

5. SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT

AGENCY OVERVIEW

South Santa Clara Valley Memorial District (SSCVMD) was formed on August 26, 1946 as an independent special district. The District owns and operates a memorial hall located in the City of Gilroy. The maintenance and operation of this building and property is the sole service provided by the District. A service review for the District was last conducted in 2006.

Memorial districts are formed under, and operate pursuant to the provisions of Division 6, Chapter 1 of the Military and Veterans Code of the State of California (§1170 et seq.). Through the principal act, memorial districts are empowered to provide and maintain memorial halls, buildings, and other recreation facilities for use by veteran as well as non-veteran individuals and organizations. Districts must apply and obtain LAFCO approval to exercise services authorized by the principal act but not already provided (i.e., latent powers) by the district at the end of 2000.⁵⁷

There are 27 memorial districts in California.⁵⁸ Fourteen of these memorial districts are located in Tulare County, and six in Calaveras County. No other county in the State has more than two memorial districts. SSCVMD is the only district of its type in Santa Clara County.

Boundaries

SSCVMD's boundaries include the City of Gilroy and surrounding unincorporated lands. It is bounded on the north by Church Avenue, and on the east, west and south, it extends to the Santa Clara County line. The District encompasses 311.3 square miles.

Sphere of Influence

The sphere of influence of SSCVMD is coterminous with its boundaries.

⁵⁷ Government Code §56824.10.

⁵⁸ California State Controller *Special Districts Annual Report Fiscal Year 2009 – 2010*.

Type and Extent of Services

Services Provided

The Memorial District owns, operates, and maintains a memorial hall for the use of veterans and other members of the public.

Three veterans groups use the memorial hall for meetings. These groups include the American Legion Post 217, the Veterans of Foreign War Post 6309, and the Gilroy Chapter of the Ladies' Auxiliary of Veterans of Foreign War Post 6309. These veterans groups are described below.

- ❖ The American Legion is a patriotic veterans organization that focuses on service to veterans, service members, and communities. The mission of the American Legion is to mentor youth and sponsor programs in communities, advocate patriotism and honor, promote strong national security, and promote programs that benefit service members and veterans. The American Legion currently has about 2.4 million members in 14,000 posts worldwide. American Legion Post 217 has 341 members.
- ❖ The Veterans of Foreign Wars traces its roots back to 1899. The mission of the Veterans of Foreign Wars is to foster camaraderie among veterans of overseas conflicts; to serve veterans, the military, and communities; and to advocate on behalf of all veterans. There are a total of 2.1 million members of the Veterans of Foreign Wars. Post 6309 has 237 members.
- ❖ The Ladies Auxiliary of the Veterans of Foreign Wars was established in 1914. It has 555,000 members. The mission of the Ladies Auxiliary of the Veterans of Foreign Wars is to serve veterans and their families, promote pride in America, teach young people about the cost of freedom, and serve the community. Services include support services for veterans and their family and volunteering in hospitals and outpatient facilities. The Ladies Auxiliary of Post 6309 has 38 members.

A number of different types of meetings and events are held at the memorial hall by these groups as well as the public. Meetings and events range from funeral and memorial services for veterans to community events such as a Memorial Day barbecue and a Veterans Day breakfast. These events are hosted by individuals or one of the mentioned organizations. The Memorial Day barbecue, the Veterans Day breakfast, and weekly bingo are hosted by the Veterans of Foreign War. Additionally, the Veterans of Foreign War and the American Legion each use the memorial hall for bi-monthly standing meetings.

The memorial hall includes a bar, which is operated and managed by the Bar Council—a separate body from SSCVMD composed of two members from each of the Veterans of Foreign Wars and the American Legion organizations. The Bar Council reports to its member organizations, and revenues from the bar operations are shared between the two groups. The bar is open from 8:00 am to 6:30 pm daily. Bar operations are discussed in more depth in the Financing Section of this chapter.

Service Area

Members of the groups that make use of the District's facility reside both within and outside the District's bounds. Non-residents come from the neighboring unincorporated area of San Martin, the City of Morgan Hill, and City of San Jose, but can also come from as far as outside the State. Approximately 60 percent of the American Legion Post 217 members reside within the District. Of the members of the Veterans of Foreign Wars Post 6309, 55 percent reside within the District. Approximately 89 percent of the Ladies Auxiliary reside within the District's bounds.

Services to Other Agencies

The District does not have any contracts to provide services to other public agencies.

Contracts for Service

The District does not have any contracts with other public agencies for service delivery at the memorial hall.

Collaboration

The District collaborates with the above mentioned veterans groups to coordinate services and events at its facility.

Overlapping and Neighboring Service Providers

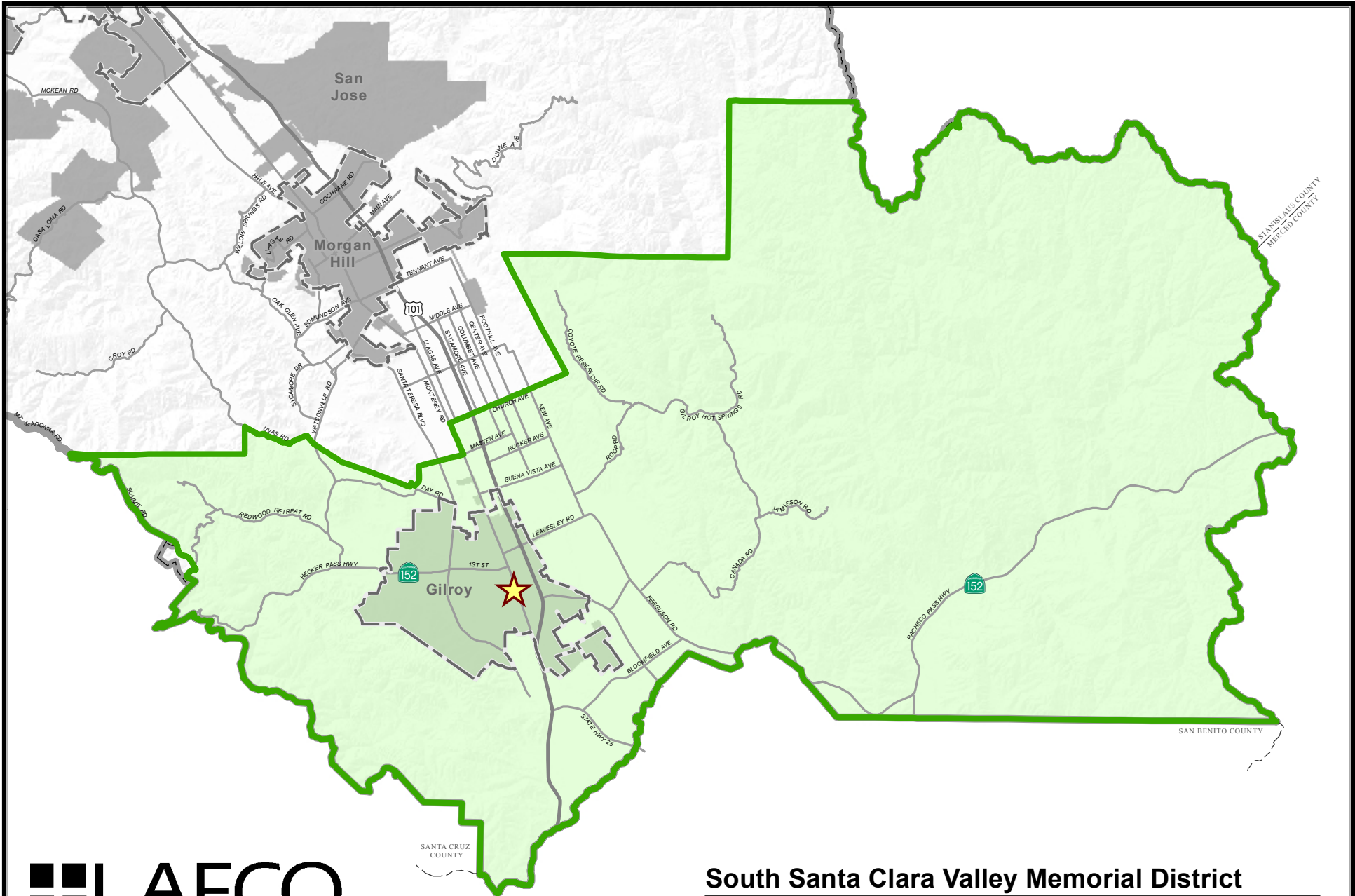
Various agencies and organizations provide services to veterans within the southern region of Santa Clara County.

