

**LAFCO MEETING  
AGENDA**

**Wednesday, October 1, 2008  
12:00 Noon**

**Board of Supervisors' Chambers  
70 West Hedding Street, First Floor  
San Jose, CA 95110**

**CHAIRPERSON: Pete Constant • VICE-CHAIRPERSON: Susan Vicklund-Wilson  
COMMISSIONERS: Blanca Alvarado, Don Gage, John Howe  
ALTERNATES: Sam Liccardo, Pete McHugh, Al Pinheiro, Terry Trumbull**

The items marked with an asterisk (\*) are included on the Consent Agenda and will be taken in one motion. At the beginning of the meeting, anyone who wants to discuss a consent item should make a request to remove that item from the Consent Agenda.

**Disclosure Requirements**

**1. Disclosure of Campaign Contributions**

If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than \$250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than \$250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings.

If you or your agent have made a contribution of more than \$250 to any commissioner or alternate during the twelve (12) months preceding the decision, that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings. For disclosure forms and additional information see: <http://www.santaclara.lafco.ca.gov/annexations&Reorg/PartyDisclForm.pdf>

**2. Lobbying Disclosure**

Any person or group lobbying the Commission or the Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. Any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. For disclosure forms and additional information see: <http://www.santaclara.lafco.ca.gov/annexations&Reorg/LobbyDisclForm.pdf>

**3. Disclosure of Political Expenditures and Contributions Regarding LAFCO Proceedings**

If the proponents or opponents of a LAFCO proposal spend \$1,000 with respect to that proposal, they must report their contributions of \$100 or more and all of their expenditures under the rules of the Political Reform Act for local initiative measures to the LAFCO office. For additional information and for disclosure forms see: [http://www.santaclara.lafco.ca.gov/sclafcopolicies\\_annex&reorg\\_home.html](http://www.santaclara.lafco.ca.gov/sclafcopolicies_annex&reorg_home.html)

12:00 PM

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1. **ROLL CALL**

2. **CLOSED SESSION**

Conference with Legal Counsel - Anticipated Litigation. Significant exposure to litigation pursuant to Government Code § 54956.9 (1 case)

1:15 PM Time Certain

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3. **PUBLIC PRESENTATIONS**

This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on this agenda. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

4. **APPROVE MINUTES OF SEPTEMBER 10, 2008 MEETING**

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**ITEMS FOR COMMISSION DISCUSSION / ACTION**

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5. **REVENUE NEUTRALITY OPTIONS FOR THE PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN**

Possible Action: Accept report and provide direction to staff.

6. **UPDATE ON (a) PAYMENT OF LAFCO STAFF COSTS, (b) COMPLIANCE WITH DISCLOSURE REQUIREMENTS, AND (c) PROPOSED SCHEDULE FOR THE SAN MARTIN INCORPORATION PROCESS**

Possible Action: Accept report and provide direction to staff.

7. **ADOPTION AND PRESENTATION OF RESOLUTION COMMENDING KATHY KRETCHMER FOR HER SERVICES TO LAFCO**

8. **LAFCO ANNUAL REPORT**

Possible Action: Accept LAFCO Annual Report (July 1, 2007-June 30, 2008).

9. **LEGISLATIVE REPORT**

Possible Action: Accept report.

10. **EXECUTIVE OFFICER'S REPORT**

11. **COMMISSIONERS' REPORTS**

12. **WRITTEN CORRESPONDENCE**

12.1 **Letter from the Committee For Campbell Annexation (CFCA) of Modified Pocket 6-1, dated September 18, 2008**

**13. NEWSPAPER ARTICLES / NEWSLETTERS**

13.1 CALAFCO Newsletter: [The Sphere](#)

**14. ADJOURN**

Adjourn to a Special LAFCO meeting on Friday, November 7, 2008, at 2:30 PM in the **Chambers of the Board of Supervisors, 70 West Hedding Street, First Floor, San Jose, CA 95110.**

Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commission less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office at the address listed at the bottom of the first page of the agenda during normal business hours.

In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408) 299-6415, or at TDD (408) 993-8272, indicating that message is for the LAFCO Clerk.

**LOCAL AGENCY FORMATION COMMISSION OF  
SANTA CLARA COUNTY  
MINUTES WITH REVISIONS  
WEDNESDAY, SEPTEMBER 10, 2008**

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**1. ROLL CALL**

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 10th day of September 2008 at 1:15 p.m. in the Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California, with the following members present: Chairperson Pete Constant, Vice Chairperson Susan Vicklund-Wilson, and Commissioners Don Gage and John Howe. Commissioner Blanca Alvarado is absent. Alternate Commissioner Terry Trumbull is present.

The LAFCO staff in attendance includes Neelima Palacherla, LAFCO Executive Officer; Dunia Noel, LAFCO Analyst; and, Mala Subramanian, LAFCO Counsel for the San Martin incorporation proposal.

The meeting is called to order by Chairperson Constant and the following proceedings are had, to wit:

**2. PUBLIC PRESENTATIONS**

There are no public presentations.

**3. APPROVE MINUTES OF JUNE 4, 2008 AND JULY 2, 2008 MEETINGS**

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered on a vote of 4-0, with Commissioner Alvarado absent, that the minutes of June 4, 2008 and July 2, 2008 be approved, as submitted.

**4. OPTIONS FOR REVENUE NEUTRALITY TERMS FOR THE PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN**

The Chairperson requests the report. Ms. Palacherla briefly discusses Table 1 of the staff report, which is the 10-year budget projections for the town, and Table 3, which illustrates the impact to the County. She states that since revenue neutrality negotiations have failed, State law requires the Commission to impose terms and conditions. She then briefly discusses the options for revenue neutrality. Ms. Subramanian advises that the staff

report includes her memorandum discussing some of comments made by the proponents and her recommendation and analysis.

The Chairperson opens the public comment period for this item.

John Wolfenbarger, a member of San Martin Neighborhood Alliance (SMNA), gives his time to Richard Van't Rood.

Mr. Van't Rood, SMNA spokesperson, conveys to the Commission a letter signed by about 200 San Martin residents requesting that the Commission allow residents to vote on the incorporation without raising taxes. He then states that Option 3 was presented for negotiations and comments on Option 4.

The Chairperson calls those who requested to speak: Reggie Bravo, JF Comprechio, Jeannie Van't Rood, Candice Tohamson, Sylvia Hamilton, Joe Bentley, and all of whom indicate that Mr. Van't Rood had spoken for them.

Miguel Marquez, Assistant County Counsel, County of Santa Clara, states that the County's position is to ensure that the General Fund is whole, and that the Commission cannot unilaterally impose an offset of one fund against the other. He informs that the County will disagree if LAFCO considers the benefits of road fund as an offset to the County General Fund impact. He expresses agreement with LAFCO Counsel's analysis that restricted and unrestricted funds be segregated.

In response to an inquiry by Commissioner Wilson, Ms. Palacherla advises that staff is seeking direction from the Commission at this meeting relating to the Terms and Conditions. In response to a follow-up question by Commissioner Wilson, Ms. Palacherla informs that Option 1 is not be feasible without a tax increase. In response to an inquiry by Commissioner Wilson on Option 4, Ms. Subramanian advises that County savings on the Road Fund could partly offset a percentage of General Fund loss, not dollar-for-dollar, because the town assumes road services that the County will no longer provide.

In response to Commissioner Wilson's questions, Mr. Van't Rood states that with proper findings, Option 3 could be adopted in terms and conditions. Commissioner Howe confirms with staff that the County and proponents did not reach agreement on Option 2.

Commissioner Gage inquires about the difference in opinion between the LAFCO Counsel and the County Counsel. Mr. Marquez states that the statutes require that the County's General Fund be kept whole so the County can continue to provide countywide services. He states that restricted funds should be segregated from General Fund since they cannot be used to pay for other countywide services. In response to another inquiry by Commissioner Gage, Mr. Marquez informs that Road Fund surplus can not be given back to San Martin because these have heavy restrictions on how the funds are spent and for what specific purpose. Ms. Subramanian states that incorporation is not meant to benefit either the County or the new town. She then informs that the Streets and Highways Code has a mechanism by which the County could provide aid for maintaining city roads. Commissioner Gage comments that savings in the County Road Fund which should have gone to San Martin should be returned to San Martin. Mr. Marquez advises that the County opposes both options 2 and 4. Deputy County Executive Sylvia Gallegos states that the historical context for revenue neutrality is to protect the County's General fund. She then talks about County's budget deficits and how the \$872,000 is substantial in the context of County budget shortfall. She informs that road expenses are growing by 15 percent each year due to increasing cost of asphalt and steel, while the Road Fund revenues, which are not indexed to inflation, are declining. The Chairperson comments that the County is of the opinion that it can keep the Road Fund surplus and seek mitigation of General Fund loss. In response to this, Ms. Gallegos advises that the reason for this is because Road Fund cannot be used to offset the shortfall in the General Fund. In response to a follow up inquiry by the Chairperson, Ms. Gallegos advises that the legislative intent of revenue neutrality is to protect the County's General Fund. In response to the inquiry by the Chairperson, Mr. Marquez informs that the County would agree to terms and conditions that keeps the General Fund whole and holds the County harmless.

In response to an inquiry by Commissioner Howe, Ms. Palacherla advises that the County's Road Fund savings of approximately \$1.5 million was based on expenditures for roads in FY06-07 and is much higher than a typical year; and, the Commission has the

discretion to consider lower savings in determining revenue neutrality. Commissioner Howe questions if the statute requires the use of FY06-07 data in the CFA and Ms. Palacherla expresses agreement. Commissioner Howe questions if the road spending in FY06-07 is \$1.5 million and Ms. Gallegos expresses agreement.

Commissioner Wilson moves to direct staff to look at options 1 and 4 and return with a recommendation at the October 1, 2008 public hearing. Commissioner Gage seconds the motion.

In response to an inquiry by the Chairperson, Ms. Subramanian advises that a certain percentage could be used to offset General Fund loss and provides an example of a city, paying an adjacent city in restricted fund. In response to an inquiry by the Chairperson, Ms. Subramanian advises to keep the restricted and unrestricted funds separate.

In response to an inquiry by Commissioner Gage, Ms. Palacherla informs that staff will look at options 1 and 4 and bring back a recommendation at the next meeting. However, she informs that the October 1, 2008 hearing may be rescheduled to November 7, 2008. The Chairperson states that the schedule will be discussed on the next item.

Commissioner Howe then summarizes the motion. Commissioner Wilson expresses agreement and informs why options 2 and 3 are not included in her motion.

Chairperson calls the question. It is unanimously ordered on a vote of 4-0, with Commissioner Alvarado absent, that staff be directed to bring back information on Option 1 and Option 4 at the next meeting.

**5. UPDATE ON (a) PAYMENT OF LAFCO STAFF COSTS, (b) COMPLIANCE WITH DISCLOSURE REQUIREMENTS, AND (c) PROPOSED SCHEDULE FOR THE SAN MARTIN INCORPORATION PROCESS**

The Chairperson informs that the discussion to move the hearing to November 7, 2008 was a result of his comments that he may be unavailable on October 1, 2008; since then, he has changed his plans in order to attend the meeting. The Chairperson then requests the staff report. Ms. Palacherla reports on the proposed schedule, and provides an update on fees stating that the unpaid LAFCO fee at the end of July 2008 is \$153,473.65.

She recommends that the FPPC forms be used for filing the disclosure and that SMNA is not fully compliant with the requirements.

The Chairperson opens the public comment period for this item.

Jan Webb, a resident of San Martin, states that she opposes the incorporation because she prefers to live in the unincorporated area and wants San Martin to remain unincorporated. She dealt with County staff over the years and is impressed by their consistent helpful attitude. The incorporation is a wasteful process that would burden County taxpayers if it failed and the residents of San Martin if it succeeded. She then requests the Commission to hold the election in a public election year where there will be more voter turnout.

Mr. Van't Rood states that he opposes the option to tax the residents of San Martin and comments that State and local guidelines have not been followed because the boundary issue was not addressed before the petition was circulated and that meant additional costs and time. He states that proponents did not have the support of LAFCO staff in revenue neutrality negotiations, especially since staff opined that the town was not feasible. Additionally, he states that the Public Review Draft CFA must include Terms and Conditions, and be posted 30 days prior to LAFCO hearing.

At the request of the Chairperson, Ms. Subramanian advises that the Public Review Draft CFA has been made available to the public longer than the required 30-day period even if some tables have been revised. In response to a follow-up inquiry by the Chairperson, Ms. Subramanian informs that the Terms and Conditions will be based on Commission's direction, and since it is the Commission's own policy that dictates these timelines, the October 1, 2008 hearing may be continued to November 7, 2008 to allow the public 30 days to review the Terms and Conditions. Mr. Van't Rood expresses disagreement stating that the Terms and Conditions should be made available at the first public hearing, stating that the continuance is a way to make the proponents pay the LAFCO fee. He informs that the tables in the Public Review Draft CFA have been changed several times and that the document should include revenue neutrality terms.



Ms. Subramanian directs attention to the LAFCO policy as it relates to the hearing schedule. Commissioner Gage proposes that the public hearing be held on November 7, 2008 and that payment of LAFCO fees be required prior to that date. Ms. Subramanian advises that a public hearing on November 7, 2008 would allow the CFA and Terms and Conditions to be made available to the public for a 30-day period. She adds that the CFA has already been reviewed by the public and staff has received many comments. In response to an inquiry by Commissioner Howe, Mr. Van't Rood indicates that the law requires a 30-day review period for the Terms and Conditions. Ms. Subramanian clarifies that the Commission's policies requires the 30-day period and not State law. Mr. Van't Rood states that OPR Guidelines requires that. Commissioner Gage informs that OPR guidelines are not State law and, as such, the Commission may decide on this matter. Commissioner Gage then summarizes the hearing timeline and Ms. Subramanian expresses agreement. In response to an inquiry by Commissioner Wilson on the CFA timing, Ms. Subramanian advises that there is no State law provision that governs this process; however, the Chairperson states that guidelines inform the public on what to expect.

