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November 16, 2010

Via E-mail: [jcrosthwaite@oclafco.org](mailto:jcrosthwaite@oclafco.org)

Joyce Crosthwaite, Executive Director  
Orange County LAFCO  
12 Civic Center Plaza, Rm. 235  
Santa Ana, CA 92701

RE: Proposed Annexation of Sunset Beach by Huntington Beach – Public Records Request

Dear Ms. Crosthwaite:

As you know, this firm represents the Citizen's Association of Sunset Beach (CASB), a non-profit citizen group formed to improve the quality of life in Sunset Beach. CASB is opposed to the forced "island" annexation of Sunset Beach by the City of Huntington Beach. CASB recognizes that the "island" annexation statutes do not allow the LAFCO to reject the annexation. However, the LAFCO has statutory authority to impose terms and conditions on the annexation, and it appears that the LAFCO has imposed certain conditions on this annexation as reflected in its Pre-Annexation Agreement with Huntington Beach. The terms and conditions reflected in the Pre-Annexation Agreement do not address the City of Huntington Beach's authority to impose certain taxes on the residents of Sunset Beach post-annexation nor does it impose a condition of annexation requiring a vote of the residents of Sunset Beach before the City's taxes may be levied on the annexed citizens.

We are informed that the LAFCO has had discussions with the City of Huntington Beach regarding imposition of these taxes and pursuant to California's Public Records Act (Cal. Gov't Code section 6250 et seq.) we request copies of any and all letters and or memoranda which are, or which refer to communications between the City of Huntington Beach and the LAFCO regarding tax issues.

CASB has obtained a copy of a letter from Huntington Beach City Attorney, Jennifer McGrath, dated November 9, 2010, stating that post-annexation, the City of Huntington Beach intends to impose Huntington Beach's utility tax on the residents of Sunset Beach without first giving the Sunset Beach residents an opportunity to vote on whether to accept imposition of that tax. We believe that is illegal, and we understand that the LAFCO attorneys agree with us. In the final report of the Sunset Beach Annexation Study for the City of Huntington Beach, dated April 27, 2010, prepared by Ralph Anderson & Associates, the drafter of that report states on page 10:

It should be noted, however, that in the view of LAFCO legal staff the Utility Users Tax could be imposed only if the annexation were processed as a normal inhabited unincorporated area requiring a vote of the Sunset Beach electorate. Since it is being pursued as an "island" annexation, not involving a vote of those being annexed, Proposition

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218 would bar the imposition of this tax to this area according to LAFCO. As a result, this estimate is provided for information only and is not included in the overall General Fund revenue projection.

We also request copies of all written communications between the LAFCO and Ralph Anderson & Associates regarding the authority of Huntington Beach to impose its utility tax on the residents of Sunset Beach.

We concur with the statement attributed to LAFCO's counsel set forth above, but obviously the City of Huntington Beach is taking a contrary view. Unless this matter can be resolved by other means, CASB is prepared to sue to enjoin the annexation and the illegal imposition of the utility tax on the residents of Sunset Beach. CASB would prefer to resolve this matter through a condition of annexation imposed by the LAFCO that prohibits the City of Huntington Beach from imposing the utility tax on the residents of Sunset Beach absent a vote by these residents to accept the tax. We invite the LAFCO to explore that option with the City of Huntington Beach.

Very truly yours,



John C. McCarron

JCM/mr

cc: Clark Alsop  
Client