A mobile veterans center provides services, once a month, at Gavilan College in Gilroy. The center is based out of the United States Veterans Affairs office in Santa Cruz. The center provides a range of readjustment counseling services to veterans.

There is also a counselor from the United States Department of Veterans Affairs available to veterans every other Monday at the work2future One-Stop Center in Gilroy. The work2Future program is funded and operated by the City of San Jose, and offers services and resources that help job seekers obtain the skills and training they need to find a job, assist businesses in meeting their workforce and economic development needs, and enable youth to jump-start their career.

The Santa Clara County Office of Veterans Services provides veteran's services at the San Jose Veterans Center. These services include counseling, outreach, and referral services to eligible veterans in order to help them readjust to civilian life. The Santa Clara County Office of Veterans Services also advocates for veterans, provides case management services for veterans, files claims on behalf of veterans with the United States Department of Veteran Affairs, provides veterans with information and referrals, processes appeals by

veterans to the United States Department of Veteran Affairs, interfaces with other organizations, and provides in-home visitation.



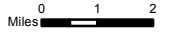
South Santa Clara Valley Memorial District

-  Cities Urban Service Areas
-  City Limits (Incorporated Areas)
-  Memorial Hall
74 West Sixth Street, Gilroy
-  South Santa Clara Valley Memorial District Sphere of Influence
-  South Santa Clara Valley Memorial District



This map created by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office assumes no liability.

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February 2013

ACCOUNTABILITY AND GOVERNANCE

SSCVMD is managed and governed by a five-member Board of Directors. At least three of the five seats on the District's Board are designated for veterans as required by Military and Veterans Code §1197. Board members are elected to four-year terms of office. There are no term limits. The County Board of Supervisors appoints members to the district Board if elections are uncontested or if there are no candidates for election. The County Board of Supervisors has appointed all of the current board members. No elections for the District board have been held for at least the last ten years, according to the Registrar of Voters. As the four-year terms of office of incumbent Board members expire, existing members are generally re-appointed, or if the member does not desire to serve any longer, then new members are appointed by the County Board of Supervisors, in lieu of an election. This reflects a lack of candidate and resident interest in the District's activities and governance, perhaps due to a lack of outreach to area residents.

Prior to an election (in an election year), the County Registrar of Voters publishes a legal notice in a local newspaper of the District's choice to announce any upcoming board terms that are expiring. Any persons interested in running for the position (incumbent or otherwise), must file with the County Registrar of Voters. If no more than one person is running for each available position, then the Board of Supervisors can consolidate the election and appoint individuals without conducting the election. If no one runs for a position, then the Board of Supervisors is empowered to appoint any person to the office who is qualified on the date when the election would have been held.⁵⁹

The process for appointment by the Board of Supervisors differs by district. While not formalized in a resolution or adopted policies, the District's Board of Directors conducts solicitation and review of applicants and then makes a recommendation to the County Board of Supervisors for appointment. There are no formal policies or standardized procedures on the part of the District nor the Board of Supervisors defining how openings are to be announced, how long the application period should be open, and the manner for interviews, etc. It appears that the District has not come to the Board of Supervisors for appointment of two of the members sitting on the board, and instead has seated the members. The District then had the members appointed by the Board of Supervisors during the next consolidated election.

Upon appointment by the Board of Supervisors, it is unclear where the responsibility lies regarding reporting the Board of Supervisor's decision back to the Registrar of Voters, whether it's the District or the Clerk of the Board. In the case of SSCVMD, the Registrar of Voters has not been able to maintain up-to-date information on the board members and their respective term expiration dates, and the District was unable to provide the correct term expiration dates for each of the board members. There appears to be an opportunity for improvement to this process, to ensure that all interested parties (the District, the

⁵⁹ Elec. Code, § 10515(a).

public, the Clerk of the Board, and the Registrar of Voters) can readily identify the existing governing body of the District and respective term expiration dates.

The current Board member names, positions, and term expiration dates are presented in Figure 5-2.

Figure 5-2:SSCVMD Governing Body

South Santa Clara Valley Memorial District					
<i>District Contact Information</i>					
Contact:	Gabriel Perez, Board President				
Address:	74 West 6th St., Gilroy, CA 95020				
Telephone:	408-710-3482				
E-mail:	suefullington@msn.com				
Website:	The District does not have a website				
<i>Board of Directors</i>					
Member Name	Position	Began Serving (reported by District)	Current Term Expires	Manner of Selection	Length of Term
Nicolas Marquez	Director	2008	2015	Appointed	4 years
Phil Garcia	Director	2011	Not Provided ¹	Appointed	4 years
Gabriel Perez	President	2007	2013	Appointed	4 years
John Ceballos	Director	2010	Not Provided ¹	Appointed	4 years
Ray Sanchez	Director	2010	2015	Appointed	4 years
<i>Meetings</i>					
Date:	Wednesdays at 7:00 pm (3 rd Wednesday of each month)				
Location:	Gilroy Memorial Hall 74 W. 6 th St., Gilroy				
Agenda Distribution:	Filed in a binder located in the front lobby of the memorial hall				
Minutes Distribution:	Filed in a binder located in the front lobby of the memorial hall				
Notes: 1) When a previous board member (David Roderiguez) left office, Ray Sanchez was appointed by the District's Board to fill the position, which expired in 2013. However, Ray Sanchez filed with the County Registrar of Voters when he was notified differently that his position was expiring in 2011, and as the only filer of three positions, was placed in a position that expires in 2015. Both John Ceballos and Phil Garcia were appointed by the District's Board at around the same time. It is unclear which of these two took on the term expiring in 2013 and which has the term ending in 2015.					

The Board of Directors meets on the third Wednesday of each month at the memorial hall. Pursuant to Military and Veterans Code §1197, board members are prohibited from receiving compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of duties. As a consequence, Board members serve without compensation. Government Code §53235 requires that if a district provides compensation or reimbursement of expenses to its board members, the board members must receive two hours of training in ethics at least once every two years and the district must establish a written policy on reimbursements. The Board President completed the training in 2008,

and has not completed the required biennial ethics training since then. Other Board members have not completed the required biennial ethics training. The District reported that it is planning to complete the necessary ethics training in the near future through either Santa Clara County or the City of Gilroy. The District does not have a policy on expense reimbursements.

Agendas and minutes are filed in a binder on the front desk of the lobby in the memorial hall; agendas and minutes are retained for approximately six months in the binders. The agenda and minutes are not posted in any other location. The District's secretary also retains copies of all of the agendas and minutes, off-site at the secretary's private office. SSCVMD does not conduct additional outreach activities to inform the public of district activities. The District does not maintain a website where public documents and information are made available to constituents.

Several deficiencies to proper governing, accountability and transparency were identified over the course of this review, including 1) not meeting legal requirements outlined in the District's principal act, 2) inadequate and possibly illegal bylaws, 3) numerous Brown Act violations, 4) illegally attempting to remove a board member, 5) excluding the vote of a board member, 6) failing to use a bidding process for hiring contractors, and 7) failure to file required disclosure forms to the Fair Political Practices Commission in 2012. These deficiencies are each described in more detail below.