Commissioner Gage moves that a meeting be held on October 1, 2008 to determine revenue neutrality, and that staff be directed to publish a Public Review Draft CFA, along with the Terms and Conditions, 30 days prior to November 7, 2008 public hearing. Commissioner Howe seconds the motion.

Commissioner Gage comments that both the October 1, 2008 and November 7, 2008 are both public meetings and the agenda should specify the intent of each meeting. Ms. Subramanian expresses agreement.

Commissioner Gage amends the motion to require that LAFCO fees be paid in full 72 hours prior to the November 7, 2008 meeting. Commissioner Wilson reminds that the disclosure requirements should be complied with and Commissioner Gage states that this will also be included in his motion. Ms. Palacherla advises that the disclosures are now due and informs that other FPPC forms on the LAFCO website are also applicable to the

proposal. Commissioner Wilson proposes that this item be taken under a separate action. The Chairperson expresses agreement.

The Chairperson calls the question. It is unanimously ordered on a vote of 4-0, with Commissioner Alvarado absent, that a meeting be held on October 1, 2008 for the Commission to provide direction on revenue neutrality, that staff be directed to publish the Public Review Draft CFA, along with the Terms and Conditions 30 days prior to the November 7, 2008 public hearing; and that the proponents be required to pay the LAFCO fees in full no later than 72 hours prior the hearing.

The Chairperson opens discussion on the disclosure requirements. Mr. Van't informs that local policy requires the disclosures at the first public hearing and informs that the proponents have provided a preliminary disclosure; however, SMNA's treasurer is ill and was unable to prepare the FPPC forms. Commissioner Wilson informs that LAFCO requires the use of FPPC forms. In response to inquiry by Commissioner Gage, Ms. Palacherla advises that the staff report recommends that FPPC forms be used in lieu of staff preparing new forms considering that this function will be transferred to FPPC in January 2009, and that some guidance on preparing these forms is available on the LAFCO website. Commissioner Gage informs the proponents to contact staff for additional information.

Commissioner Gage moves to require proponents to comply with the disclosure requirements using the FPPC forms. Commissioner Wilson seconds the motion and proposes that a deadline be indicated because some of the filings are past due. The Chairperson comments that it would be fair to allow the proponents additional time because the forms have not been modified. Commissioner Gage modifies his motion to indicate that disclosures be filed no later than two weeks from today. In response to an inquiry by Ms. Subramanian, the Chairperson clarifies that the Commission sets September 24, 2008 as a new deadline for any disclosure forms, including those that have been due.

The Chairperson calls the question. It is unanimously ordered on a vote of 4-0, with Commissioner Alvarado absent, that disclosures for the proposed incorporation be submitted using FPPC forms no later than September 24, 2008.

**6. COMMISSIONERS' REPORTS**

Commissioner Howe informs that he attended the CALAFCO Conference on September 2-5, 2008 and reports that Commissioner Wilson has been elected as Vice-Chairperson of CALAFCO, and that Emmanuel Abello, LAFCO Clerk, made a presentation.

**7. EXECUTIVE OFFICER'S REPORT**

There are no reports.

**8. NEWSPAPER ARTICLES / NEWSLETTERS**

There are no newspaper articles.

**9. ADJOURN**

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:35 p.m. to the next regular meeting to be held on Wednesday, October 1, 2008 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

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Pete Constant, Chairperson  
Local Agency Formation Commission

ATTEST:

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Emmanuel Abello, LAFCO Clerk

LAFCO Meeting Date: October 1, 2008

**TO:** LAFCO

**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst

**SUBJECT: Options for Revenue Neutrality Terms: Proposed Incorporation  
of the Town of San Martin  
Agenda Item # 5**

### **STAFF RECOMMENDATION**

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Consider the report and Options 1 and 4 for establishing revenue neutrality and provide direction to staff.

Staff recommends revenue neutrality mitigation Option 4 with no more than a 50% credit of the County's Road Fund savings to offset County's General Fund impacts.

### **BACKGROUND**

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At its September 10, 2008 meeting, the Commission directed staff to provide more information on Options 1 and 4 (included in the September 10, 2008 LAFCO staff report) and provide a staff recommendation for Commission consideration. Please see Attachment B for emails dated September 18 and September 23, 2008 submitted by the proponents and see Attachment C for memos dated September 25, 2008 from the County Executive and from the County Counsel.

### **REVENUE NEUTRALITY MITIGATION OPTIONS**

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#### **Option #1: County's Proposal**

This option would require the Town to make annual payments of \$500,771 for 25 years to the County in order to mitigate the annual loss of \$872,240 to the County's General Fund. The annual surplus available in the Town's forecasted budget only averages approximately \$100,000 in the first 10 years. Additionally, the Town may not have sufficient resources to make the payments in the first few

years (Years 2 through 6) of the incorporation due to small / no surpluses during those years.

Should the Commission choose this option to establish revenue neutrality; the Commission could either make feasibility findings based on approval of a new tax for San Martin or deem the incorporation fiscally infeasible due to the shortfall in Town's revenues. There are 2 types of taxes that could be applied in San Martin to generate additional revenue 1) a parcel tax that could be applied to residential properties in San Martin and which would require a 2/3<sup>rd</sup> voter approval, and 2) a utility users tax (UUT) that could be charged on the use of utilities such as gas and electricity and which would require a simple majority approval.

The new tax should be adequate to generate sufficient revenues to cover the payments to the County. The Town would have revenues to fund an approximately \$180,000 payment starting in year 7. Therefore the full payments through year 6 and the balance of the payments starting in year 7 must be generated by new taxes.

Attachment A prepared by Economic and Planning Systems, our Comprehensive Fiscal Analysis consultant, includes Table A which provides an evaluation of the two potential tax options. This analysis developed by EPS is based on residential units; additional commercial revenue should be considered as providing a "coverage factor", or contingency, to address potential declines in residential based revenues.

Table A shows that an annual parcel tax of approximately \$238 per household unit in the first 6 years (assuming a total of 2,100 households), followed by a reduced tax of \$153 per unit from year 7 to year 25 would generate sufficient revenue. Table A also shows that alternatively, a minimum of 9.9% UUT per household in the first 6 years (assuming a \$200 average monthly utilities bill for gas and electricity) followed by a lower 6.4% UUT from years 7 through 25 would be required.

As indicated in the September 10, 2008 staff report, the proponents have stated that they would withdraw support for the incorporation proposal if the commission were to approve the incorporation subject to a tax.

#### **Option #4: "Road Fund Credit" Proposal**

Option 4 is based on the concept that a portion of the General Fund loss to the County is offset by the benefit that the County realizes to its Road Fund and that therefore a correspondingly smaller mitigation payment is sufficient to make the incorporation proposal revenue neutral. The County would experience a loss of \$872,000 to its General Fund with the incorporation of San Martin. The annual Road Fund savings to the County in a typical year would range from \$800,000 to \$950,000 -- that is, an amount approximately equal to its General Fund loss of \$872,000. LAFCO legal Counsel has opined that LAFCO has broad discretion in making the revenue neutrality finding and that LAFCO may consider all, none or a portion of the benefits to the County Road Fund as an offset to the County's General Fund impacts.

Should the Commission choose this option; the Commission must decide what portion of the Road Fund savings should be credited to offset the General Fund impact.

The proponents argue that the Road Funds should be considered at least as valuable as General Funds based on the large deficit that the County has in its Road Funds. The County on the other hand contends that Road Funds have zero offset value as General Funds because they are restricted and can only be used to provide road services and the county does not use General Funds for road services.

Legal counsel has located examples where agencies have traded restricted funds for general funds. Based on these examples, we found that the exchange rate ranges from \$0.50 to \$0.77 of general funds for each dollar of restricted funds. For example, the City of West Hollywood used its general funds to purchase Prop A funds (restricted funds to be used for transit services) at an exchange rate of \$0.77 on a dollar. We understand the higher rate of \$0.77 was paid because the City had transit projects that it intended to complete that would have otherwise required some contribution from its general fund to finish. Another example involves the City of San Fernando where the City used its general fund to purchase CDBG funds at the rate of \$0.50 on a dollar. We understand that the lower rate of \$0.50 was paid because the City had an interest in funding the grants, but was not obligated to do so.

Although these are not directly comparable situations to the San Martin incorporation in that the exchanges were based on agreements between two agencies and did not involve incorporation or revenue neutrality issues, these

examples can be used to illustrate how restricted funds may be valued against general funds. It appears from this information that the exchange rate is somewhat based on the extent of restrictions placed on the use of the funds, on the need for the funds, a plan or expectation for use of the funds and on the going rate for the funds.

Here, the County will receive a benefit to its Road Fund in the range of \$800,000 to \$950,000 per year as a result of the San Martin incorporation while losing the responsibility to maintain 50 miles of roads. The County Roads' Five Year Expenditure Plan currently shows a difference of \$358 million difference between available resources and unconstrained needs. As material prices rise, annual road needs will likely continue to grow. Road Funds are restricted and cannot be used to provide the services that the General Fund provides. The County has indicated that it has not used General Funds for road maintenance services except for some surplus funds provided to each of the supervisorial districts for their discretionary use in fiscal years 2001, 2002 and 2003. A portion of those funds were expended on road related services, the total amounting to approximately \$3.7 million over the three years. The County has neither used General Funds for road maintenance services since 2003, nor does it have any approved road projects that will require General Funds. The County has indicated that it is highly unlikely that General Fund revenue could be made available for roads in the foreseeable future given the large General Fund deficit of over \$300 million. However, there is a possibility that General Funds may be used in the future to address road maintenance if the need arises or to meet the annual needs as they continue to grow. Therefore, there is a possibility that the County General Fund could potentially benefit from the Road Fund savings in the future.

**Based on the considerations described above and the legal analysis provided by LAFCO Legal Counsel, staff recommends that the Commission offset the County General Fund impacts by no more than 50% with Road Fund savings because there does not appear to be an immediate or foreseeable use of General Fund monies for road services although this may occur in the future. The 50% offset is midway between the County's and the proponents' positions.**

As illustrated in Table B, with a 50% offset, the Town's annual payments to the County would be \$250,000 if the 10-year payments are spread over a period of 25 years. The Town would not have sufficient revenues for these payments based on the budget projections for the Town. Again, the Commission has the ability to a) make feasibility findings based on approval of a new tax or, b) deem the incorporation infeasible due to lack of sufficient revenues.

Using the same assumptions as in Option 1 with a total of 2,100 households and average utility bills of \$200 per month, an annual parcel tax of approximately \$120 or a utility users tax of approximately 5% on utility bills would be required for the Town to have sufficient revenues to make the mitigation payments to the County.

In closing, incorporations are one of the most significant applications that LAFCOs process due to the profound effects that they will have on the residents of the area, the surrounding community and the region and also due to the anticipated permanent nature of cities once they are created. Therefore, it is critical that the commission consider the long-term effects of their decisions and ensure that the new city would have the necessary resources to achieve stability and long term success even in challenging times. Although the registered voters within the proposed incorporation will ultimately determine whether or not the area will incorporate, LAFCO's responsibility is to independently determine based on the information on record, whether the new city meets the criteria set forth in state law and LAFCO policies for a successful city.

### **Next Steps**

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Based on direction provided by the Commission, staff will revise the text and tables in the CFA and make it available for public review and comment. Staff will prepare terms and conditions for the incorporation and prepare the Executive Officer staff report for the November 7, 2008 LAFCO public hearing on the proposed incorporation of San Martin.

### **Attachments**

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- Attachment A: Table A showing tax information for Option 1 and Table B showing mitigation payments under Option 4
- Attachment B: Emails from the proponents dated September 18, 2008 and September 23, 2008
- Attachment C: Memos from the County Executive and from the County Counsel dated September 25, 2008



**Table A**  
**Revenue Neutrality Options – Option 1, New Taxes**

Yr	County Proposal				City Contribution		Remaining Funds Required				
	County's General Fund Loss for the first 10 years only		\$500,771 annually for 25 years (starting in Yr-1)		\$180,000 annually to Yr- 25 (starting in Yr-7)		County Proposal less City\$		Options:		
	Nominal Dollars (872,000)	NPV 3%		NPV 3%	Nominal Dollars 180,000	NPV 3%	Nominal Dollars 210,000	NPV 3%	Special Tax per Household/Yr 2,100 Households	Utility Users Tax % of Avg. Bill \$2,400/yr (\$200/month)	
1	(898,160)	(872,000)	500,771	486,185			500,771	486,185	\$238	9.9%	
2	(925,105)	(872,000)	500,771	472,025			500,771	472,025	\$238	9.9%	
3	(952,858)	(872,000)	500,771	458,276			500,771	458,276	\$238	9.9%	
4	(981,444)	(872,000)	500,771	444,929			500,771	444,929	\$238	9.9%	
5	(1,010,887)	(872,000)	500,771	431,969			500,771	431,969	\$238	9.9%	
6	(1,041,214)	(872,000)	500,771	419,388			500,771	419,388	\$238	9.9%	
7	(1,072,450)	(872,000)	500,771	407,173	1	180,000	320,771	260,816	\$153	6.4%	
8	(1,104,624)	(872,000)	500,771	395,313	2	180,000	320,771	253,220	\$153	6.4%	
9	(1,137,762)	(872,000)	500,771	383,799	3	180,000	320,771	245,844	\$153	6.4%	
10	(1,171,895)	(872,000)	500,771	372,621	4	180,000	320,771	238,684	\$153	6.4%	
11			500,771	361,768	5	180,000	320,771	231,732	\$153	6.4%	
12			500,771	351,231	6	180,000	320,771	224,982	\$153	6.4%	
13			500,771	341,001	7	180,000	320,771	218,429	\$153	6.4%	
14			500,771	331,069	8	180,000	320,771	212,067	\$153	6.4%	
15			500,771	321,426	9	180,000	320,771	205,891	\$153	6.4%	
16			500,771	312,064	10	180,000	320,771	199,894	\$153	6.4%	
17			500,771	302,975	11	180,000	320,771	194,072	\$153	6.4%	
18			500,771	294,150	12	180,000	320,771	188,419	\$153	6.4%	
19			500,771	285,583	13	180,000	320,771	182,931	\$153	6.4%	
20			500,771	277,265	14	180,000	320,771	177,603	\$153	6.4%	
21			500,771	269,189	15	180,000	320,771	172,430	\$153	6.4%	
22			500,771	261,349	16	180,000	320,771	167,408	\$153	6.4%	
23			500,771	253,737	17	180,000	320,771	162,532	\$153	6.4%	
24			500,771	246,346	18	180,000	320,771	157,798	\$153	6.4%	
25			500,771	239,171	19	180,000	320,771	153,202	\$153	6.4%	
26											
27											
28											
29											
30											
31											
<b>Total</b>	<b>(10,296,398)</b>	<b>(8,720,000)</b>	<b>12,519,275</b>	<b>8,719,999</b>		<b>3,420,000</b>	<b>2,159,272</b>	<b>9,099,275</b>	<b>6,560,727</b>		

