do not care about the Happy Valley Community and their needs.

To do otherwise would be in violation of the California Voting Rights Act.

"At-large method of election" means one of the following methods are used to elect members of the governing body of the political subdivision: (1) voters of the entire district elect the members of the governing body; (2) candidates are required to reside within given areas of the jurisdiction and voters of the entire jurisdiction elect the members of the governing body; or (3) one that combines at-large elections with district-based elections." [Elec. Code § 14026\(a\) \(1\)-\(3\)](#).

"District-based elections" means a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district." [Elec. Code § 14026\(b\)](#).

*"Political subdivision" means a geographic area of representation created for the provision of government services, including, but not limited to, a general law city, general law county, charter city, charter county, charter city and county, school district, community college district, **or other district organized pursuant to state law.**"* [Elec. Code § 14026\(c\)](#).

The CVRA is intended to provide a broader cause of action for voter dilution than is provided under federal law. ([Sanchez v. City of Modesto \(2006\)](#) [145 Cal.App.4th 660, 669, 51 Cal. Rptr. 3d 821](#))(the legislative history of the CVRA indicates it was intended to provide a broader cause of action for voter dilution than federal law provides).

3) Therefore, continued at-large elections of the Scotts Valley Fire District Board of governance subsequent to the Reorganization under LAFCO will be in violation of the California Voting Rights Act.

Unlike the [Voting Rights Act of 1965](#), which is a federal law, the CVRA does not require [plaintiffs](#) to demonstrate a specific geographic district where a minority is concentrated enough to establish a majority. Certain cities that have never had minority representation or have a history of minority candidate suppression can be liable for triple damages and be forced to make changes within 90 days. That makes it easier for minority voters to sue [local governments](#) and eliminate at-large elections.^[2] The Act was eventually signed into law on 9 July 2002.^[1]

4) Standing

I have standing to take legal action in this matter, for Public Benefit. I have testified many times throughout this Reorganization process and throughout the recent Branciforte Fire District Special Benefits Assessment ballot procedure, for public benefit

and in interest of my friends who own property within the existing Branciforte Fire District boundaries. I submitted written correspondence to your Board on this matter June 18, 2023.

I also testified on behalf of my friends and for public benefit before the Scotts Valley Fire Board on June 14, 2023 regarding the need for existing at-large Board elections to convert to district-based elections allowing Happy Valley residents to benefit by fair representation once the Reorganization is complete, and also sent written correspondence on June 14, 2023, following my testimony. I provided this correspondence to your Board on June 18, 2023.

"A determination of standing rests upon the particular facts of the case." [Braude v. City of Los Angeles \(1990\) 226 Cal.App.3d 83, 88, 276 Cal. Rptr. 256.](#)

5) Legal Challenges of this nature are nearly always granted by the Courts when a Cause of Action is the violation of the California Voting Rights Act, Election Code 14027, [Article 1, Section 7 of the California Constitution](#) and Section 2 of the Fourteenth Amendment to the U.S. Constitution. This very issue caused Central Fire District to pursue the recent transition from at-large elections of Board members to district-based election upon completion of the consolidation with the Aptos/ La Selva Fire District.

For Public Benefit, I will indeed bring this Cause of Action to the Court unless the Plan for Service and District Plan for Services for Branciforte Fire Reorganization are amended and approved by both Branciforte Fire District Board and the Scotts Valley Fire Board before the completion of the Reorganization process, and approved by Santa Cruz County LAFCO to make the changes I have requested above, for Public Benefit of the existing residents and property owners in the Branciforte Fire District.

Please contact Mr. Joe Serrano, Director of Santa Cruz County LAFCO, regarding this situation before the August 2, 2023 Commission meeting. I will be testifying at that meeting, and present my concerns and NOTICE to the Commissioners. I will also immediately provide this correspondence to the Santa Cruz County LAFCO.

Please acknowledge receipt of this message. I will also send a copy of this message to your Board via Certified Mail within the next 24 hours.

Sincerely,
Becky Steinbruner

I do not wish to cause expensive court time and legal costs by taking this matter to the Courts and thereby respectfully request that the Board of Directors for the Branciforte Fire District and Scotts Valley Fire District amend the current Plan for Service that Santa Cruz County LAFCO presented in June, 2023 and that was approved without any

modification at all by the Branciforte Fire District Board on June---, 2023 and by the Scotts Valley Fire District Board on June-----, 2023.

I demand that both Boards make the amendment to include language in the Plan for Service that will cause the Scotts Valley Fire District to begin transition to district-based governance elections immediately upon completion of LAFCO's Reorganization process that would dissolve the existing Branciforte Fire District and that District's elected Board.