According to Military and Veterans Code §1198, SSCVMD is required to elect both a president and secretary from the Board members. While the District has an identified president, it has not designated a secretary as legally required. It should be noted that the current president has been in the position for multiple years as there is no defined term for the positions and no adopted process for renewing his term or electing a new president.

Until recently, SSCVMD was operating without bylaws that outline fundamental aspects of district governance, operations and activities. The District considered new bylaws in February 2012 and adopted the bylaws at the March 2012 meeting. These bylaws contain eight provisions in total, which are presented below. The District did not receive any legal advice in drafting these bylaws. According to LAFCO Counsel, these bylaws, besides being unusual, may be illegal and may be in violation of free speech rights. Additionally, there seems to be a lack of several procedures and processes critical to proper governance by the Board (i.e., process for appointing board positions) as well as a lack of clarity in the difference between the District's Board and the Building Committee.

Figure 5-3: SSCVMD Bylaws

Bylaw	Concern
<p>The affairs of the Building Committee shall be governed by the Board of Directors and the Board of Directors shall consist of five members, one member will consist of a member appointed by the President, and the remaining four members will be designated Directors, and the President may delegate duties to any or all Directors.</p>	<p>This policy is unclear in that it references a Board of Directors, which may be the Board of the Directors of the District itself or a separate body specific to the Building Committee. If the committee is intended to be specific to building issues, then it should be designated something other than the Board of Directors. Additionally, it is unclear who will comprise the four other "Directors" of this committee. If the policy is indeed referencing the District's Board of Directors, then the President may not appoint a member as election and appointment of the five Directors is governed by the District's principal act and the Uniform District Election Law.</p>
<p>A quorum is required to conduct all business, and a quorum will consist of three of the five members, which includes the President.</p>	<p>It is unusual for a president to be included in the definition of a quorum. Military and Veterans Code §1199 specifies that a majority of the board shall constitute quorum and does not require the president to be present to establish quorum.</p>
<p>All motions, rules, by-laws and decisions that affect the Building must be approved by a quorum.</p>	
<p>Meetings will be held once a month on the third Wednesday of each month unless otherwise notified, and all meetings are open to the public.</p>	
<p>Any member of the Board of Directors that misses two consecutive meetings, excused or unexcused, shall have their voting rights revoked for an equal amount of time. In the event that a member misses three consecutive meetings, his voting rights will be revoked for a period of four months and he will be put on notice that one more consecutive absence will result in</p>	<p>Proper procedure for vacating an elected office is determined by Government Code §1770, which provides for a vacancy when a board member ceases "to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law." Additionally, the Board lacks the</p>

<p>disciplinary action. If a director misses four consecutive meetings, disciplinary actions will be initiated with the Board of Supervisors for removal of that director from office. A quorum is required to excuse any absence or waive disciplinary action.</p>	<p>authority to revoke the voting rights of an elected member, and in the case of excused absences doing so defies logic.</p>
<p>All Board members shall maintain a file containing a copy of the by-laws, policy and procedures and the last 6 months of minutes of the South Santa Clara Valley Memorial District Building Committee.</p>	<p>It is unclear why minutes are only kept for the Building Committee and not the District's Board of Directors.</p>
<p>The Board of Directors shall maintain a "Policy and Procedures Manual"; the Board is the sole entity responsible for creating the policies and may edit them at any time with a quorum vote of the Directors.</p>	
<p>No member of the Board of Directors shall go to an outside source to register a complaint without first presenting their grievance to the Board of Directors at a regular meeting. The Board will then have the opportunity to resolve the matter. If the Board of Directors cannot resolve the issue, then the member may seek an outside source to resolve the issue. The voting rights of that member will be revoked for a period of 3 months for non-compliance.</p>	<p>Otherwise lawful complaints to outside agencies are protected under the First Amendment. (See also California Government Code §54954.3 [right to criticize local agency].) Retaliating against someone for exercising their First Amendment rights subjects the District to potential liability. In addition, certain disclosures may be further protected or allowed by law. For example, disclosures related to improper closed session are expressly permitted under the Brown Act. (California Government Code § 54963).</p>

There have been complaints to the County of Santa Clara Board of Supervisors, the County District Attorney's Office, the Civil Grand Jury and LAFCO alleging illegality in the governance and operation of SSCVMD. Allegations against the District are regarding violations of the Brown Act, attempting to illegally remove one Board member, not counting the vote of a board member, and not using a bidding process for hiring contractors.

The Santa Clara County Grand Jury has issued reports in the past regarding SSCVMD. In 2005-2006, the Grand Jury reported that "The South Santa Clara Valley Memorial District's internal financial statements contain numerous errors and offer no comprehensible audit trail of District activities. If District management cannot remedy these serious shortcomings immediately, the Board of Supervisors should replace the existing board with persons who can effectively oversee District affairs. This board should hire, using accepted

County procurement procedures, a qualified outside management firm to conduct operations.” The Grand Jury also reported that the District did not have a long-range management plan, financial skills of management personnel were questionable and need improvement, accurate internal month-to-month financial statements are not available, budgets appear to be inflated, and reserves are high compared to expenses with no justification.

In May 2012, the Grand Jury reported that the District and/or Board members had failed to follow the law in the following respects: 1) attempting to illegally remove one board member, 2) conducting an unlawful closed-session meeting on October 16, 2011, 3) violating requirements for approving contracts, 4) failing to complete required biennial ethics training for all board members; and 5) failing to complete the Form 700 Statement of Economic Interest form in 2012 as required by Government Code §87203.⁶⁰ Other concerns were noted as well, including the lack of any constituent outreach and lack of district contact information. The Grand Jury generally found that the District was significantly lacking in good governance and good business practices. The District responded in its defense that the remodel project had been put out to bid as required, although no substantiating evidence was provided, and that it was now aware of the requirements to lawfully remove a board member. The District did not respond regarding the other concerns identified by the Grand Jury.

Over the course of this review, other Brown Act violations were identified. The District appears to have a lack of understanding of what constitutes a meeting that requires public notice. The Brown Act requires that meetings involving a majority of a legislative body must be open to the public and must satisfy certain meeting notice and agenda requirements. Four members of the District’s Board of Directors met with LAFCO staff and its consultants in September 2012 without properly noticing the meeting.

In order to enhance District accountability and compliance with legal requirements, it is recommended that the District inform itself of proper operating and governing requirements in the District’s principal act, the Brown Act, and the Uniform District Election Law. Additionally, to ensure that the District is operating legally, it should secure dedicated legal counsel to direct the District on the legality of operations and provide input on items up for adoption by the Board.

MANAGEMENT AND STAFFING

The Board of Directors is responsible for the management of the District and the maintenance, repair, and operations of the memorial hall. The District does not have any employees.

⁶⁰ As of the drafting of this report, four of the District’s five board members had filed their Form 700s for 2013. The fifth Director was not yet delinquent in filing for the year.

SSCVMD retains private firms or individuals for certain regular needs and various services related to the maintenance of the memorial hall. The District retains a secretary to provide administrative services, on a monthly retainer. At present, there is no contract with the secretary for these services. The secretary receives \$150 per month to manage rentals of the memorial hall, record and prepare agendas and meeting minutes, prepare checks for payment of invoices for the approval of the Board of Directors, and maintain bank records for the District. The secretary maintains all records off-site at her office. Additionally, the District has retained a certified public accountant to prepare the annual financial transaction reports that are required by the State Controller under Government Code Section §53891. This service is also provided without a contract between the accountant and the District. The District reported that it is planning to formalize contracts with both the secretary and the accountant. The District does not have legal counsel. The District relies on several companies for maintenance related needs, including Clark Pest Control, ASCO for air conditioning, a landscape maintenance contractor, and janitors for cleaning of the memorial hall. South Valley Property Management manages the rental of the hall for outside events.