Table B  
Road Fund Credit Proposals

Yr	County Proposal				Road Fund Credit Proposal		Road Fund Credit Proposal		Road Fund Credit Proposal	
	County's General Fund Loss for the first 10 years only		\$500,771 annually for 25 years (starting in Yr-1)		\$123,000 annually to Yr- 25 (starting in Yr-1)		\$175,000 annually to Yr- 25 (starting in Yr-1)		\$250,000 annually to Yr- 25 (starting in Yr-1)	
	Nominal Dollars (872,000)	NPV 3%	NPV 3%	NPV 3%	Nominal Dollars 123,000	NPV 3%	Nominal Dollars 175,000	NPV 3%	Nominal Dollars 250,000	NPV 3%
1	(898,160)	(872,000)	500,771	486,185	123,000	119,417	175,000	169,903	250,000	242,718
2	(925,105)	(872,000)	500,771	472,025	123,000	115,939	175,000	164,954	250,000	235,649
3	(952,858)	(872,000)	500,771	458,276	123,000	112,562	175,000	160,150	250,000	228,785
4	(981,444)	(872,000)	500,771	444,929	123,000	109,284	175,000	155,485	250,000	222,122
5	(1,010,887)	(872,000)	500,771	431,969	123,000	106,101	175,000	150,957	250,000	215,652
6	(1,041,214)	(872,000)	500,771	419,388	123,000	103,011	175,000	146,560	250,000	209,371
7	(1,072,450)	(872,000)	500,771	407,173	123,000	100,010	175,000	142,291	250,000	203,273
8	(1,104,624)	(872,000)	500,771	395,313	123,000	97,097	175,000	138,147	250,000	197,352
9	(1,137,762)	(872,000)	500,771	383,799	123,000	94,269	175,000	134,123	250,000	191,604
10	(1,171,895)	(872,000)	500,771	372,621	123,000	91,524	175,000	130,216	250,000	186,023
11			500,771	361,768	123,000	88,858	175,000	126,424	250,000	180,605
12			500,771	351,231	123,000	86,270	175,000	122,741	250,000	175,345
13			500,771	341,001	123,000	83,757	175,000	119,166	250,000	170,238
14			500,771	331,069	123,000	81,317	175,000	115,696	250,000	165,279
15			500,771	321,426	123,000	78,949	175,000	112,326	250,000	160,465
16			500,771	312,064	123,000	76,650	175,000	109,054	250,000	155,792
17			500,771	302,975	123,000	74,417	175,000	105,878	250,000	151,254
18			500,771	294,150	123,000	72,250	175,000	102,794	250,000	146,849
19			500,771	285,583	123,000	70,145	175,000	99,800	250,000	142,572
20			500,771	277,265	123,000	68,102	175,000	96,893	250,000	138,419
21			500,771	269,189	123,000	66,119	175,000	94,071	250,000	134,387
22			500,771	261,349	123,000	64,193	175,000	91,331	250,000	130,473
23			500,771	253,737	123,000	62,323	175,000	88,671	250,000	126,673
24			500,771	246,346	123,000	60,508	175,000	86,088	250,000	122,983
25			500,771	239,171	123,000	58,745	175,000	83,581	250,000	119,401
26										
27										
28										
29										
30										
31										
<b>Total</b>	<b>(10,296,398)</b>	<b>(8,720,000)</b>	<b>12,519,275</b>	<b>8,719,999</b>	<b>3,075,000</b>	<b>2,141,817</b>	<b>4,375,000</b>	<b>3,047,301</b>	<b>6,250,000</b>	<b>4,353,287</b>
<b>% of GF Impact</b>		<b>100%</b>		<b>100%</b>		<b>25%</b>		<b>35%</b>		<b>50%</b>
<b>% of Road Fund Benefit Required to Offset Remaining Impact*</b>						<b>75%</b>		<b>65%</b>		<b>50%</b>

\* Assumes Road Fund benefit \$800,000 to \$950,000/year, or approximately equal to annual General Fund loss of \$872,000.

**Palacherla, Neelima**

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**From:** richard vantrood [rvantrood@mindspring.com]  
**Sent:** Thursday, September 18, 2008 10:56 PM  
**To:** Malathy Subramanian; Palacherla, Neelima  
**Cc:** Scott Smith; freddicom@aol.com  
**Subject:** comparison of road fund and general fund

Hi Mala and Neelima.

In relation to our conversation today, I noted the following from the FY/07 County Budget.

The total budget is about \$3.7 billion of which about \$370 million is a deficit. (FY/07 County Budget page 10-13)

The unrestricted budget is \$2.1 billion of which about \$200 million is a deficit. (FY/07 County Budget page 10-13)

That translates to about a 10 percent short fall in either case.

The Roads Department has a \$43 million dollar budget. (FY/07 County Budget page 280) In other documents, the County states the Roads Department has a projected structural deficit of \$358 million over the next 5 years or about \$70 million per year. That makes the deficit in the Road Fund about 160 percent of the budget.

Based on comparison of the deficits or relative need for money, the road money is worth more than the general fund money. On a percentage basis, the road budget deficit is 16 times the general fund deficit. It is hard to imagine the Road Fund money being worth less in this context.

I also found that the road fund included projected revenues of \$355,000 from property taxes and \$520,000 from licenses, permits and franchises. (FY/07 County Budget page 280) This roughly \$875,000 projected revenue appears to be from unrestricted funds. Therefore, if these are unrestricted, it cannot be said that there is no general fund money in the Roads Department.

Please make sure this information is in the record.

Thank you,

Richard van't Rood

SMNA, Inc.

**Palacherla, Neelima**

---

**From:** richard vantrood [rvantrood@mindspring.com]  
**Sent:** Tuesday, September 23, 2008 8:55 AM  
**To:** Palacherla, Neelima; Don Gage  
**Cc:** freddicom@aol.com; Malathy Subramanian; Scott Smith  
**Subject:** revenue neutrality  
**Attachments:** KeyboardTransmittalWeb202317681.PDF

Neelima,

I just received a phone call from Don Gage who said that you told Sylvia Gallegos that option one, which ignores the road maintenance expense in the revenue neutrality equation, is a valid option. When we spoke with Mala last week, she said that the courts would not find option one to be revenue neutral because it leaves the county with a windfall. She said that option three would be revenue neutral with appropriate findings related to value of expenses related to restricted revenues as was option four. Simply said, she agreed the road maintenance expense cannot be ignored. Please correct this apparent miscommunication.

With respect to the value of the road maintenance expense, please refer to the memo dated August 12, 2008, attached, to the Board of Supervisors from the Parks Department and reviewed by Sylvia Gallegos. The memo says on page 3:

.... The Road Fund, like the General Fund, lacks adequate resources to accomplish its purposes. The Roads Department's FY09 Five-Year Expenditure Plan shows a gap of \$358 million between resources and needs related to infrastructure preservation (pavement management, etc.) and expressway/road capital safety improvements. The gas tax is not indexed to inflation so it has remained virtually flat over fourteen years, but inflation has eroded its value by 25%. Material prices have grown 15% since only last year with some costs like steel (90% increase) and asphalt (27% increase) skyrocketing. To the extent the Road Fund can be relieved of costs, more resources are available to address deferred maintenance and capital needs.

The county budget for FY/09 for the Roads Department states at page 637 that:

Structural Deficit: [Roads] Department continues to experience an escalating structural deficit largely due to the increase in operating costs such as the increase in materials required to perform road maintenance and repair projects, increases in salaries and benefits, and a steady decline in revenues generated from the excise taxes and the sales tax on gasoline, which have not been indexed for inflation and have not been increased since 1990.

It is obvious that the Roads Department is suffering from a large structural deficit. While it is unclear exactly how much of the deficit is related to capital improvements and how much is road maintenance, there is a significant amount of each.

This evidence clearly shows that the County is in dire need of its road funds as well as its general funds. Sylvia Gallegos confirmed this at the last LAFCO hearing where she said the County desperately needed the road money. Therefore, from a revenue neutrality standpoint, it would be hard to argue that the road money is worth less than general fund money. Even if the road funds could be transferred to the general

9/23/2008

fund, the County would not do so because of the need for road maintenance money. As the structural deficit in the roads fund grows, eventually the general fund will be needed to cover the gap.

Based on the foregoing, the whole amount of road maintenance expense should be included in the revenue neutrality equation.

Please make sure this is part of the record.

Richard van't Rood  
SMNA, Inc.

# County of Santa Clara

Office of the County Executive

County Government Center, East Wing  
70 West Hedding Street  
San Jose, California 95110  
(408) 299-5105



September 25, 2008

To: LAFCO Commissioners  
From: Peter Kutras Jr., County Executive  
Subject: Proposed San Martin Incorporation

A handwritten signature in black ink, appearing to read "Peter Kutras Jr.", is written over the "From:" line of the memo.

We have been requested to provide a summary letter to the Commission regarding the position of the County as a result of the most recent round of revenue neutrality discussions. To assist the Commissioners, we have included, as attachments, the recent correspondence between the County and the proponents, including a letter that was apparently not provided at the last meeting of the Commission.

During the renewed revenue neutrality discussions, two proposals were advanced by the incorporation proponents. One of the proposals requires that the County Road Fund subsidize road work in order for the town to afford revenue neutrality payments to the County's General Fund. The second proposal would have the General Fund not be paid even the minimum required amount, but instead would require the County to agree that revenue neutrality means ten cents on the dollar. The proponent's position seems to be "The County has a big budget, you can afford it." Revenue neutrality does not permit the Commission to minimize the impact on the County, nor should the Commission even consider this option. Neither proposal can be accepted by the County nor should they be imposed by the Commission.

Consequently, no agreement has been reached between the proponents and the County. The County continues to offer a Revenue Neutrality option in accordance with the terms outlined in our letter of August 20, 2008.

At your September 10, 2008 LAFCO meeting, you directed LAFCO staff to evaluate options created in a LAFCO staff report noted as Revenue Neutrality Mitigation Option 1 and Option 4, which is a "Road Fund Credit Proposal."

From the County perspective and our reading of statutory requirements, there has always been a two-part test to determine if the proposed incorporation is indeed revenue neutral: both the General Fund (Unrestricted) and the Road Fund (Restricted) should not be harmed by this incorporation. The San Martin incorporation only meets one part of this test.

The County General Fund is harmed by this incorporation. The Road Fund is not harmed by the incorporation. Therefore, there must be revenue neutrality payments to the General Fund. Restricted Road Fund dollars cannot be "laundered" and sent back to the County General Fund by having the Road Fund prop up the proposed Town's street maintenance activities. Nor can LAFCO consider benefits to the County Road Fund as an offset to the County's General Fund impacts. Unrestricted and Restricted funds cannot be co-mingled or offset. It would violate one of the basic tenets of governmental accounting and the reason restricted and unrestricted funds exist.

Furthermore, the fact that the Road Fund is not harmed does not entitle this proposed sixteenth town nor LAFCO to take the whole of the benefit without regard to the remaining fifteen cities and other road fund needs. The residents of the remaining unincorporated areas of this county as well as those of the fifteen cities who use the expressway system would be deprived of the necessary resources to maintain this important transportation infrastructure.

Lastly, the Commission should take notice that any review of the proposed Town of San Martin is frankly to make sure this town doesn't immediately or in its first few years of existence face bankruptcy. It is very clear that this incorporation is at best fiscally tenuous, and it cannot meet the revenue neutrality requirements in State law.

The proponents' application should therefore be rejected. LAFCO has a legal obligation to ensure that this is a feasible incorporation. It would be a great disservice to the proposed town's citizens to create a town where a single action of the State could create an immediate cash crisis as could have happened when the State this year contemplated suspending Prop. 1A, which would have entitled the State to confiscate 8% of the town's property taxes. While it did not happen this time, there is nothing to preclude it from happening in future years as the State did nothing to solve its structural budget crisis.

Please do not be swayed by the arguments of the proponents. The requirements in State law regarding revenue neutrality are clear. And, in this instance, the proposed town cannot meet those requirements.

c: Board of Supervisors  
Gary Graves, Assistant County Executive  
Sylvia Gallegos, Deputy County Executive  
Ann Ravel, County Counsel  
Phyllis Perez, Clerk of the Board  
Miguel Marquez, Assistant County Counsel

Attachments: 1. August 15, 2008 proposal from Proponents  
2. August 20, 2008 County letter  
3. August 22, 2008 letter from Proponents



## San Martin Neighborhood Alliance

*"Together We Make A Difference"*

August 15, 2008

To: Sylvia Gallegos  
From: Richard van't Rood  
RE: proponents proposals for revenue neutrality

Proponents offer the following two proposals for revenue neutrality.

