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LANA SCHOTEN  
LINNE COMMUNITY SERVICES DISTRICT  
9191 Windmill Place  
Paso Robles, CA 93446

RE: AUTHORITY OF THE DISTRICT

Dear Lana:

Please advise the Board of Directors of the Linne Community Services District that on March 5, 1996, I had a telephone conversation with Paul Hood regarding the Linne Community Services District. As a result of that conversation Mr. Hood is retrieving the annexation file from storage at Camp San Luis for further review. As of the writing of this letter the file has not arrived at the LAFCO Commission.

Please accept the following as my initial opinions as to the authority of the District over its roads:

Source of Authority:

§ 61600 of the Government Code outlines the powers that a Community Services District can exercise within its boundaries. The Linne Community Services District derives its general authority over its roads from § 61600 (j) of the Government Code which states in relevant part:

**§ 61600. Purposes for which district may exercise powers**

A district formed under this law may exercise the powers granted for any of the following purposes designated in the petition for formation of the district and for any other of the following purposes that the district shall adopt:

(j) The constructing, opening, widening, extending, straightening, surfacing, and maintaining, in whole or in part, of any street in the district, subject to the consent of the governing body of the county or city in which the improvement is to be made.

Additionally, Government Code § 61621.5 authorizes the

district to adopt ordinances to regulate the use of its facilities, and delegates to the District the powers, duties, and authority of a county road commissioner under § 1460 of the Streets and Highway Code. § 61621.5 states as follows:

**§ 61621.5. Regulations as to use of facilities and property**

(a) Except as otherwise provided in this section, a district may by ordinance adopt regulations binding upon all persons to govern the construction and use of its facilities and property, including regulations imposing reasonable charges for the use thereof. Violation of any regulation relating to the construction and use of sanitation facilities or of roads is a misdemeanor.

(b) A district may by ordinance adopt regulations binding upon all persons to govern the use of its park and recreational facilities and property, including regulations imposing reasonable charges for the use thereof. Violation of any regulation relating to the use of park and recreational facilities is a misdemeanor.

(c) A district granted consent of the governing body of the county or city to exercise the powers provided in subdivision (j) or (k) of Section 61600 shall have the powers, duties, and authority of a county road commissioner granted under Article 2 (commencing with Section 1460) of Chapter 5.5 of Division 2 of the Streets and Highways Code to issue written permits to do the acts permitted by Section 1460 of the Streets and Highways Code in and on the streets accepted for maintenance by the district in accordance with the applicable provisions of the chapter. Any person who does any of the acts specified in Section 1460 of the Streets and Highways Code without the authority of a written permit from the district is guilty of a misdemeanor and is liable to the district for all expenses and damages caused thereby.

(emphasis added)

Streets and Highway Code § 1460 codifies the authority of a road commissioner (the District) and states in full as follows:

**§ 1460. Acts authorized by permits; Misdemeanor offense, and liability for expenses and damages**

The road commissioner may issue written permits, as provided in this chapter, authorizing the permittee to do any of the following acts:

(a) Make an opening or excavation for any purpose in any county highway.

(b) Place, change or renew an encroachment. (emphasis added)

(c) Place or display in, under or over any county highway any kind of advertising sign or device. Any such sign or device placed or displayed contrary to the provisions of this section is a public nuisance and the road commissioner may immediately remove it. The provisions of this section shall not prohibit the posting of any notice in the manner required by law or by the order of any court of this state.

(d) Plant, remove, cut, cut down, injure or destroy any tree, shrub, plant or flower growing within any county highway.

Any person who does any of the acts specified in this section, without the authority of such a permit, is guilty of a misdemeanor and is liable to the public agency for all expenses and damages caused thereby.

Pursuant to § 1460 (supra) the District is authorized to issue, change and renew encroachment permits. I have reviewed the general guidelines prepared by Attorney Grimes in 1981 for the issuance of encroachment permits and they seem appropriate. However, I have not reviewed actual recordable encroachment permits. Therefore, at this time I am unable to render an opinion as to the effectiveness of the District's encroachment policy.

#### Stop Signs:

Stop signs are regulated by the Vehicle Code, specifically §21354, which states in relevant part:

#### § 21354. Stop signs on local highways

Subject to the provisions of Section 21353, a local authority may designate any highway under its jurisdiction as a through highway and may erect stop signs at entrances thereto or may designate any intersection under its exclusive jurisdiction as a stop intersection and erect stop signs at one or more entrances thereto.

A "local authority" within the meaning of § 21354 is defined by vehicle code § 385 as follows:

#### § 385. Local Authorities

"Local authorities" means the legislative body of every county or municipality having authority to adopt local police regulations.

Because the Linne Community Services District does not have the authority to adopt local police regulations it does not have the authority to erect and regulate stop signs.

Generally, the County as a "local authority" would have the powers to regulate the roads within the Linne Community Services

District pursuant to Vehicle Code § 21100, which states as follows:

§ 21100. Rules and regulations; Subject matter

Local authorities may adopt rules and regulations by ordinance or resolution regarding the following matters:

- (a) Regulating or prohibiting processions or assemblages on the highways.
- (b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.
- (c) Regulating traffic by means of traffic officers.
- (d) Regulating traffic by means of official traffic control devices meeting the requirements of Section 21400.
- (e) Regulating traffic by means of any person given temporary or permanent appointment for such duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at such locations as may require traffic direction for orderly traffic flow. You will also find enclosed the map of the District that was lent to me at our prior meeting.

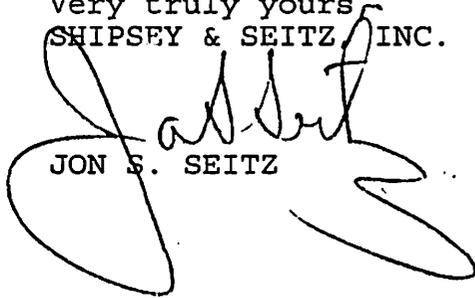
I suggest the District contact the County Engineering Department for placement of stop signs.

Once I have had a chance to review the LAFCO Commission file and the original subdivision maps and possibly the certificates of compliance, I will be in a position to firm up my opinions regarding the authority of the District.

I have enclosed five copies of the Linne Community Services District formation map and five copies of this letter for the members of the Board of Directors.

If you should have any questions about the foregoing, please do not hesitate to contact me.

Very truly yours,  
SHIPSEY & SEITZ, INC.

  
JON S. SEITZ

JSS/cm  
Enclosures