SSCVMD has not adopted a mission statement, goals, objectives, long-range plans or performance measures to guide district services.

The District also maintains an annual budget of anticipated expenditures for the fiscal year. Based on a review of meeting minutes, it appears that while the District was able to provide copies of the budgets for FYs 12 and 13, they were not considered or adopted at the board meetings prior to the start of the fiscal year. Most recently, the District considered adjusting the budget for FY 13, and appropriately considered the changes at a public meeting and adopted a resolution to make the adjustments.⁶¹

Government Code §53901 states that within 60 days after the beginning of the fiscal year each local agency must submit its budget to the county auditor. These budgets are to be filed and made available on request by the public at the county auditor's office. The County has reported that in recent years, it has not been the practice for special districts to file their budgets with the County.

Special districts must submit a report to the State Controller of all financial transactions of the district during the preceding fiscal year within 90 days after the close of each fiscal year, in the form required by the State Controller, pursuant to Government Code §53891. If filed in electronic format, the report must be submitted within 110 days after the close of the fiscal year. The District has complied with this requirement.

All special districts are required to submit annual audits to the County within 12 months of the completion of the fiscal year, unless the Board of Supervisors has approved a

⁶¹ SSCVMD Resolution dated January 16, 2013.

biennial or five-year schedule.⁶² In the case of SSCVMD, both the District and the County is under the understanding that the District is under a five-year audit schedule;⁶³ however, there are no records to confirm that this was in fact approved by the Board of Supervisors. The most recent audit prepared by the District was in November 2008 for the five-year period covering FY 04 to FY 08. This audit was prepared by the same accountant who prepares the annual financial transaction reports, which are submitted to the State Controllers' Office. The District's next audit will be due for the period FY 09 to FY 13. Given the lack of records to substantiate that a five-year audit schedule was approved, and certain concerns regarding financial transparency of the District, it may be prudent for the County to consider an annual audit requirement for the District.

Certain deficiencies were identified with regard to the District's tracking and administration of funds. The secretary to the Board prepares monthly and annual "profit and loss statements" for the Board of Directors review. While the secretary to the Board provides these statements at each meeting, they are not placed on the Board agenda or approved by the Board of Directors. Additionally, several discrepancies exist between the District's annual financial transaction reports submitted to the State Controller and the annual "profit and loss financial statements" prepared by the secretary. These discrepancies are discussed in more detail in the Financing Section of this chapter.

POPULATION AND PROJECTED GROWTH

Land Uses

The District encompasses the City of Gilroy and the adjacent unincorporated County areas, which extend to the County boundary to the south, east, and west. The City of Gilroy is a largely residential and agricultural community. The unincorporated County areas are largely ranchlands, hillsides, regional parkland, and agricultural areas. However, smaller areas consisting of open space reserves also exist adjacent to Gilroy.

Current Population

As of 2010, the District had approximately 57,538 residents, based on GIS analysis of 2010 Census data. The City of Gilroy is the only urban population center in the District, with a population of 48,821 according to the 2010 Census.

Disadvantaged Unincorporated Communities

LAFCO is required to evaluate disadvantaged unincorporated communities as part of this service review, including the location and characteristics of any such communities. A

⁶² Government Code §26909.

⁶³ Correspondence with Annie Tom, Santa Clara County Auditors Office, February 14, 2013.

disadvantaged unincorporated community is defined as any area with 12 or more registered voters, or as determined by commission policy, where the median household income is less than 80 percent of the statewide annual median.⁶⁴

The California Department of Water Resources (DWR) has developed a mapping tool to assist in determining which communities meet the disadvantaged communities median household income definition. DWR is not bound by the same law as LAFCO to define communities with a minimum threshold of 12 or more registered voters. However, the DWR data can be used for the purposes of this report as an indicator of any larger communities that may meet the income definition of disadvantaged. Based on mapping information from DWR, there are no disadvantaged unincorporated communities within or adjacent to SSCVMD.⁶⁵

Projected Growth

While population projections specific to the District are not available, future population may be imputed from the Association of Bay Area Government's (ABAG) projections for the City of Gilroy and the unincorporated area. ABAG projects that the population of Gilroy will grow by 43 percent between 2010 and 2035. Over that same time period, unincorporated areas are anticipated to grow by 19 percent. Should each area within SSCVMD experience growth as projected by ABAG, then the District is anticipated to have overall growth of 39 percent over the 25-year period with a population of 79,973 in 2035.

FINANCING

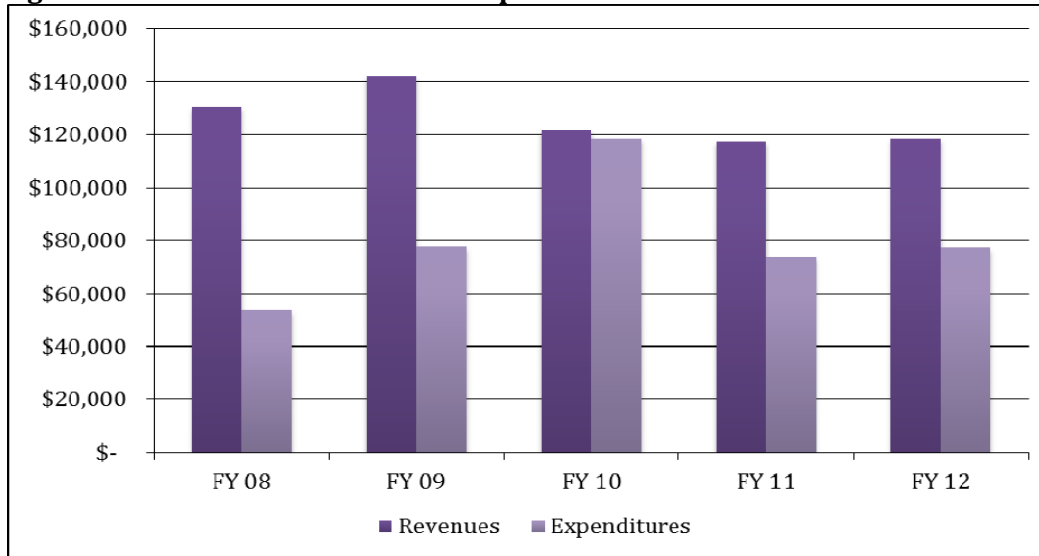
Financial Adequacy

SSCVMD reported that the current level of financing is adequate to provide services. The District's revenues exceeded expenditures in each of the past five fiscal years (08-12), as shown in Figure 5-4. Revenues peaked in FY 09 and have slowly declined since. In FY 10, the District's expenditures peaked as the District purchased additional supplies and made capital improvements to the hall.

⁶⁴ Government Code §56033.5.

⁶⁵ DWR maps and GIS files are derived from the US Census Bureau's American Community Survey (ACS) and are compiled for the five-year period 2006-2010.

Figure 5-4: SSCVMD Revenues and Expenditures FYs 08-12



Source: FY 2008 – FY 2012 CPA Financial Transaction Reports

Several discrepancies exist between the District’s annual financial transaction reports submitted to the State Controller and the annual “profit and loss financial statements” prepared by the secretary of the Board. It was not possible to compare the specifics of the revenues and expenses between the two statements, because the annual financial transaction report lacks the necessary level of detail. Total revenues, expenditures and fund balances from these two documents do not match for FYs 09-12. Annual “profit and loss statements” are not available for years prior to 2009. Figure 5-5 compares the two statements. Of particular note is the significant difference in cash and cash equivalents reported at the end of each fiscal year in the two documents. At the end of the FY 12, the profit and loss statement showed a cash balance of \$265,584, while the financial transaction report showed a cash balance of \$389,904, which is a significant discrepancy of \$124,320. The District should ensure consistency between its various financial documents to enhance clarity and transparency, as such a large discrepancy in fund balances certainly brings into question the District’s ability to function appropriately as a public agency.