1. "Below Cost" Road Maintenance. The Proponent proposes a "below cost" road maintenance contract between the County and the new town as a mechanism to make revenue neutrality payments to the County. Under this scenario, the town would pay to the County the town's road revenues of about \$215,000 per year and the County would perform the road maintenance during the revenue neutrality period. The payments to the County for road maintenance would not be restricted funds to the County. The town would then pay \$735,000 per year to make revenue neutrality payments. Road maintenance contract payments of \$215,000 will be \$145,000 more than the lost revenue to the Road Fund (\$69,323) based on table 3. Over a 10 year revenue neutrality period, this would provide payments to the county general fund of about \$8.8 million over 10 years, and keep the Road Fund whole.

When considering this option, please note the following:

This option pays the county all of its general fund shortfall without impacting the Road Fund. This option eliminates any financial detriment to the county as a result of the incorporation.

This option provides a mechanism that pays the County more for road maintenance than it loses due to incorporation. If the town does not incorporate, the county will still be obligated to maintain San Martin roads. Therefore, under this option the County Road Fund would recover all lost road fund revenue, and the general fund will be "made whole."

Also, under this option, the county will not have to reduce staff in its roads department for the duration of the revenue neutrality agreement.

This option is not an offset of Road Fund revenues against the County General Fund.

To the extent federal funds are received for San Martin streets, this can be added to the payment. See Michael Murdter email dated March 3, 2008.



2. All Surplus to County. Under this option, the town will pay all its surplus to the county. The projected cumulative surplus in year 10 is \$1,059,000. This scenario is based on the revenue neutrality agreement between Contra Costa County and Alamo. Alamo, which is twice the size of San Martin and has substantially more surplus than San Martin, will pay \$3 million in year 10 under their revenue neutrality agreement. Under this option, the San Martin will pay the projected surplus based on table 1, exclusive of the first transition year, on an annual basis with an inflation factor based on actual inflation, to the extent inflation is not in the tables. The term for revenue neutrality will be 10 years.

Under applicable law, LAFCO has discretion to compel this option should there be no agreement with the County.

Please keep in mind it is the LAFCO commission that determines revenue neutrality. The applicable standard in the California Supreme Court is that there is no abuse of discretion where there is no "unusual financial detriment" to the County as a result of the incorporation. See Board of Supervisors v. Local Agency Formation Com., 3 Cal.4th 903, 838 P.2d 1198 (1992), (LAFCO was within its discretion to find revenue neutrality for the Citrus Heights incorporation even where there was a modest financial detriment to the county.) A modest detriment in the Citrus Heights case was 1 percent of the county revenue. In the Citrus Heights case, the commission determined that a modest economic detriment to county would not bar approving the incorporation plan and submitting it to the voters.

In the case of San Martin entire \$870,000 alleged annual loss to the County general fund is less than two hundredth percent (.02%) of the County's total revenue and less than four hundredth percent (.04%) of discretionary revenue. The "modest" detriment in the Citrus Heights case was 50 times as much. Clearly, under the Citrus Heights standard articulated by the Supreme Court, LAFCO has the discretion to find revenue neutrality. This does not require LAFCO to offset Road Fund savings against General Fund losses to find revenue neutrality.

Furthermore, this option removes any financial incentive for the town to incorporate satisfying the legislative intent of Government Code section 56815(a). Finally, the Commission can find that the cost of services transferred to the town are substantially equal to the revenues transferred to the town. 56815(b).

The revenue neutrality negotiations provide the proponent and the county an opportunity to negotiate terms and conditions that would mitigate the possible negative impacts of LAFCO imposed terms and conditions for revenue neutrality. If the County does not like option 2, option 1 may be more acceptable. Here, the LAFCO will act based on the fiscal analysis from EPS and the legal opinion from BB&K. The fiscal analysis indicates the town is feasible and the legal opinion indicates the LAFCO commission has the ability to find revenue neutrality.

The County Roads Department's FY09 Five Year Expenditure Plan shows a gap of \$358 Million between resources and needs. This proposal will relieve the Road Fund of significant costs which will help address deferred maintenance and capital needs.

This option is consistent with most other revenue neutrality agreements in that the revenue neutrality payment is paid out of surplus revenue received by the new town.

Sincerely,

SAN MARTIN NEIGHBORHOOD ALLIANCE



Richard van't Rood  
Chairman, SMNA Incorporation Committee

RVR/djk

cc: Sylvia Hamilton  
Freddi Comperchio  
Cleo Logan

# County of Santa Clara

Office of the County Executive

County Government Center, East Wing  
70 West Hedding Street  
San Jose, California 95110  
(408) 299-5105



August 20, 2008

Dear San Martin Incorporation Proponents:

We are in receipt of your August 15, 2008 revenue neutrality proposal. We appreciate your efforts to find a mutually beneficial outcome, and we have strived as well to support the incorporation effort while ensuring that vital health and human services can be safeguarded through the protection of our General Fund.

To that end, the County has from the outset endeavored to identify possible means by which the proposed town could make the County's General Fund whole. To obtain a sense of the size of the total mitigation payment the County could seek, we made a calculation based upon a ten year mitigation term. This calculation yielded a total mitigation payment amount of \$10.3 million.

It was a supportive gesture by the County to limit the total mitigation payment amount to a 10-year term when other counties receive payments based on much longer terms, as high as twenty five years. If the County of Santa Clara had sought a longer term that falls within the range sought by other counties, it would have generated a total mitigation amount that would have been well beyond what the town could possibly be capable of paying. Furthermore, while the County capped the total payment to a 10-year term, we offered you a payment term of up to twenty-five years in order to make the annual payments more manageable to you.

After carefully considering your August 15, 2008 proposal (attached), in which you offered two options, we find that neither option is acceptable.

With respect to Option 1, you indicate that the proposed town could make \$215,000 in payments from your roads revenues for the County to perform road maintenance. The County is amendable to entering into an agreement to provide a level of road maintenance services that is commensurate with \$215,000 in revenue, but the County cannot provide services beyond that level as it would amount to a County subsidization of your township.

Option 2 offers a \$1.1 million mitigation payment in today's dollars to satisfy an already capped payment that, in effect, makes this an offer of ten cents on the dollar and which

does not account for the erosion of the value of your future payments from inflation, and, thus, is worth less to us than the nominal amount you offer.

In summary, we have been very clear that our General Fund must be made whole and that our Road Fund cannot subsidize your incorporation. We propose that the town make annual payments of \$500,771 over a twenty-five year period in order to accomplish the mitigation payment of \$10.3 million, as reflected in the attached spreadsheet.

We are committed to reaching an agreement, but we cannot accept an offer at any cost. While you wish to minimize the impact of the incorporation, \$872,000 is a substantial sum that is badly needed. As we have stated previously, the County has had to produce \$1 billion in budget solutions since 2003, and we have a second round of reductions scheduled in October to address State impacts on the County. Our projected shortfall for next year is over \$300 million and our five-year forecast is equally bleak so, indeed, we are at the point where every dollar matters.

\$872,000 could pay for nurses in our neonatal intensive care unit, deputies in the streets, shelter for the homeless, food for the hungry. These are the people who would suffer if the County is not protected in this incorporation process.

We look forward to further conversations to identify a mutually beneficial outcome.

Sincerely,



Peter Kutras, Jr.  
County Executive

- c: Board of Supervisors  
Gary Graves, Assistant County Executive  
Sylvia Gallegos, Deputy County Executive  
Ann Miller Ravel, County Counsel  
Phyllis Perez, Clerk of the Board  
LAFCO of Santa Clara County

## San Martin Analysis

### 25 Year Payment Plan - Annual Payment of \$500,771

Yr.	County's General Fund Loss for the first 10 years only		\$500,771 annually for 25 years (starting in Yr-1)	
	Nominal Dollars	NPV 3%	Nominal Dollars	NPV
			\$ 500,771	
1	(898,160)	(872,000)	500,771	486,185
2	(925,105)	(872,000)	500,771	472,025
3	(952,858)	(872,000)	500,771	458,276
4	(981,444)	(872,000)	500,771	444,929
5	(1,010,887)	(872,000)	500,771	431,969
6	(1,041,214)	(872,000)	500,771	419,388
7	(1,072,450)	(872,000)	500,771	407,173
8	(1,104,624)	(872,000)	500,771	395,313
9	(1,137,762)	(872,000)	500,771	383,799
10	(1,171,895)	(872,000)	500,771	372,621
11			500,771	361,768
12			500,771	351,231
13			500,771	341,001
14			500,771	331,069
15			500,771	321,426
16			500,771	312,064
17			500,771	302,975
18			500,771	294,150
19			500,771	285,583
20			500,771	277,265
21			500,771	269,189
22			500,771	261,349
23			500,771	253,737
24			500,771	246,346
25			500,771	239,171
26				-
27				-
28				-
29				-
30				-
31				-
32				-
33				-
34				-
35				-
<b>Total</b>	<b>(10,296,398)</b>	<b>(8,720,000)</b>	<b>12,519,275</b>	<b>8,719,999</b>
				(1)

#### Assumptions:

We have used the 3% discount rate (long-term inflation rate) for calculating the NPV of the future inflows/outflows.



## San Martin Neighborhood Alliance

“Together We Make A Difference”

August 22, 2008

Peter Kutras, Jr., County Executive  
County of Santa Clara  
70 West Hedding Street  
San Jose, California 95110

RE: San Martin Incorporation

Dear Mr. Kutras:

We are disappointed that you do not have time to meet to negotiate terms for revenue neutrality. I understand you appointed Sylvia Gallegos to be your representative. However, it is apparent she has no authority to make an agreement. She told me herself, you are making all the decisions in this case. We therefore asked for your presence at one more meeting to try to reach a reasonable agreement for revenue neutrality. It is obvious that the County is not interested in further negotiations. The proponents are willing and able to meet to discuss any proposal for revenue neutrality within the parameters of the fiscal analysis, the LAFCO legal opinion and the laws and policies related to incorporation.

The San Martin Neighborhood Alliance (SMNA) is an organization of over 600 members committed to maintaining and improving the quality of life in San Martin. For many years the SMNA was primarily engaged in commenting on various County projects and activities perceived to be adverse to the San Martin quality of life. A Community Outreach Program was initiated in 2003, and as a result of over 50 neighborhood meetings, San Martin residents determined they have very little influence on County projects in San Martin. This is due to the fact that our electorate is too small to influence elections. Furthermore, the current government is elected by residents of the North County cities, not South County residents.

Incorporation of San Martin is consistent with the fundamentals of democracy. Thomas Jefferson's plan for democracy argued that *“people can only have a genuine effect on local government when the units of local government are autonomous, self-governing, self-budgeting communities, which are small enough to create the possibility of an immediate link between the man in the street and his local officials and elected representatives.”* Sophocles wrote that *life would be unbearable were it not for the freedom to initiate action in a small community* (Christopher Alexander, *A Pattern Language*, 1977 Oxford University Press). The creation of a self-governing community in San Martin will increase the quality of life

Peter Kutras, Jr., County Executive

Page No. 2

August 22, 2008

through local control. It should be the purpose of government to improve the life of its citizens.

The fundamental concepts of democracy are apparently lost on the County as it appears that the County looks at San Martin not as a Community but as an opportunity to generate revenue to the County. The County takes the position that the incorporation of San Martin must make the County General Fund "whole." This is not a concept in the law governing incorporations as made clear by the opinions of LAFCO counsel and the proponents' attorneys. The County's position ignores the benefits to the Community of incorporation in an effort to save a miniscule portion of its budget and at the same time reaping a windfall to the County Road Fund.

The County has for years mismanaged its finances and now suffers from years of this mismanagement. When debating the form of government for our Country, Jefferson wanted to spread out the power not because "the people" were so bright and clever, but precisely because they were prone to error, and it was therefore dangerous to vest power in the hands of a few who would inevitably make big mistakes. The incorporation of San Martin will provide a basis for more efficient and more responsive government to the small Community of San Martin. The more the County can provide for local control of local decisions, the more efficient government will be and fewer mistakes will be made. This more efficient form of government is not only beneficial to the Community, it is also beneficial to the County as the County will not be bothered by small problems that it is not equipped to handle efficiently.

In your letter, you infer that the County was generous in asking for 10 years of mitigation. In fact, 10 years is the most common revenue neutrality term in incorporation agreements. Most revenue neutrality agreements have seven to 10 year terms. In fact, the Incorporation Guidelines imply that revenue neutrality terms can be as short as three years, which is the minimum number of years required in a Comprehensive Fiscal Analysis. The stated intention of a term for revenue neutrality is to allow time for the County to prepare for a time when the extra revenue from the incorporation will no longer be available to the County. It is not intended to create a revenue stream for the County in perpetuity. The fact that a few incorporations have terms longer than 10 years does not make the County generous by offering the normal 10 years term.

You should also keep in mind that every other incorporation application since the enactment of the revenue neutrality statute reached an agreement for revenue neutrality. There has never been an incorporation application where revenue neutrality terms were imposed by LAFCO, with the possible exception of Citrus Heights. In Citrus Heights, the California Supreme Court found that a "modest financial detriment" to the County was not a basis to

Peter Kutras, Jr., County Executive  
Page No. 3  
August 22, 2008

deny an incorporation application. In this case, as compared to the County budget, the alleged financial detriment to the County is not only "modest," it is miniscule.

We have not asked to have the County Road Fund "subsidize" the incorporation. In our proposal, we offered to make your Road Fund whole. Your rejection of the offer underscores the desire to have the Town of San Martin subsidize the County Road Fund. LAFCO does not have discretion to approve an incorporation that requires the Town to subsidize the County. It can only approve an application which is revenue neutral.

You suggest that if the Town incorporates, the County will take away nurses, deputies, homeless shelters, and food for the hungry. Our offer makes the County general fund whole. All losses to the general fund are recovered under our plan. There will be no need to cut any of these services.

We find it distressing that the first cuts the County will make when there is a budget impact is to health and human services. We feel that that position is not taken in good faith and is grandstanding for political gain. Why can't the County stop giving the \$500,000 per year of General Fund revenue to a private arts council that uses the money primarily for its own salaries and grants for programs in the wealthy parts of North County. Half of that money comes from San Martin, yet none of it is used for San Martin services. Why can't the County cut one or two of its lawyers? Does the county really need 60 lawyers to represent it? For that matter, why would the County have to cut any services at all? The incorporation impact you allege is only 0.29 percent of your projected shortfall. Your projected shortfall is 344 times the alleged loss to the County general fund from the incorporation. The incorporation accounts for only 0.02 percent of the total County budget. It is unfair to accuse San Martin of killing babies and starving homeless people. We resent the implication.

Yours sincerely,

SAN MARTIN NEIGHBORHOOD ALLIANCE

Richard van't Rood  
Attorney for SMNA

RVR/djk



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**MEMORANDUM**

TO: Honorable Board of Supervisors  
Peter Kutras, Jr., County Executive

FROM: *Ann Miller Ravel*  
Ann Miller Ravel, County Counsel  
Miguel Márquez, Assistant County Counsel *Miguel Ma*

RE: Proposed Incorporation of the Town of San Martin  
Analysis of Option #1 and Option #4

DATE: September 25, 2008

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On September 10, 2008, the Santa Clara County Local Agency Formation Commission (LAFCO) held a meeting in which it discussed a staff report that offered four potential options to achieve "revenue neutrality" with respect to the proposed incorporation of the Town of San Martin. This memorandum provides a legal analysis of the County's proposal that it receive payments over a fixed period of time (Option #1) and the proposal that losses to the County's General Fund be offset against gains to the road fund (Option #4).

**QUESTIONS PRESENTED**

Is LAFCO legally authorized to make a finding of "revenue neutrality" where the proposed Town of San Martin would make annual fixed payments of \$500,771 over a 25 year period (Option #1)?

Is LAFCO legally authorized to make a finding of "revenue neutrality" where LAFCO would unilaterally impose a term and condition crediting all, none, or a portion of a gain that may be realized in the County's restricted road fund to offset losses to the County's unrestricted general fund (Option #4)?

**SHORT ANSWERS**

Yes, LAFCO could make a finding of "revenue neutrality" where the proposed Town of San Martin would make annual fixed payments of \$500,771 over a 25 year period (Option #1). The revenue neutrality statute specifically authorizes approval of an incorporation where a "negative fiscal effect has been adequately mitigated by . . . payments over a fixed period of time."

No, LAFCO could not legally make a finding of "revenue neutrality" by imposing an offset to losses in the County's General Fund against gains to the road fund (Option #4). Revenue Neutrality looks only to the general fund impact of incorporations, not to impacts on restricted funds. In addition, a LAFCO can only exercise express powers given to it by statute, and no statutory authority exists for a LAFCO to impose such an offset.

### **BACKGROUND**

In February 2007, the San Martin Neighborhood Alliance ("Alliance") submitted a petition to LAFCO to incorporate as a town. If LAFCO were to approve this proposed incorporation, it is estimated that the County's general fund would suffer a net loss of approximately \$872,000 per year. It is also estimated that expenditures from the County's road fund would be reduced by about \$712,000 per year.

LAFCO held a meeting on September 10, 2008, in which it discussed a staff report that offered four potential options to achieve "revenue neutrality." Given the concerns raised in the staff report relating to two of the four options (Options #2 and #3), the LAFCO commissioners directed staff to bring back proposals relating only to the County's proposal that it receive payments over a fixed period of time (Option #1) and the proposal that losses to the County's General Fund be offset against gains to the road fund (Option #4).

### **LEGAL ANALYSIS**

#### **I. The County's Proposal That It Receive Payments Over A Fixed Period of Time (Option #1) Is Legally Permissible**

As noted above, it is estimated that the proposed incorporation would result in a net loss to the County's general fund of about \$872,000 per year, or about \$8.72 million over a 10-year period. During negotiations, the County offered to extend the period of time during which the proposed town could repay this loss – from 10 years to 25 years. By doing so, the annual payment to the County would be reduced to \$500,771. LAFCO staff designated this proposal as Option #1.

The plain language of the Revenue Neutrality statute authorizes the type of payment proposed in Option #1:

[T]he commission may approve a proposal that includes an incorporation if it finds either of the following:

... (2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, *payments over a fixed period of time*, or any other terms and conditions pursuant to Section 56886. (Gov. Code, § 56815, emphasis added).

However, even if LAFCO made a finding of "revenue neutrality" based upon the County's proposal that it receive payments over a fixed period of time (Option #1), such a finding would be separate from making the required determination that the proposed incorporation would be fiscally feasible. (Gov. Code, § 56720(e) [the proposed town would be "expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation."]). In that regard, it is important to note that a LAFCO may condition its approval of an incorporation upon voters within the proposed city approving a general tax. (89 Ops. Cal. Atty. Gen. 173 (2006).)

## **II. The Proposal That Losses to the County's General Fund Be Offset Against Estimated Gains to the Road Fund (Option #4) Is Not Legally Permissible**

As set forth in the staff report, this option would require "that LAFCO consider that a portion of the General Fund loss to the County is offset by the benefit that the County realizes to its Road Fund and that therefore a correspondingly smaller mitigation payment is sufficient to make the incorporation proposal revenue neutral." (Staff Report at p. 5.) The staff report cites LAFCO Counsel's legal analysis dated June 25, 2008 for the proposition that LAFCO has broad discretion in making the revenue neutrality finding, including the discretion to "consider benefits to the County Roads Funds as an offset to the County's General Fund impacts." (*Ibid.*)

The County believes this analysis is erroneous. As set forth more fully in the County's opinion dated July 29, 2008 (Exhibit A), LAFCO does not have the discretion to unilaterally impose terms and conditions that would offset losses to the unrestricted general fund with gains in a restricted fund. Furthermore, as set forth below, further research confirms that LAFCO must evaluate restricted and unrestricted revenues separately, as only unrestricted revenues and expenditures can be considered when determining whether substantial equality has been reached for purposes of Revenue Neutrality.

The question of whether a gain in road fund revenues can be used to offset losses to the unrestricted general fund is not new. This question first arose in San Diego County shortly after passage of the Revenue Neutrality statute in 1992. At that time, the Executive Director of San Diego County's LAFCO asked several questions relating to the new law. In order to reach a common, statewide understanding of the new law, the Legislative Representatives who drafted the Revenue Neutrality language responded to San Diego's questions and provided a copy of their responses to all County Administrative Officers and LAFCO Executive Officers in California. A copy of this response is attached as Exhibit B.

One of the questions asked by San Diego was directly on point with respect to the issue of offsetting losses to the general fund with gains in the road fund. It asked:

### **QUESTION #4**

**AB 3027 does not distinguish between general fund revenues and restricted revenues such as road funds. It is quite possible there could be a surplus in road fund revenues compared to road fund expenditures, and a deficit in**

**general fund revenues compared to general fund expenditures. Do you agree with the conclusion that: "it would appear that the intent of the legislation is to consider total revenues against total expenditures without regard to any restrictions on the use of the revenue." Please comment.**

For background purposes, AB 3207 added section 56845 to the Government Code, which was later changed to section 56815 (the Revenue Neutrality statute). A separate bill, SB 1559, added section 56842 to the Government Code, which was later changed to section 56810. As noted in our previous opinion, section 56810 is the statute that "requires that restricted revenues be excluded when calculating Revenue Neutrality. . ." because that section specifically cross-references and is incorporated into the Revenue Neutrality statute. (Opinion dated July 29, 2008 at p. 3 (citing Gov. Code § 56810(j)).)

With this background in mind, the answer to the question posed above makes clear that only *unrestricted revenues and expenditures* are considered when calculating Revenue Neutrality:

**ANSWER:** It was not the intent of SB 1559/AB 3027 to "consider total revenues against total expenditures without regard to any restrictions on the use of the revenue." *Such an interpretation is without merit and is illogical in the context of the intent of the section and other laws.*

...

Section 56845 [now 56815] was intended to balance the transfer of *General Purpose revenues and responsibilities*. Section 56842 [now 56810] provides for a property tax transfer based on "net" costs of service. Further, Section 56842 [now 56810] provides that fees, *restricted revenues*, charges for assessments, etc., specifically, *are to be excluded* from the calculations. Please note that we linked these two sections through cross-reference to clarify that the calculations in 56842 [now 56810] were central to the determination in 56845 [now 56815]. It made no sense at all to us to include, in a revenue neutral calculation, those services or functions of local agencies which each have their own discrete revenue source. (Memo to County Administrative Officers and LAFCO Executive Directors re Interpretation of SB 1559/AB 3207 (1992) dated March 25, 1993, Exhibit B at p. 4-5, emphasis added.)

One of the authors of the aforementioned letter, Baxter C. Culver, also provided a declaration relating to passage of the Revenue Neutrality statute. His declaration, attached as Exhibit C, provides general background on passage of the statute and specifically provides further confirmation that restricted revenues must be excluded from the revenue neutrality calculation. Paragraph 10 of his declaration states:

At all times during my discussion with legislators, staff, other advocates, representatives of the Governor's office, and others, I emphasized the general fund impact of incorporations on county responsibilities. At no time did any discussion ensue regarding the impact of our language on discrete sources of revenue such as the "road fund" other than "in passing" comments to which I

responded that these sources were independant [sic] of the process and were not affected at all by the proposal. (Declaration of Baxter C. Culver, ¶ 10, Exhibit C.)

As concluded in our opinion dated July 29, 2008, the plain language of the underlying statutory scheme, with its explicit cross-reference between sections 56810 and 56815, make clear that LAFCO must exclude restricted revenues when calculating Revenue Neutrality. It is important to note that the letter and declaration attached as Exhibits B and C are not offered to provide an interpretation that is different from this plain language. Rather, these historic documents are offered simply to confirm that the plain language of the law means what it says – that restricted revenues must be excluded from the Revenue Neutrality process.

Although the legal analysis prepared by LAFCO's Counsel dated September 10, 2008, appears to agree that "the expenditures associated with restricted revenues should not be combined with the other general fund revenues," they still hold the view that "the Commission may look beyond the mechanical calculation of Section 56810 to make its findings" by imposing terms and conditions pursuant to Section 56886 that mitigate or partially mitigate losses to the County's unrestricted general fund with gains in the road fund. Legally, however, a LAFCO does not have the statutory authority to unilaterally impose such a term and condition.

A Local Agency Formation Commission "has only those express (or necessarily implied) powers which are specifically granted to it by statute." (*City of Ceres v. City of Modesto* (1969) 274 Cal.App.2d 545, 550.) It is necessary, therefore, to examine the specific grant of authority given to LAFCOs with respect to terms and conditions that can be imposed upon an incorporation. Section 56886 sets forth the 22 specific mitigation measures that a LAFCO can impose; it does not appear that any of the 22 mitigation measures provided therein include the power to offset gains and losses between restricted and unrestricted funds. For reference, a copy of section 56886 is attached as Exhibit D.

### CONCLUSION

For the reasons set forth above, we conclude that the County's proposal that it receive payments over a fixed period of time (Option #1) would be legally permissible. However, the proposal that losses to the County's General Fund be offset against estimated gains to the road fund (Option #4) would not be legally permissible. If the Commission were to unilaterally impose such an offset, the County would have a strong legal basis to challenge its decision in a court of law.

#### Exhibits:

- A) County Counsel Memo re Proposed Incorporation of the Town of San Martin, dated July 29, 2008
- B) Legislative Representatives' Letter to County Administrative Officers and LAFCO Executive Officers, dated March 25, 1993
- C) Declaration of Baxter C. Culver
- D) Government Code § 56886

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**MEMORANDUM**

TO: Honorable Board of Supervisors  
Peter Kutras, Jr., County Executive

FROM: *Ann Miller Ravel*  
Ann Miller Ravel, County Counsel  
Miguel Márquez, Assistant County Counsel *Miguel J*

RE: Proposed Incorporation of the Town of San Martin

DATE: July 29, 2008

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This memorandum summarizes relevant law relating to the proposed incorporation of the Town of San Martin. It concludes that the Santa Clara Local Area Formation Committee (LAFCO) does not have the discretion to approve the proposed incorporation of the Town of San Martin by imposing terms and conditions that would offset losses to the County's general fund with gains that may accrue to the County's restricted road fund. The substance of this analysis was provided to LAFCO at its July 2, 2008 meeting as part of public comment made on behalf of the County.

**QUESTION PRESENTED**

Does LAFCO have the discretion to impose terms and conditions on the proposed incorporation of the Town of San Martin to offset losses to the County's unrestricted general fund by applying a "credit" that may be realized in the County's restricted road fund?

**SHORT ANSWER**

No, LAFCO does not have the discretion to offset losses to the County's unrestricted general fund against gains that may occur in a restricted fund. The applicable statutes, the guidelines published by the Governor's Office of Planning and Research ("OPR"), and LAFCO's own Incorporation Policies uniformly require LAFCO to consider separately the impact of the proposed incorporation on the County's unrestricted general fund when calculating revenue neutrality. If LAFCO exceeds the discretion afforded under these governing laws and policies, its decision would be subject to legal challenge.

### BACKGROUND

In February 2007, the San Martin Neighborhood Alliance ("Alliance") submitted a petition to LAFCO to incorporate as a town. If LAFCO were to approve this proposed incorporation, it is estimated that the County's general fund would suffer a net loss of about \$872,000 per year. On the other hand, it is estimated that expenditures from the County's road fund, a restricted revenue source, would be reduced by about \$712,000 per year due to the transfer of certain road maintenance responsibilities. Given the County's financial interest in this matter, LAFCO hired Best Best & Krieger LLP as conflict counsel ("Conflict Counsel").