Figure 5-5: Comparison of Revenues and Expenditures, FYs 09-12

	FY 2009		FY 2010		FY 2011		FY 2012	
	Financial Transaction Report	Annual Profit and Loss Statements	Financial Transaction Report	Annual Profit and Loss Statements	Financial Transaction Report	Annual Profit and Loss Statements	Financial Transaction Report	Annual Profit and Loss Statements
Revenues	\$142,039	\$215,370	\$121,773	\$222,840	\$117,234	\$42,388	\$118,394	\$117,445
Expenditures	\$77,467	\$74,727	\$118,414	\$108,590	\$74,020	\$73,444	\$77,048	\$75,700
Fund Balance (including reserves)	\$302,397	\$140,643	\$305,756	\$254,894	\$348,970	\$223,839	\$389,904	\$265,584

Source: Financial Transaction Reports, FYs 09-12, and Annual Profit and Loss Statements, FYs 09-12.

Revenue Sources

In FY 12, the District received \$118,394 in revenue as depicted in Figure 5-6. The primary source of revenue for the District was property taxes (84 percent). Memorial hall rentals (events and bingo rentals) comprised 14 percent of revenues, while interest income and Homeowners Property Tax Relief⁶⁶ constituted the other two percent of income.

Figure 5-6: SSCVMD Revenue Sources, FY 12

Revenue Category	Revenue	% of Total Revenue
Property Tax Income	\$99,665	84%
Interest Income	\$1,379	1%
Other Income (Event Rentals)	\$16,687	14%
Homeowners Property Tax Relief	\$663	1%
Total	\$118,394	100%

Source: FY 2011-12 Annual Financial Transaction Report prepared by CPA

Of note is the District did not report rental income from the Bar Council in FY 12. The Bar Council reportedly reimbursed the District for its share of liability insurance for the memorial hall in that year; however, this was not recorded in the annual financial transaction reports.

Rates

The rental rates for the memorial hall are depicted in Figure 5-7. It is not known when the rates were last updated, but records indicate that they have not been modified since at least 2007. The District has not conducted a rate comparison with other similar rental facilities in the area to ensure rates are competitive with other locations.

There is a rental rate discount for veterans that are paid members of the American Legion or Veterans of Foreign Wars. These discounts range from 32 percent for general hall use to 45 percent for memorial services. In addition to rental fees, the District collects a \$500 refundable damage deposit and security is required at events. Residents and non-residents are charged the same rental rates.

Figure 5-7: SSCVMD Rates by Category

Category	Amount
General Hall Use – Non-Paid Member	\$1,100
General Hall Use - Paid Member of American Legion or Veterans of Foreign War	\$750
Memorial Services – Public	\$450
Memorial Services - Paid Member of American Legion or Veterans of Foreign War	\$250

⁶⁶ Homeowners Property Tax Relief is revenue distributed from the State to local agencies that existed prior to Proposition 13 for the tax revenue lost due to homeowner's exemptions.

The Veterans of Foreign Wars pays rent for the use of the memorial hall for weekly bingo. The memorial hall is available at no charge for use by the Veterans of Foreign War, the American Legion, and the Ladies Auxiliary Veterans of Foreign War.

As previously noted, the Bar Council is independent from the District and consists of members from the two veterans posts. Revenues from the bar's operations are shared between the two groups. The District previously received rental income for the Bar Council for bar operations. However, the Board decided that since the bar is operated for the benefit of the Veterans of Foreign War 6309 and the American Legion Post 217, the Bar Council should no longer pay rent to the District for use of the space. However, there appears to be a conflict of interest in that some district Board Members are also on the Bar Council. The District is not receiving rent from the bar's operations and is covering insurance and utility costs for the bar, which in essence subsidizes the bar with public funds. It is recommended that SCCVMD resume receiving rent from the bar, in order to limit the District's liabilities with regard to the bar's activities.

Expenditures

In FY 12, the District expended \$77,048. The annual financial transaction report did not include a breakdown of the type of expenditures. All expenditures were categorized as services and supplies. Based on the District's profit and loss statement from that year, primary expenditures consisted of 31 percent for repairs and maintenance, 18 percent for janitorial services, 23 percent for utilities, 14 percent for insurance, and seven percent for landscape maintenance. Other expenditures included professional services, office expenses, licenses/dues, and security.

Capital Outlays

The District has not developed or adopted a written five-year capital improvement program. The District appears to record its capital outlays under repairs and maintenance in its financial statements. Plans for capital improvements are made annually or on an as needed basis.

Reserves

As of June 30, 2012, the District had total cash and cash equivalent balance of \$389,904, based on the annual financial transaction report, which is equivalent to 506 percent of FY 12 expenditures. The transaction report does not distinguish whether these funds are in reserves or a roll-over fund balance of the general operating account. The District does not have a written policy regarding an ideal amount of reserves to be maintained or the use of reserves. The District has not provided a rationale for maintaining reserves at these levels. The Memorial District has not adopted any formal written policies and procedures regarding the purpose, use or the amount of reserves.

The current level of reserves appears to greatly exceed the needs of SSCVMD, given that the District does not have any debt, the District's sole asset (the memorial hall) is considered to be well maintained with no significant deficiencies, and district revenues have exceeded expenditures in each of the past five years by an annual average of 68 percent and have been more than adequate to fund the District's annual operations, maintenance, and ongoing capital requirements. While the District does plan on remodeling the kitchen in the hall and bringing the bathrooms into compliance with Americans with Disabilities Act (ADA) standards, the District's estimated expenditures for these capital improvements are approximately one-third the existing cash balance.

Debt

At the end of FY 12, the District did not have any debt.

INFRASTRUCTURE AND FACILITIES

The District has only one asset—the memorial hall located at 74 West Sixth Street, on an 11,761 square foot parcel in Gilroy. This building was constructed in 1951. Building permit records with the City of Gilroy indicate that the memorial hall is approximately 7,800 square feet. However, the District reported that the hall is approximately 19,000 square feet. The building contains a kitchen, a dining room with a capacity for 54 persons for dining or 116 persons for assembly, an assembly room or hall with a capacity for 271 persons for assembly or 127 persons for dining, an outside barbeque/patio area at the back of the property with a gazebo, an office, a bar (with a capacity of 45 persons), and restrooms.

Within the past five years the District has completed a number of capital projects to improve the memorial hall and the property on which the memorial hall is located. The memorial hall was re-plumbed and two water heaters were replaced. A security system was installed, consisting of 11 security cameras (nine interior and two exterior). Television monitors and updated technical equipment were added to the assembly hall for memorial services and bingo. New window blinds, insulation, solar panels, and a roof to the outside barbeque were also added to the hall. The exterior of the hall was re-landscaped, the concrete sidewalks replaced, a flagpole base added, and a new sprinkler system installed. The interior and the exterior of the memorial hall were repainted.

Infrastructure Needs

SSCVMD reported that there are certain other infrastructure improvements that need to be made to the facility. The most critical need identified by the Board of Directors was a kitchen remodel. The existing kitchen has not had any major improvements since the memorial hall was built in 1951. The Board estimated the cost of the kitchen remodel to be approximately \$100,000. Additionally, the bathrooms in the facility are not ADA compliant, and remodeling will be required to bring the bathrooms into compliance with ADA

standards. The District reported that it is in the process of creating a plan for the remodeling of the bathrooms.

The memorial hall building, while reflective of its age, appears to be reasonably well maintained. No critical deferred maintenance issues were identified.

Shared Facilities

The District shares its facility free of charge or for significantly discounted prices with the American Legion Post 217, the Veterans of Foreign War Post 6309, and the Gilroy Chapter of the Ladies' Auxiliary of Veterans of Foreign War Post 6309.

The District does not share facilities with other regional veteran service providers, such as the United States Department of Veterans Affairs and the Santa Clara County Office of Veterans Services. There may be opportunities for enhanced collaboration with these agencies. It is recommended that the District develop and implement plans to enhance the utilization of the memorial hall by other veterans organizations, including the Mobile Veterans Center of the United States Department of Veterans Affairs, the Santa Clara County Office of Veterans Services, and other non-profit veterans organizations

DEMAND FOR SERVICES

Figure 5-8 indicates the number of rental events held in the memorial hall in addition to the regularly scheduled meetings and events (i.e., bingo) of the veteran organizations. Meetings and events held by the veterans groups (in addition to regularly scheduled standing events) are noted as “member” and other meetings and events are noted as “public.”

Figure 5-8: Rentals by Type, 2011 & 2012

Type of Event	2011	2012
Full Day Events - Public	5	5
Full Day Events - Member	7	4
Memorial Services - Public	3	5
Memorial Services - Member	8	9
Total	23	23

Over the two-year period, the memorial hall was rented out 46 times. This includes 25 memorial services and 21 full-day events. The hall is also used for standing events, such as bingo and veteran groups' meetings. Bingo is played every Friday, except holidays, and is organized by the Veterans of Foreign War. According to the Board President, an average of 100 people attend bingo each Friday, and the Veterans of Foreign War collects all the proceeds associated with the event. Bar attendance reportedly varies from three to 15 people daily.

It appears that the facility is underutilized, particularly on weekends when it is rarely used. This is likely due to the lack of outreach on the part of the District and the lack of a web presence where the general public are likely to search for facilities available for rent.

GOVERNANCE STRUCTURE OPTIONS

With respect to SSCVMD, four governance structure options were identified for the District, including 1) continued operations as an independent special district with significant improvements to governance, transparency, and accountability, 2) merger with the City of Gilroy, 3) becoming a subsidiary district of the City of Gilroy, and 4) dissolution.

Should LAFCO determine that the District should continue operating as an independent special district, then certain significant improvements would need to be made in order to enhance governance, transparency, and accountability. Under this alternative, the District would continue to operate as an independent special district, but would be required to make certain defined improvements. The most critical of these improvements would need to be made immediately to bring the District into compliance with legal requirements. The other improvements could be made over a period of one year. The most critical improvements that would require immediate implementation include the following:

- ❖ Hire a general manager to implement necessary improvements as defined here.
- ❖ Conduct required ethics training as required by law.
- ❖ Conduct annual Brown Act training to ensure Board members are aware of legal requirements.
- ❖ Hire legal counsel to ensure all legal requirements are met regarding operations, accountability, and board actions.
- ❖ Edit and adopt appropriate bylaws based on guidance from legal counsel.
- ❖ Clearly define in the bylaws how the Board President and Secretary are to be selected and the term of the appointment. Appoint both a president and a secretary from among the Board members as required by law.
- ❖ Eliminate conflicts of interest by precluding District Board Members from holding governing positions on the Bar Council and the Bingo Committee.
- ❖ Ensure that board positions are properly filled through the election process or appointment by the Board of Supervisors with clearly defined term expiration dates for each board member.
- ❖ Ensure consistency and clarity of financial documents by conducting a forensic audit and annual audits thereafter.

Other improvements that should be made, but implementation may require a longer period, include the following:

- ❖ Properly conduct a documentable bidding process for any future capital improvements through advertisements in printed press, online proposal search engines and on the District's website.
- ❖ Adopt a policy regarding long-term retention of records, such as minutes, agendas, and resolutions.
- ❖ Conduct outreach to veterans, as well as residents of the District, regarding the services offered by the District, in the form of a website, making pamphlets available at other veteran service locations and veteran related events, and advertising board positions when member terms are nearing expiration.
- ❖ Conduct a rate study to ensure that rates are appropriate, given that the District's revenues are almost entirely funded through property taxes from residents, and competitive with other similar service providers. The facility should be made available to residents and veterans alike at similar rates, given the use of public funds to run the facility.

While it is recommended that the District conduct long-term planning and develop and implement plans to enhance utilization of its existing facility as well as other facilities, these improvements to operations are secondary to ensuring that the District is conducting business within legal requirements as appropriate for a public agency receiving public funds. Once the above mentioned improvements have been made, it is recommended that District focus its efforts on developing and implementing plans to enhance the utilization of the memorial hall by veterans organizations, including the Mobile Veterans Center of the United States Veterans Affairs, the Santa Clara County Office of Veterans Services, and other non-profit veterans organizations, as well as plans to identify and fund facilities at sites other than the memorial hall for the benefit of veterans and the public.

Continuation of SSCVMD as an independent special district with the outlined improvements would have the following potential advantages and disadvantages, as outlined in Figure 5-9, should conditions remain unchanged.

Given the Board of Directors has demonstrated an unwillingness to reform as indicated by its lack of response to the findings and recommendations contained in the reports issued by the Grand Jury in 2006 and 2012, other governance options must be addressed.

Figure 5-9: Advantages and Disadvantages of Continuing as an Independent District

Advantages	Disadvantages
Delivery of services by the District would continue uninterrupted.	The District could potentially revert to old practices over time.
Taxpayer contributions would be utilized more effectively for the delivery of services.	The Board of Directors may lack the capacity to effectively implement the recommendations contained within these determinations.
The governance structure of the District would be strengthened.	
Financial and budgetary transparency would be enhanced. The District would put systems in place to ensure that residents of the District would be able to influence and monitor the use of taxpayer funds.	

As there is an identified need for more professional management of the District, it may be appropriate for another public agency to take on management of the District or provision of its services, such as a city or the County.

The City of Gilroy, being the only incorporated city within the District, may take on management and administration of the District through either a merger or formation of a subsidiary district of the City. A merger is defined as the termination of the existence of a district when the responsibility for the functions, services, assets, and liabilities of that district are assumed by a city.⁶⁷ Government Code §57104 requires that all territory of a district must be within the City for which merger is proposed. In the case of SSCVMD, because there is significant territory outside of the City’s boundaries, merger is not a feasible option.

As a subsidiary district, SSCVMD would continue to exist as a legal entity, but the City Council is designated as the ex officio board of directors of the District. At least 70 percent of the territory within the District or 70 percent of registered voters of the District must be within the City, in order to meet legal requirements of establishing a subsidiary district.⁶⁸ In the case of SSCVMD, a significant portion of the territory of the District lies outside of the City; however, 85 percent of the District’s population is within the City and would therefore likely meet the required standard regarding registered voters to become a subsidiary district.

The establishment of SSCVMD as a subsidiary district would not change the legal status of the District as a special district; however, it would exchange the existing elected district Board of Directors for the City Council as the ex-officio board of directors. The City would

⁶⁷ Government Code §56056.

⁶⁸ Government Code §57105.

assume all assets, functions and governance along with all debts and liabilities of the subsidiary district. This option may be initiated by the Commission,⁶⁹ the legislative body of the district wishing to establish itself as a subsidiary district,⁷⁰ the legislative body of a city wishing to establish a subsidiary district,⁷¹ or by petition.⁷²

The District would continue to exist under this option, and property tax revenue presently collected by SSCVMD would be guaranteed to continue to be dedicated to veteran services in the area. The City would receive the District property tax revenues and would be required to account for the activities associated with the District’s functions separately from other city services. This and other potential advantages and disadvantages are outlined in Figure 5-10 below.

Figure 5-10: Advantages and Disadvantages of Becoming a Subsidiary of the City of Gilroy

Advantages	Disadvantages
Service levels will be enhanced as services would be offered by a professional full-time staff and elected city council.	The delivery of could potentially be interrupted during the transition period.
Accountability and transparency would be greatly enhanced given the visibility of the City.	
Long-term planning for the delivery of services to area residents would be enhanced.	
The District would continue to exist and funds would continue to be dedicated to the purpose intended.	
The management of service delivery to the residents of the District would be enhanced with the substantive management and supervisory structure of the City.	