Under the applicable law, LAFCO is not authorized to approve the Alliance's petition unless it first finds that certain revenues and expenses associated with the proposed incorporation are substantially equal – a requirement known as "Revenue Neutrality." LAFCO's Conflict Counsel has opined that LAFCO has the discretion to meet this Revenue Neutrality requirement by imposing terms and conditions that would offset the \$872,000 loss to the County's unrestricted general fund with the \$712,000 estimated savings to the restricted road fund. We believe this to be an erroneous conclusion.

### LEGAL ANALYSIS

On May 30, 2007,<sup>1</sup> LAFCO adopted a comprehensive set of Incorporation Policies. These local policies augment the OPR "Guide to the LAFCO Process for Incorporations," but they specifically note that "[w]here these local policies differ from the OPR Guidelines the local policies shall apply." (Incorporation Policies, p. 1). Equally important, they state that "[u]nless otherwise specified herein, proposals for incorporation are subject to all policies and requirements that apply to proposals and applications submitted to Santa Clara LAFCO." (*Ibid.*).

Section 10 of the Incorporation Policies is entitled "BASIS AND ASSUMPTIONS FOR REVENUE NEUTRALITY." This section requires LAFCO to separately consider the fiscal impact on restricted and unrestricted revenues when imposing terms and conditions on a proposed incorporation, as follows:

- c. ***The following additional policies apply to the revenue neutrality agreement or any proposal for LAFCO terms and conditions for revenue neutrality:***
  - ***Fiscal impacts to restricted and unrestricted revenues should be evaluated separately.*** A city may pay a portion of its annual revenue neutrality payment with restricted funds *if both agencies agree*, and if a legal exchange mechanism can be created to do so. (*Id.* at 10, emphasis added).

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<sup>1</sup> Revised August 1, 2007.

This local policy makes clear that the terms and conditions that LAFCO may impose to meet the Revenue Neutrality requirement must treat restricted and unrestricted funds separately, unless two preconditions are met: (1) both agencies agree, and (2) a legal exchange mechanism is established. Neither of those conditions has been met here.

The Governor's Office of Planning and Research ("OPR"), a statewide office that convened a task force of experts for the purpose of creating statewide guidelines for the incorporation process (Gov. Code, § 56815.2), issued nearly identical guidance on this issue. When describing the "Method of Calculation" for revenue neutrality, OPR said:

The calculation of revenue neutrality should be based on the following standard[. . .] ***restricted and unrestricted revenues should be evaluated separately.*** An agency could pay a portion of its annual revenue neutrality payment with restricted funds ***if both agencies agree*** and a legally enforceable mechanism for payment can be reached. (OPR Guidelines, p. 44, emphasis added).

The legal basis underlying these policies derives from section 56810 of the Government Code. That section specifically excludes restricted revenues from the calculation of property tax revenues to be exchanged among affected agencies to a proposed incorporation. (Gov. Code, § 56810 subd. (c) [calculation "does not include any of the following: (A) Revenue which, by statute, is required to be used for a specific purpose."]). That section also requires that restricted revenues be excluded when calculating Revenue Neutrality under section 56815. (Gov. Code § 56810 subd. (j)).

Notwithstanding these legal authorities, LAFCO's Conflict Counsel argues that "[t]he legislative intent of the Revenue Neutrality Statute and the Statute's reference to terms and conditions suggest that the Commission may look beyond Section 56810's mechanical calculation to make a revenue neutrality calculation." (Opinion of Best Best & Krieger dated June 25, 2008 at p. 5). It is an extraordinary legal proposition to suggest that a local governing body has the discretion to "look beyond" the requirements of state law, particularly in the absence of express authorization to do so. To support its argument, LAFCO's Conflict Counsel relies upon the legislative intent underlying the statutory scheme. That reliance, however, is misplaced.

In *People v. Johnson*, the California Supreme Court recently reiterated its jurisprudence relating to legislative intent, as follows:

Because the statutory language is generally the most reliable indicator of that intent, we look first at the words themselves, giving them their usual and ordinary meaning and construing them in context. If the plain language of the statute is clear and unambiguous, our inquiry ends, and we need not embark on judicial construction. If the statutory language contains no ambiguity, the Legislature is presumed to have meant what it said, and the plain meaning of the statute governs. (*People v. Johnson* (2002) 28 Cal.4<sup>th</sup> 240, 244, internal citations omitted).



July 29, 2008

Page 4 of 4

The plain language of the local policy, the OPR Guidelines and state law is clear and unambiguous: each requires that restricted and unrestricted revenues be evaluated separately for purposes of meeting the Revenue Neutrality requirement. This separation ensures that restricted revenues cannot be used to offset losses to the County's unrestricted general fund, unless the parties were to agree to such an arrangement. By protecting the County's general fund in this manner, the Legislature has ensured that vital countywide services are not sacrificed at the expense of a proposed incorporation.

Finally, it is important to recognize that because the language of these authorities is clear and unambiguous, there is no need to examine their underlying legislative intent. No additional powers can derive from such an examination, and we are aware of no additional discretionary powers vested in LAFCO apart from those expressly set forth in statute.

### CONCLUSION

For the reasons set forth above, we conclude that LAFCO may not impose terms and conditions that will offset losses to the County's unrestricted general fund by applying a "credit" that may be realized in the County's restricted road fund. If such terms and conditions were unilaterally imposed on the proposed incorporation of the Town of San Martin, the County would have a strong legal basis to challenge LAFCO's decision in a court of law.

**EXHIBIT B**

March 25, 1993

TO: County Administrative Officers  
LAFCO Executive Officers

SUBJECT: Interpretation of SB 1559/AB 3027 (1992)

Last year, the California Legislature enacted Section 56845 of the Government Code to require LAFCO's to not approve an incorporation unless the Commission can make a specific finding relative to the fiscal impact of the incorporation.

The San Diego LAFCO Executive Officer has requested county officials and other LAFCO officers throughout the state to review the new section, 56845, and provide interpretation of the new law.

The undersigned drafted the language enacted by AB 1559/3027. In order to facilitate a discussion and to help reach a common, statewide, interpretation of the language and its meaning, we also responded to the seven (7) questions posed by the San Deigo LAFCO Executive Officer. We wanted you to have a copy of the letter and our responses.

If you have any questions or need further clarification, please do not hesitate to contact us.

Baxter Culver  
Legislative Representative  
Sacramento County

Casey Kaneko  
Legislative Representative  
Santa Barbara County

Dan Wall  
Legislative Representative  
California State Association of Counties



# COUNTY OF SACRAMENTO

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MAXTER C. CULVER  
Legislative Advocate

DONNA BUTLER  
Legislative Assistant

March 25, 1993

Mr. Michael D. Ott  
LAFCO Executive Officer  
County of San Diego  
1600 Pacific Coast Highway, Room 452  
San Diego, California 92101

SUBJECT: Government Code Section 56845 (SB 1559/AB 3027)

Dear Mr. Ott:

This is in response to your letter to the San Diego County Deputy Chief Administrative Officer, which was shared with the Sacramento County LAFCO Executive Officer, regarding the above bills/code section.

We wanted to respond to your several questions in our capacity as the individuals who drafted and caused to be placed into the Government Code, Section 56845.

For clarity and ease of understanding, we have paraphrased the seven questions in your letter and have responded to each of them in turn. We believe that there is some confusion regarding what the new section, Section 56845 and amendment to Section 56842, were intended to accomplish and hope that this letter will clarify what was intended when these amendments were offered in SB 1559/AB 3027.

If, after reviewing this letter, you have additional questions or need clarification, please do not hesitate to contact us.

## QUESTIONS AND RESPONSES:

### QUESTION #1:

Do the words "substantially" and "similar" mean that LAFCO can exercise discretion in its determination that the exchange of revenues and expenditures are "equal?"

**ANSWER:** Yes. It was intended that LAFCO's have some discretion over these determinations. It was not intended that a dollar-for-dollar balance be achieved in every case--only that "substantial equality" be achieved between the parties.

In the past, LAFCO has been limited in its ability to achieve equality. Tax sources have been transferred by force of law or formula. Only by manipulating new city boundaries have LAFCO's had an ability to mitigate the negative impact of incorporations on counties. Further, in instances where informal mitigation agreements have been reached at LAFCO, they have been abrogated by newly elected city council and the courts have upheld those actions.

**QUESTION #2:**

Please interpret the following conclusion: "we would conclude that mitigation measures are only required to mitigate negative fiscal impacts incurred in the first year of incorporation."

**ANSWER:** The conclusion that "mitigation measures are only required to mitigate negative fiscal impacts incurred in the first year of incorporation" is erroneous.

Section 57384 of the Government Code provides for a new city to "pay back" the county, which is obligated to continue serving the newly incorporated area for a period not to exceed the balance of the fiscal year, notwithstanding the fact that the newly incorporated city obtains it's revenue sources immediately upon incorporation.

In the past, new cities wanted to incorporate as closely as possible to July 1 in order to obtain the maximum benefit of revenues without responsibility. Counties, conversely, wanted incorporation to occur closer to June 30 in order to not have to perform services for which no revenue was forthcoming.

The Legislature's 1985 (Chapter 541) compromise continued the practice of county delivered services for a period not to exceed the remainder of the fiscal year but required the new city to reimburse the county for the services rendered. The reimbursement can take place over a period not to exceed five (5) years.

The drafters of 56845 were fully aware of 57384. It is a remedy for the transition year (that period during which the new city is starting up and the county/district is winding down). There is no relationship between the two sections other than the general philosophical relationship of linking revenues and responsibilities. 56834 addresses the "windfall" which new cities otherwise would accrue in their first year of existence and 56845 addresses the longer-term effect of converting a county tax base to a city tax base without a commensurate conversion of an equal amount of service responsibility.

In short, because the county retains most of its service responsibilities following an incorporation (Health, Welfare, Justice and General Government) the portion of its tax base needed to meet those responsibilities must be protected. 56845 was intended to transfer county tax revenues and responsibilities -- not provide new cities with windfall revenues.

The language in 56845(c)(2) was intended to provide discretion to LAFCO and the principals to an incorporation issue in fashioning measures designed to mitigate an otherwise unbalanced revenue-responsibility transfer. We did not believe it appropriate to dictate one solution for all circumstances. In some foreseeable circumstances a new city might find it in its interest to enter into a sales tax sharing agreement with the county to mitigate a loss. In other instances, an exchange of assets (land and/or buildings) might be preferable. Or a different property tax transfer could be negotiated. It was our intent to identify a wide range of options which could be employed to achieve revenue neutrality.

In no way, however, should one conclude that 56845 was intended to mitigate, only for one year, what could be a very substantial, long term, loss of county revenues. How long the mitigation should be imposed is a determination that must be made based upon the particular facts of each incorporation. It was our intent that if the county loss is perpetual, the mitigation should be also.

**QUESTION #3:**

Do you agree with the conclusion, "we would interpret 'expenditures currently made' and 'revenues currently received' to be based on the most recent fiscal year for which data are available as required in Government Code Section 56833.1?"

**ANSWER:** Section 56845 was placed where it is in the code so that LAFCO, having prepared a Comprehensive Fiscal Analysis pursuant to Section 56833.1, having made the property tax transfer calculations required in Section 56842, and all of the other work required to analyze a proposal, could make an informed finding as required in 56845 as to the fiscal impact of the incorporation proposal. If, following such detailed analysis, LAFCO cannot make a finding of "substantially equal" revenues and expenditures, the parties would be compelled, we believed, to meet, negotiate and devise a mitigation plan which would permit LAFCO to make a finding of "substantially equal."

In short, 56845 was intended to provide direction to LAFCO after the commission had an opportunity to analyze the information available to it, along with a mitigation plan, should one be necessary.

**QUESTION #4:**

AB 3027 does not distinguish between general fund revenues and

restricted revenue such as road funds. It is quite possible there could be a surplus in road fund revenues compared to road fund expenditures, and a deficit in general fund revenues compared to general fund expenditures. Do you agree with the conclusion: "it would appear that the intent of the legislation is to consider total revenues against total expenditures without regard to any restriction on the use of the revenue." Please comment.

ANSWER: It was not the intent of SB 1559/AB 3027 to "consider total revenues against total expenditures without regard to any restrictions on the use of the revenue." Such an interpretation is without merit and is illogical in the context of the intent of this section and other laws.

Specifically, counties receive "road fund" moneys from the state based on three primary variables: countywide vehicle registration, number of county maintained road miles, and assessed valuation of the unincorporated area (Sections 2104, 2105, 2106, 2107 Streets and Highways Code). The vast majority of the revenue is distributed based on countywide vehicle registration data which is not affected by incorporation.

However, counties do lose road funds when there is an incorporation because of the "county maintained road miles" and "unincorporated assessed value" factors. This unequivocally means that there is no "county windfall" in the area of road finance when there is an incorporation.

Furthermore, the presumption in question #4 completely distorts the issue because road funds are restricted funds and cannot "offset a deficit in general funds." Also, the new city will receive its' own "road fund" from state sources -- one based primarily on city population statistics.

Section 56845 was intended to balance the transfer of General Purpose revenues and responsibilities. Section 56842 provides for a property tax transfer based on "net" costs of service. Further, Section 56842 provides that fees, restricted revenues, charges or assessments, etc., specifically, are to be excluded from the calculations. Please note that we linked these two sections through cross-reference to clarify that the calculations in 56842 were central to the determinations in 56845. It made no sense at all to us to include, in a revenue neutral calculation, those services or functions of local agencies which each have their own discrete revenue source.

In our opinion, the "road fund/general fund" analysis only serves to confer a windfall on the new city, since the new city will have a discrete source of funding from the state for road service as well as a general purpose revenue or a duplicate, discrete, revenue source from the county. Such an analysis would result in a net loss to the county, since the county will have to give up general purpose revenues, or road fund revenues, while it may not convert the road fund for use as general purpose revenue. How could this

be construed to be "revenue neutral?"