It should be noted that the City has not been contacted regarding the potential of taking on the District as a subsidiary district. Consequently, it is unknown whether the City would be interested in taking on this responsibility. The City would need to be contacted before considering or moving forward with this option.

Complete dissolution of SSCVMD and establishment of a successor agency other than the City of Gilroy is another option. According to Government Code §56035, dissolution

⁶⁹ Government Code §56375(a)(2)(D).

⁷⁰ Government Code §56658(a).

⁷¹ Government Code §56658(a).

⁷² Government Code §56866

means the “dissolution, disincorporation, extinguishment, and termination of the existence of a district and the cessation of all its corporate powers.” Upon dissolution, LAFCO would need to identify a successor agency to implement the wind-up of the District, in accordance with Government Code §57451. In this case, the most appropriate option may be Santa Clara County, as it has an Office of Veterans Services, which provides services to veterans.

Under this scenario, service responsibilities, assets, and liabilities would be transferred to a successor agency in a manner that results in fund balances and revenues being segregated for the purpose of delivery of veterans services in the South Santa Clara Memorial District service area. As the successor agency, the Santa Clara County Office of Veterans Services would receive the District’s funds and assets with a term of conditions being that the funds and assets be used strictly for the uses that may be provided by a memorial district in a defined fund.

The District, LAFCO, or any “affected local agency”, could initiate dissolution proceedings. An affected local agency is any local government agency which contains, or whose sphere of influence contains, any territory that is also within the boundary of the District.

Adopting this alternative would have the following potential advantages and disadvantages, should conditions remain unchanged.

Figure 5-11: Advantages and Disadvantages of Dissolution

Advantages	Disadvantages
Dissolution would resolve the lack of district reform and enable improved governance and accountability for delivery of services by the County.	The delivery of services could potentially be interrupted during the transition period.
Sharing of facilities and collaboration with other similar service providers would be enhanced for the delivery of services to veterans.	There is no guarantee of continued services.
Financial and budgetary transparency would be greatly enhanced.	Property tax could be redistributed, unless otherwise negotiated.

The County has not been contacted regarding the potential for taking on the District’s services and responsibilities. The County would need to be contacted before considering or moving forward with this option.

LAFCO may desire to offer the opportunity for the District to make the necessary improvements in governance, transparency and public accountability, prior to considering these other options. In this case, LAFCO should define a timeline for the improvements to be made with a deadline for the District to report back to LAFCO. At which time, LAFCO may determine whether sufficient improvement has been made. If it is determined that the District has not been able to make the necessary improvements, then LAFCO may wish to consider formation of a subsidiary district with the City of Gilroy or dissolution of the District.

SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT SERVICE REVIEW DETERMINATIONS

Growth and Population Projections

- ❖ South Santa Clara Valley Memorial District (SSCVMD) had a population of approximately 57,538 in 2010. The City of Gilroy is the only urban population center in the District with a population of 48,821, according to the 2010 Census.
- ❖ Should each area within SSCVMD experience growth as projected by ABAG, then the District is anticipated to have overall growth of 39 percent over the 25-year period with a population of 79,973 in 2035.

Location and Characteristics of any Disadvantaged Unincorporated Communities Within or Contiguous to the Sphere of Influence

- ❖ There are no disadvantaged unincorporated communities within or adjacent to SSCVMD, based on mapping information provided by the State of California Department of Water Resources.

Present and Planned Capacity of Public Facilities and Adequacy of Public Services, Including Infrastructure Needs and Deficiencies

- ❖ The memorial hall has more than sufficient capacity to serve the three veterans groups that regularly use the memorial hall for meetings. It appears that the facility is underutilized, particularly on weekends when it is rarely used. This is likely due to a lack of outreach on the part of the District and the lack of a web presence where the general public is likely to search for facilities available for rent.
- ❖ In order to maximize use of the facility and interest in the District's functions, it is recommended that the District conduct outreach to veterans, as well as residents of the District, regarding the services offered by the District, in the form of a website, making pamphlets available at other veteran service locations and veteran related events, and advertising board positions when member terms are nearing expiration.
- ❖ While it is recommended that the District conduct long-term planning and develop and implement plans to enhance utilization of its existing facility as well as other facilities, these improvements to operations are secondary to ensuring that the District is conducting business within legal requirements as appropriate for a public agency receiving public funds.

- ❖ The memorial hall, while reflective of its age, appears to be reasonably maintained. No critical deferred maintenance issues were identified.
- ❖ The District reported the need for two improvements to the memorial hall. The most critical need identified was a kitchen remodel. The existing kitchen has reportedly not had major improvements for over 60 years. The kitchen remodel is estimated to cost approximately \$100,000. Additionally, the restrooms in the facility are not compliant with Americans with Disability Act, and require remodeling. The District reported that it is in the process of creating a plan for the remodeling of the bathrooms.

Financial Ability of Agency to Provide Services

- ❖ SSCVMD reported that the current level of financing is adequate to provide services. The District's revenues exceeded expenditures in each of the past five fiscal years (08-12), and the District has been able to maintain significant reserves.
- ❖ The current level of reserves appears to greatly exceed the needs of SSCVMD, given that the District does not have any debt, the District's sole asset (the memorial hall) is considered to be well maintained with no significant deficiencies, and district revenues have exceeded expenditures in each of the past five years by an annual average of 68 percent and have been more than adequate to fund the District's annual operations, maintenance, and ongoing capital requirements. The District should adopt a policy to designate the purpose of the reserve funds.
- ❖ Several discrepancies exist between the District's annual financial transaction reports submitted to the State Controller and the annual "profit and loss financial statements" prepared by the secretary of the Board. It is recommended that the District undergo a forensic audit to clarify these discrepancies.
- ❖ Given the lack of records to substantiate that a five-year audit schedule was approved by the Board of Supervisors, and certain concerns regarding financial transparency of the District, it may be prudent for the County to consider an annual audit requirement for the District.
- ❖ Several improvements to financial oversight and transparency are recommended: 1) development and adoption by the Board of a detailed budget before the start of the fiscal year, 2) filing a copy of that budget with the County Auditor as legally required, 3) conducting a forensic audit to correct or clarify discrepancies in record keeping, and 4) annual audits.
- ❖ The District is not receiving rent from the bar's operations and is covering insurance and utility costs for the bar, which in essence subsidizes the bar with public funds. It is recommended that SSCVMD resume receiving rent from the bar, in order to limit the District's liabilities with regard to the bar's activities.

Status and Opportunities for Shared Facilities

- ❖ The Memorial District does not share any facilities with regional veterans service providers.
- ❖ Once improvements of immediate importance have been made, it is recommended that District focus its efforts on developing and implementing plans to enhance the utilization of the memorial hall by veterans organizations, including the Mobile Veterans Center of the United States Veterans Affairs, the Santa Clara County Office of Veterans Services, and other non-profit veterans organizations.