**QUESTION #5:**

AB 3027, however, refers only to revenues currently received and expenditures currently made, with no provision to use "net costs." Does the new law require that (LAFCO) determine total revenues and total expenditures specific to the incorporation area even if they are considered full-cost recovery?

**ANSWER:** Although SB 1559/AB 3027 did not expressly require the use of "net" cost data, it did amend Section 56842 to add (j) to subsection (4) which provides: "The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56845." The purpose of that amendment was to reflect the "net cost" calculations for property tax transfers in the revenue neutral calculation.

However, even if "net cost" was not directly calculated, the source of revenue available to the new city (fees, charges, assessments, federal funds, etc.) to totally offset the cost of the service being assumed by the new city would eliminate the necessity for a general purpose revenue transfer from the county or a district. Again, as stated in our answer to question #4, above, if fee authority or a discrete revenue source is sufficient to offset a cost of service, why should another agency be required to contribute its general purpose revenues to support the service? What public policy is served by such an unnecessary transfer? Arguably, the new city, having received revenue from the county, would impose the fee and, thus "double dip"; a practice SB 1559 was intended to preclude.

**QUESTIONS #6 AND #7:**

Please comment regarding expanding the range of services and the associated expenditures that should be identified for purposes of complying with AB 3027. Specifically, should liability insurance, general government services, jail bookings, property tax administrative costs also be computed as part of an incorporation proposal?

**ANSWER:** We are informed that the Sacramento LAFCO, in its incorporation calculations, has, historically, calculated a component cost for general government, liability insurance, etc. These costs are a necessary component of doing government business. Likewise, to the extent that the new city is liable for booking fees and the county is relieved of those costs, the booking fee should be considered in the calculations for property tax transfer.

Regarding Property Tax Administration Fees, the calculation of County-City exchange of revenues and expenditures should not include the property tax administration fee currently charged to



special districts. The new city will not be assuming a service obligation or expenditure requirement from the County, but rather from the special district in question. The County will not be relieved of a service obligation or requirement. Property tax administration costs are an existing obligation of the district which the new city will be assuming along with the district's revenue.

Finally, we want to emphasize that the basic thrust of our efforts, in drafting Section 56845 (and amending 56842), was to prevent negative fiscal impacts on a county's general fund resulting from an incorporation. After a new city is formed, the county continues to be responsible for providing health, welfare, court, probation, prosecution, indigent defense and myriad of other services to the new city's residents (as well as the rest of the county); services which are financed with general fund revenues. If these general fund revenues are siphoned off to provide a higher level of municipal services to residents of one part of the county, all county residents suffer the consequences through reduced countywide services.

It should also be noted that the Legislature and the Governor approved SB 1559/AB 3037 in full acknowledgment of the fact that counties were being damaged by the property tax transfer, which was part of the last year's State budget solution, and that the counties needed protection against additional revenue losses.

We hope that this letter is of some value to you in your deliberations. Again, if there are additional questions or clarifications needed, please do not hesitate to contact one of us.

Sincerely,

Baxter Culver  
Leg. Representative  
Sacramento County

Casey Kaneko  
Leg. Representative  
Santa Barbara County

Dan Wall  
Leg. Representative  
CSAC

cc: LAFCO Executive Officers  
County Administrative Officers

**EXHIBIT C**

DECLARATION OF BAXTER C. CULVER

I, Baxter C. Culver, declare and state the following.

1. I am the Legislative Representative for the County of Sacramento. I have been employed in this position since May of 1983. My prior employment has included serving as staff to a member of the California Legislature and to a member of the Sacramento County Board of Supervisors.
2. My duties as Legislative Representative include monitoring, drafting, and advocating specific legislation under the general guidance of the County pursuant to adopted county legislative policy. I am authorized to support, oppose, or request amendments to legislation consistent with adopted county policy. My duties also include working with legislative staff, members of the Assembly and Senate and representatives of the State Administration.
3. Along with Casey Kaneko, Legislative Advocate for the County of Santa Barbara, and Dan Wall, Legislative Representative for the County Supervisors of California, I participated in drafting, revising, and advocating an amendment to SB 1559 (Stats. 1992, Chapter 697) which dealt with the exchange of revenue during the incorporation of a city.
4. The amendment to SB 1559 added Section 56845 to the Government Code. Section 56845 provided that incorporations must be "revenue neutral". The amendment was intended to structure the general purpose revenue exchange between a newly incorporated city and the predecessor agency (county) so as to eliminate the circumstance whereby the county relinquishes more revenue than it relinquishes in responsibilities. Since July, 1978, according to a study conducted in 1985 by the California Association of Local Agency Formation Commissions, 27 out of 30 incorporations resulted in major to minor fiscal losses to counties. Incorporations since 1985 have had similar results. Proposed or potential incorporations within Sacramento County would also result in major revenue losses to the county.
5. A second amendment (also in SB 1559) amended Section 56842 of the Government Code. 56842, as amended by AB 672 (Chapter 541, Statutes of 1985), which, under my direction, was sponsored by Sacramento County and advocated by the Association of Counties, revised the process by which property tax transfers were calculated between newly incorporated cities and counties. 56842 was a necessary first step in resolving disputes arising from the

practice of transferring more in property tax revenues than the county had previously expended for the service which was being assumed from the county by the new city. Indeed, prior to the adoption of 56842, it was a common practice to transfer property tax revenues for services which were entirely supported by fee revenues (i.e. refuse collection, water, wastewater treatment).

6. The addition of Section 56845 and the amendment to 56842 as contained in SB 1559, were crafted in furtherance of Codifying what was current Sacramento County LaFCO Policy. As set forth in the Policy Manual, Page IV-4, "LAFCO will approve a proposal for a change of organization or reorganization only if the Commission finds that the proposal is revenue neutral at the time that the proposal comes before the Commission." Codification of this policy was believed necessary because existing law did not explicitly confer upon LAFCO's the authority to require adherence to such a policy. Nor was there a process by which incorporation proponents and the county could negotiate the revenue exchanges. Prior to SB 1559, revenue transfers were the function of formulas and/or transfers rooted in statute.

7. The potential loss to Sacramento County due to an incorporation is reflected in the analysis of the proposal to incorporate the community known as Citrus Heights. As presented to the Sacramento LAFCO, Citrus Heights would have imposed a net loss of \$5 million of county general purpose revenue. Citrus Heights contains an area in which commercial enterprises are concentrated and attracts shoppers from throughout the unincorporated area of Sacramento County.

8. SB 1559 and AB 3027 were specifically designed to balance the transfer of general purpose revenue and the transfer of general purpose revenue financed responsibilities. Those services which the new city would assume for which fee authority exists, those services for which discrete revenues are forthcoming to a city from the state of California, and those services which the city chooses to offer which were not previously offered by the county, were not considered appropriate for inclusion in a "revenue neutral" calculation. It was for that reason that the act of making a finding of "revenue neutral", which is required in 56845, must take place after the calculations which are required in 56842 have been completed. Those calculations are to determine the amount of property tax revenue to be transferred to the new city and do not include "fees, charges or assessments," or Revenue which, by statute, is required to be used for a specific purpose". Indeed, paragraph (2) of 56842 defines "total net cost" as "...the...costs which which were funded by general purpose revenues."

9. SB 1559 and AB 3027 were crafted to preserve the revenue by which countywide service responsibilities such as indigent health care, social services, the justice system, and countywide library or parks systems are funded. Prior to the adoption of "revenue neutral" language in these bills, counties

invariably were forced to forego revenue sources which finance these responsibilities when an area incorporated. The responsibility to continue to provide these services, however, was ongoing. The revenue neutral language was intended to balance the transaction by equating general purpose revenues transferred with general purpose service responsibilities assumed.

10. At all times during my discussions with legislators, staff, other advocates, representatives of the Governor's office, and others, I emphasized the general fund impact of incorporations on county responsibilities. At no time did any discussion ensue regarding the impact of our language on discrete sources of revenue such as the "road fund" other than "in passing" comments to which I responded that these sources were independent of the process and were not affected at all by the proposal. Indeed, because cities and counties each receive funding from the state for certain restricted uses, a discussion of "revenue neutral" calculations would be fruitless. Cities receive "road funds" based, primarily, on city population figures. Counties receive funds based on county maintained road miles and county-wide vehicle registration figures. Each approach has its own rationale.

11. The adoption of the amendments in SB 1559 and AB 3027 were undertaken, in part, in recognition of the significantly adverse impact of the State's decision to allocate \$525 million in county property tax revenue to local schools. We implored the Legislature to minimize county exposure to other related revenue losses. We asked the Legislature to partially insulate counties from the adverse fiscal impacts of incorporations on county general funds. It adopted both SB 1559 and AB 3027 with the full knowledge that it was doing so in order to avert further fiscal distress.

Baxter C. Culver

**EXHIBIT D**

56886. Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions. If a change of organization or reorganization is made subject to one or more of the following terms and conditions in the commission's resolution making determinations, the terms and conditions imposed shall constitute the exclusive terms and conditions for the change of organization or reorganization, notwithstanding the general provisions of Part 5 (commencing with Section 57300). However, none of the following terms and conditions shall directly regulate land use, property development, or subdivision requirements:

(a) The payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any city, county, or district.

(b) The levying or fixing and the collection of any of the following, for the purpose of providing for any payment required pursuant to subdivision (a):

(1) Special, extraordinary, or additional taxes or assessments.

(2) Special, extraordinary, or additional service charges, rentals, or rates.

(3) Both taxes or assessments and service charges, rentals, or rates.

(c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, affected counties, affected districts, and affected territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district, or any improvement district within a local agency, and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates, or (3) both taxes or assessments and service charges, rentals, or rates, in the same manner as provided in the original authorization of the bonds and in the amount necessary to provide for that payment.

(d) If, as a result of any term or condition made pursuant to subdivision (c), the liability of any affected city, affected county, or affected district for payment of the principal of any bonded indebtedness is increased or decreased, the term and condition may specify the amount, if any, of that increase or decrease which shall be included in, or excluded from, the outstanding bonded indebtedness of that entity for the purpose of the application of any statute or charter provision imposing a limitation upon the principal amount of outstanding bonded indebtedness of the entity.

(e) The formation of a new improvement district or districts or the annexation or detachment of territory to, or from, any existing improvement district or districts.

(f) The incurring of new indebtedness or liability by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency, or of any existing or proposed new improvement district within that local agency. The new indebtedness may be the obligation solely of territory to be annexed if the local agency has the authority to establish zones for incurring indebtedness. The indebtedness or liability shall be incurred substantially in accordance with the laws otherwise applicable to the local agency.

(g) The issuance and sale of any bonds, including authorized but unissued bonds of a local agency, either by that local agency or by a local agency designated as the successor to any local agency which

is extinguished as a result of any change of organization or reorganization.

(h) The acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.

(i) The disposition, transfer, or division of any moneys or funds, including cash on hand and moneys due but uncollected, and any other obligations.

(j) The fixing and establishment of priorities of use, or right of use, of water, or capacity rights in any public improvements or facilities or any other property, real or personal. However, none of the terms and conditions ordered pursuant to this subdivision shall modify priorities of use, or right of use, to water, or capacity rights in any public improvements or facilities that have been fixed and established by a court or an order of the State Water Resources Control Board.

(k) The establishment, continuation, or termination of any office, department, or board, or the transfer, combining, consolidation, or separation of any offices, departments, or boards, or any of the functions of those offices, departments, or boards, if, and to the extent that, any of those matters is authorized by the principal act.

(l) The employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.

(m) The designation of a city, county, or district, as the successor to any local agency that is extinguished as a result of any change of organization or reorganization, for the purpose of succeeding to all of the rights, duties, and obligations of the extinguished local agency with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

(n) The designation of (1) the method for the selection of members of the legislative body of a district or (2) the number of those members, or (3) both, where the proceedings are for a consolidation, or a reorganization providing for a consolidation or formation of a new district and the principal act provides for alternative methods of that selection or for varying numbers of those members, or both.

(o) The initiation, conduct, or completion of proceedings on a proposal made under, and pursuant to, this division.

(p) The fixing of the effective date or dates of any change of organization, subject to the limitations of Section 57202.

(q) Any terms and conditions authorized or required by the principal act with respect to any change of organization.

(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency.

(s) The levying of assessments, including the imposition of a fee pursuant to Section 50029 or 66484.3 or the approval by the voters of general or special taxes. For the purposes of this section, imposition of a fee as a condition of the issuance of a building permit does not constitute direct regulation of land use, property development, or subdivision requirements.

(t) The extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency or a successor local agency in the affected territory.

(u) The transfer of authority and responsibility among any affected cities, affected counties, and affected districts for the administration of special tax and special assessment districts, including, but not limited to, the levying and collecting of special



taxes and special assessments, including the determination of the annual special tax rate within authorized limits; the management of redemption, reserve, special reserve, and construction funds; the issuance of bonds which are authorized but not yet issued at the time of the transfer, including not yet issued portions or phases of bonds which are authorized; supervision of construction paid for with bond or special tax or assessment proceeds; administration of agreements to acquire public facilities and reimburse advances made to the district; and all other rights and responsibilities with respect to the levies, bonds, funds, and use of proceeds that would have applied to the local agency that created the special tax or special assessment district.

(v) Any other matters necessary or incidental to any of the terms and conditions specified in this section. If a change of organization, reorganization, or special reorganization provides for, or is made subject to one or more of, the terms and conditions specified in this section, those terms and conditions shall be deemed to be the exclusive terms and conditions for the change of organization, reorganization, or special reorganization, and shall control over any general provisions of Part 5 (commencing with Section 57300).

LAFCO Meeting Date: October 1, 2008

**TO:** LAFCO

**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst

**SUBJECT: Update on:**  
(a) Payment of LAFCO Staff Fees  
(b) Compliance with Disclosure Requirements  
(c) Schedule for Proposed Incorporation of the Town of San Martin

Agenda Item # 6

**Staff Recommendation**

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Accept report and provide direction to staff.