Accountability for Community Services, Including Governmental Structure and Operational Efficiencies

- ❖ Several deficiencies to proper governing, accountability and transparency were identified over the course of this review, including 1) seating board members without appointment by the Board of Supervisors, 2) not meeting legal requirements outlined in the District's principal act, 3) inadequate and possibly illegal bylaws, 4) numerous Brown Act violations, 5) illegally attempting to remove a board member, 6) excluding the vote of a board member, 7) failing to use a bidding process for hiring contractors, 8) failure to file required disclosure forms to the Fair Political Practices Commission in 2012 and 9) failure to conduct biennial ethics training.
- ❖ The District must take immediate action to correct the numerous accountability deficiencies identified. 1) Hire a general manager to implement necessary improvements as defined here. 2) Conduct required ethics training as required by law. 3) Conduct annual Brown Act training to ensure Board members are aware of legal requirements. 4) Hire legal counsel to ensure all legal requirements are met regarding operations, accountability, and board actions. 5) Edit and adopt appropriate bylaws based on guidance from legal counsel. 6) Clearly define in the bylaws how the Board President and Secretary are to be selected and the term of the appointment. Appoint both a president and a secretary from among the Board members as required by law. 7) Eliminate conflicts of interest by precluding District Board Members from holding governing positions on the Bar Council and the Bingo Committee. 8) Ensure that board positions are properly filled through the election process or appointment by the Board of Supervisors with clearly defined term expiration dates for each board member. 9) Ensure consistency and clarity of financial documents by conducting a forensic audit and annual audits thereafter.
- ❖ Other improvements that should be made, but implementation may require a longer period, include the following: 1) properly conduct a documentable bidding process for any future capital improvements, 2) conduct outreach to veterans, as well as residents of the District, regarding the services offered by the District, specifically in the form of a website, 3) creation of a multi-year capital improvement plan, 4)

conduct a rate study to ensure that rates are appropriate, and 5) creating a business plan to provide direction for future service provision.

- ❖ The District lacks a website where information is made available to the public. To enhance transparency and outreach to constituents, it is recommended that the District develop a website and publish on the website the agendas and minutes of the Board of Directors, the annual financial transaction reports, the annual operating budget, etc.
- ❖ There are no formal policies or standardized procedures on the part of the District nor the Board of Supervisors defining how district board openings are to be announced, how long the application period should be open, and the manner for interviews, etc. It is recommended that both the District and the County formalize the appointment procedure in a set of policies.
- ❖ Upon appointment by the Board of Supervisors, it is unclear where the responsibility lies regarding reporting the Board of Supervisor's decision back to the Registrar of Voters. There appears to be an opportunity for improvement to this process, to ensure that all interested parties (the District, the public, the Clerk of the Board, and the Registrar of Voters) can readily identify the existing governing body of the District and respective term expiration dates.
- ❖ With respect to SSCVMD, four governance structure options were identified for the District, including 1) continued operations as an independent special district with significant improvements to governance, transparency, and accountability, 2) merger with the City of Gilroy, 3) becoming a subsidiary district of the City of Gilroy, and 4) dissolution.

SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT SPHERE OF INFLUENCE UPDATE

Existing Sphere of Influence Boundary

The sphere of influence of SSCVMD is coterminous with its boundaries.

Recommended Sphere of Influence Boundary

Given that SCCMVD is the only service provider of its kind in the area and that LAFCO is for the first time comprehensively reporting the identified deficiencies to the District, LAFCO may desire to offer the opportunity for the District to make the necessary improvements in governance, transparency and public accountability, prior to considering other governance structure options. In which case, it is recommended that LAFCO consider retaining the current coterminous sphere of influence provisionally. The District must return to LAFCO within an established time period and report on progress made in implementing the recommended changes. At which time, LAFCO may determine whether sufficient improvement has been made. If it is determined that the District has not been able to make the necessary improvements, then LAFCO may wish to consider a zero sphere of influence in anticipation of formation of a subsidiary district with the City of Gilroy or dissolution of the District.

Under this scenario, the District would continue to operate as an independent special district, but would be required to make certain defined improvements. The most critical of these improvements would need to be made immediately to bring the District into compliance with legal requirements. The other improvements could be made over a period of one year. The most critical improvements that would require immediate implementation, and which the District should report back to LAFCO on within three months, include the following:

- ❖ Hire a general manager to implement necessary improvements as defined here.
- ❖ Conduct required ethics training as required by law.
- ❖ Conduct annual Brown Act training to ensure Board members are aware of legal requirements.
- ❖ Hire legal counsel to ensure all legal requirements are met regarding operations, accountability, and board actions.
- ❖ Edit and adopt appropriate bylaws based on guidance from legal counsel.

- ❖ Clearly define in the bylaws how the Board President and Secretary are to be selected and the term of the appointment. Appoint both a president and a secretary from among the Board members as required by law.
- ❖ Eliminate conflicts of interest by precluding District Board Members from holding governing positions on the Bar Council and the Bingo Committee.
- ❖ Ensure that board positions are properly filled through the election process or appointment by the Board of Supervisors with clearly defined term expiration dates for each board member.
- ❖ Ensure consistency and clarity of financial documents by conducting a forensic audit and annual audits thereafter.

Other improvements that should be made, but implementation may require a longer period, perhaps one year, include the following:

- ❖ Properly conduct a documentable bidding process for any future capital improvements through advertisements in printed press, online proposal search engines and on the District's website.
- ❖ Adopt a policy regarding long-term retention of records, such as minutes, agendas, and resolutions.
- ❖ Conduct outreach to veterans, as well as residents of the District, regarding the services offered by the District, in the form of a website, making pamphlets available at other veteran service locations and veteran related events, and advertising board positions when member terms are nearing expiration.
- ❖ Conduct a rate study to ensure that rates are appropriate, given that the District's revenues are almost entirely funded through property taxes from residents, and competitive with other similar service providers. The facility should be made available to residents and veterans alike at similar rates, given the use of public funds to run the facility.

Should the District be unable to substantially implement these improvements within in the defined time frame, it is recommended that the Commission consider one of the other governance structure options.

Proposed Sphere of Influence Determinations

The nature, location, extent, functions, and classes of services provided

- ❖ The Memorial District owns, operates, and maintains a memorial hall for the use of veterans and other members of the public. Three veterans groups use the memorial hall for meetings. A number of different types of meetings and events are held at

the memorial hall by these groups as well as the public. Meetings and events range from funeral and memorial services for veterans to community events such as a Memorial Day barbecue and a Veterans Day breakfast. These events are hosted by individuals or one of the veterans organizations. The memorial hall includes a bar, which is operated and managed by the Bar Council—a separate body from SSCVMD.

- ❖ Members of the groups that make use of the District’s facility reside both within and outside the District’s bounds. Non-residents come from the neighboring unincorporated area of San Martin, the City of Morgan Hill, and City of San Jose, but can also come from as far as outside the State.

Present and planned land uses in the area, including agricultural and open-space lands

- ❖ The District encompasses the City of Gilroy and the adjacent unincorporated County areas, which extend to the County boundary to the south, east, and west. The City of Gilroy is a largely residential and agricultural community. The unincorporated County areas are largely ranchlands, hillsides, regional parkland, and agricultural areas. However, smaller areas consisting of open space reserves also exist adjacent to Gilroy.

Present and probable need for public facilities and services in the area

- ❖ While the District’s facility appears to be underutilized, there is an apparent demand for the services offered by the members of the three veterans groups that make regular use of the facility.
- ❖ Although growth is anticipated in the area, population growth is not anticipated to greatly impact demand for the District’s services, as the level of demand hinges more on the population of veterans in the area and the District’s outreach efforts to inform the public of available services.

Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide

- ❖ The memorial hall has more than sufficient capacity to serve the three veterans groups that regularly use the memorial hall for meetings. It appears that the facility is underutilized, particularly on weekends when it is rarely used. This is likely due to a lack of outreach on the part of the District and the lack of a web presence where the general public is likely to search for facilities available for rent.
- ❖ In order to maximize use of the facility and interest in the District’s functions, it is recommended that the District conduct outreach to veterans, as well as residents of the District, regarding the services offered by the District, in the form of a website, making pamphlets available at other veteran service locations and veteran related events, and advertising board positions when member terms are nearing expiration.

- ❖ While it is recommended that the District conduct long-term planning and develop and implement plans to enhance utilization of its existing facility as well as other facilities, these improvements to operations are secondary to ensuring that the District is conducting business within legal requirements as appropriate for a public agency receiving public funds.
- ❖ The District is severely lacking in accountability and transparency, and requires significant improvements, as outlined in the service review determinations, to begin operating appropriately as a public agency.

Existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency

- ❖ The three veterans groups that make use of the District's facility are considered social communities of interest to SCCVMD.