**Disclosure Requirements**

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LAFCO received additional disclosure forms (see Attachment A) from the proponents on September 23, 2008. These forms will be posted on the LAFCO website for informational purposes.

**LAFCO Staff Fees**

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As of the end of August 2008, LAFCO staff costs for the incorporation proposal amounted to \$159,660.06 (see Attachment B for July and August invoices). This amount includes a cost of \$44,314.33 incurred in the months of May through August for legal services provided by Best Best and Krieger. At the September 10, 2008 LAFCO Meeting, the Commission ordered that the proponents are required to pay the LAFCO fees in full no later than 72 hours prior the public hearing. The Public Hearing is scheduled for November 7, 2008 and therefore the payment is due November 4, 2008.

**Revised Schedule for the Incorporation Proposal**

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The public hearing for the San Martin incorporation proposal was originally scheduled for the October 1<sup>st</sup> LAFCO meeting. The public hearing on the incorporation will now be held on November 7<sup>th</sup> at 2:30 PM.

The following is the revised schedule:

## Revenue Neutrality Terms

1	August 2008	No Agreement reached between Proponents and County at end of Negotiation Period, LAFCO must Impose Terms for Revenue Neutrality
2	September 10, 2008	LAFCO Meeting to discuss Options for Revenue Neutrality and Commission provide direction to Staff re. revenue neutrality terms
3	October 1, 2008	LAFCO Meeting to further discuss Options for Revenue Neutrality and Commission to provide direction to Staff re. revenue neutrality terms
4	October 2008	LAFCO staff / consultant prepare terms and revise CFA

## LAFCO Public Hearings: Final Approval

1	October 8, 2008	Release revised public hearing draft CFA with revenue neutrality terms
2	October 17, 2008	Issue Public Hearing Notice for November 7, 2008 LAFCO Hearing on Incorporation Proposal
3	October 24, 2008	Issue EO Staff Report with Analysis, Recommendations and Findings
4	Late October 2008	Hold an Informational Workshop in San Martin
5	No later than November 4, 2008	Proponents to pay LAFCO Fees in full
6	November 7, 2008	LAFCO Public Hearing on Incorporation Proposal: LAFCO Adopts Findings, Terms and Conditions. Set Date for Reconsideration Hearing.
7	November 8, 2008	Final LAFCO Resolution sent to Proponents and Affected Agencies
8	December 8, 2008	Last Day to Request Reconsideration of LAFCO Resolution adopted on November 7, 2008

9	Following LAFCO Approval	Prepare Final Boundary Map and Legal Description
10	December 12, 2008	Potential Meeting Date for LAFCO Reconsideration Hearing (To confirm availability with Commissioners)
11	December 3, 2008	Regular scheduled LAFCO Meeting Date

### Election Related Dates

1	TBD	Deadline for submittal of Final LAFCO Approval Documents to County for BoS Meeting
2	TBD	BoS' Meeting to Adopt Resolution Calling Election and Determine whether Candidates will be Charged for Candidates' Statement to be sent to Each Voter or whether County will Absorb Costs
3	E-120 February 2, 2009	Last Possible Date for BoS to Call Election.
4	TBD	EO to Submit Impartial Analysis to LAFCO (within 5 days of BoS calling election)
5	E-113 to 88 February 6 to March 6, 2009	City Council Candidates may be Nominated for Elections by Voters Signing a Nomination Paper
6	E-83 March 11, 2009	Deadline to Submit Arguments For or Against the Measure
7	E-76 March 18, 2009	Deadline for LAFCO to Submit Impartial Analysis to Registrar of Voters
8	E-0 June 2, 2009	Election Day
9	E+28 June 30, 2009	Registrar Certifies Election Results to the BoS, BoS Declares Results of Election

## LAFCO Finalization Dates

The incorporation becomes effective when LAFCO records the Certificate of Completion.

1	Following certification of election results	LAFCO Records Certificate of Completion / Termination and LAFCO Forwards the Finalization Documents to SBE and other Affected Agencies and County Departments
2	August 1, 2009 or later	Effective Date of Incorporation

## ATTACHMENTS

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Attachment A: SMNA disclosure documents

Attachment B: July 2008 and August 2008 Invoices for the Proposed Incorporation of the Town of San Martin

**ITEM No. 6**  
**ATTACHMENT A**



**San Martin Neighborhood Alliance**

**“Together We Make A Difference”**

**FAX TRANSMITTAL**

TO: Local Agency Formation Commission

FROM: San Martin Neighborhood Alliance

DATE: September 23, 2008

RE: California Form 460, *Recipient Committee Campaign Statement*

NO PAGES: 18 (including this page)

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# Recipient Committee Campaign Statement Cover Page

(Government Code Sections 84200-84216.5)

Type or print in ink.

Date Stamp	<b>CALIFORNIA FORM 460</b>
Page <u>1</u> of <u>1</u>	
For Official Use Only	

Statement covers period from <u>Jan 1, 2008</u> through <u>Aug 16, 2008</u>	Date of election if applicable: (Month, Day, Year) <u>N/A</u>
---	---

SEE INSTRUCTIONS ON REVERSE

**1. Type of Recipient Committee:** All Committees - Complete Parts 1, 2, 3, and 4.

Officeholder, Candidate Controlled Committee  
 State Candidate Election Committee  
 Recall  
(Also Complete Part 5)

General Purpose Committee  
 Sponsored  
 Small Contributor Committee  
 Political Party/Central Committee

**Primarily Formed Ballot Measure Committee**  
 **Controlled** *? NOT SURE*  
 Sponsored  
(Also Complete Part 6)

**Primarily Formed Candidate/Officeholder Committee**  
(Also Complete Part 7)

**2. Type of Statement:**

Preelection Statement  
 Semi-annual Statement  
 Termination Statement  
(Also file a Form 410 Termination)  
 Amendment (Explain below)

Quarterly Statement  
 Special Odd-Year Report  
 Supplemental Preelection Statement - Attach Form 495

dent/kumar

**3. Committee Information** I.D. NUMBER

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)  
SmNA, Inc

STREET ADDRESS (NO P.O. BOX)  
Po Box 386

CITY San Martin STATE CA ZIP CODE 95046 AREA CODE/PHONE 683-2667

MAILING ADDRESS (IF DIFFERENT) NO. AND STREET OR P.O. BOX

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ AREA CODE/PHONE \_\_\_\_\_

OPTIONAL: FAX / E-MAIL ADDRESS \_\_\_\_\_

**Treasurer(s)**

NAME OF TREASURER  
Cleo Logan

MAILING ADDRESS  
San Martin Ave

CITY San Martin STATE CA ZIP CODE 95046 AREA CODE/PHONE \_\_\_\_\_

NAME OF ASSISTANT TREASURER, IF ANY \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ AREA CODE/PHONE \_\_\_\_\_

OPTIONAL: FAX / E-MAIL ADDRESS \_\_\_\_\_

**4. Verification**

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on \_\_\_\_\_ Date \_\_\_\_\_

Executed on 9/22/08 Date \_\_\_\_\_

Executed on \_\_\_\_\_ Date \_\_\_\_\_

Executed on \_\_\_\_\_ Date \_\_\_\_\_

By \_\_\_\_\_ Signature of Treasurer or Assistant Treasurer

By [Signature] Signature of Controlling Officer, Candidate, State Measure Proponent or Responsible Officer of Sponsor

By \_\_\_\_\_ Signature of Controlling Officer, Candidate, State Measure Proponent

By \_\_\_\_\_ Signature of Controlling Officer, Candidate, State Measure Proponent

P.2/18 SEP 23 '08 05:19PM ARIES CONSULTANTS

# Campaign Disclosure Statement Summary Page

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SUMMARY PAGE

Statement covers period from <u>Jan 1, 2008</u>	<b>CALIFORNIA FORM 460</b>
through <u>Aug 16, 2008</u>	
Page <u>2</u> of <u>10</u>	I.D. NUMBER <u>None</u>

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Sm WA, Inc

## Contributions Received

	Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B CALENDAR YEAR TOTAL TO DATE
1. Monetary Contributions ..... Schedule A, Line 3	\$ <u>14,978</u>	\$ <u>12,728</u>
2. Loans Received ..... Schedule B, Line 3	\$ <u>800</u>	\$ <u>800</u>
3. SUBTOTAL CASH CONTRIBUTIONS ..... Add Lines 1 + 2	\$ <u>15,778</u>	\$ <u>13,528</u>
4. Nonmonetary Contributions ..... Schedule C, Line 3	\$ <u>5,328</u>	\$ <u>5,328</u>
5. TOTAL CONTRIBUTIONS RECEIVED ..... Add Lines 3 + 4	\$ <u>21,106</u>	\$ <u>21,106</u>

## Calendar Year Summary for Candidates Running in Both the State Primary and General Elections

	1/1 through 6/30	7/1 to Date
20. Contributions Received	\$ _____	\$ _____
21. Expenditures Made	\$ _____	\$ _____

## Expenditures Made

	Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B CALENDAR YEAR TOTAL TO DATE
6. Payments Made ..... Schedule E, Line 4	\$ <u>5,105</u>	\$ <u>5,105</u>
7. Loans Made ..... Schedule H, Line 3	\$ <u>0</u>	\$ <u>0</u>
8. SUBTOTAL CASH PAYMENTS ..... Add Lines 6 + 7	\$ <u>5,105</u>	\$ <u>5,105</u>
9. Accrued Expenses (Unpaid Bills) ..... Schedule F, Line 3	\$ <u>0</u>	\$ <u>0</u>
10. Nonmonetary Adjustment ..... Schedule C, Line 3	\$ <u>0</u>	\$ <u>0</u>
11. TOTAL EXPENDITURES MADE ..... Add Lines 8 + 9 + 10	\$ <u>5,105</u>	\$ <u>5,105</u>

## Expenditure Limit Summary for State Candidates

22. Cumulative Expenditures Made* (If Subject to Voluntary Expenditure Limit)	
Date of Election (mm/dd/yy)	Total to Date
<u>  /  /  </u>	\$ _____
<u>  /  /  </u>	\$ _____

## Current Cash Statement

12. Beginning Cash Balance ..... Previous Summary Page, Line 16	\$ <u>29,000</u>
13. Cash Receipts ..... Column A, Line 3 above	\$ <u>14,978</u>
14. Miscellaneous Increases to Cash ..... Schedule I, Line 4	\$ <u>5,328</u>
15. Cash Payments ..... Column A, Line 8 above	\$ <u>5,105</u>
16. ENDING CASH BALANCE ..... Add Lines 12 + 13 + 14, then subtract Line 15	\$ <u>32,911</u>

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

\*Amounts in this section may be different from amounts reported in Column B.

If this is a termination statement, Line 16 must be zero.

17. LOAN GUARANTEES RECEIVED ..... Schedule B, Part 2	\$ <u>0</u>
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## Cash Equivalents and Outstanding Debts

18. Cash Equivalents ..... See instructions on reverse	\$ _____
19. Outstanding Debts ..... Add Line 2 + Line 9 in Column B above	\$ <u>800</u>



# Schedule A Monetary Contributions Received

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE A

Statement covers period  
from 11/1/08  
through 8/16/08

CALIFORNIA FORM **460**

Page 3 of 16

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

SM NA, INC.

I.D. NUMBER

None

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
4/3/08	Charles & Cecilia Logan San Martin Ave San Martin CA 95046	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Attorney	\$500	\$500	
8/2008	Cal Stone Clayes Ave San Martin 95046	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$1000		
8/2008	South valley disposal Gilroy ca	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$1000		
8/2008	South valley National Bank Morgan Hill Ave	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		250		
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				

SUBTOTAL \$

## Schedule A Summary

1. Amount received this period - itemized monetary contributions.

(Include all Schedule A subtotals.)

\$ 2750 ~~500~~ -

2. Amount received this period - unitemized monetary contributions of less than \$100

12 228 \$ ~~12 228~~

3. Total monetary contributions received this period.

(Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Line 1.)

14 978 TOTAL \$ ~~14 978~~

\*Contributor Codes  
 IND - Individual  
 COM - Recipient Committee  
 (other than PTY or SCC)  
 OTH - Other (e.g., business entity)  
 PTY - Political Party  
 SCC - Small Contributor Committee

P. 5/18

# Schedule B - Part 1 Loans Received

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE B - PART 1

Statement covers period  
from 11/1/08  
through 8/16/08

CALIFORNIA FORM **460**  
Page 4 of 16  
I.D. NUMBER  
None

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

SMNA, Inc

FULL NAME, STREET ADDRESS AND ZIP CODE OF LENDER (IF CO-WHITTEE, ALSO ENTER ID NUMBER)	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	(a) OUTSTANDING BALANCE BEGINNING THIS PERIOD	(b) AMOUNT RECEIVED THIS PERIOD	(c) AMOUNT PAID OR FORGIVEN THIS PERIOD*		(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	(e) INTEREST PAID THIS PERIOD	(f) ORIGINAL AMOUNT OF LOAN	(g) CUMULATIVE CONTRIBUTIONS TO DATE
				<input type="checkbox"/> PAID	<input type="checkbox"/> FORGIVEN				
<u>Richard &amp; Jennifer Santolucito 12515 Foothill Ave San Martin, CA 95046</u>	<u>Attorney</u>	\$ _____	\$ <u>800-</u>	<input type="checkbox"/> PAID \$ _____	<input type="checkbox"/> FORGIVEN \$ _____	\$ _____	_____% RATE	\$ _____	CALENDAR YEAR \$ <u>800-</u> PERELECTION** \$ _____
<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$ _____	\$ _____	<input type="checkbox"/> PAID \$ _____	<input type="checkbox"/> FORGIVEN \$ _____	\$ _____	_____% RATE	\$ _____	CALENDAR YEAR \$ _____ PERELECTION** \$ _____
<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$ _____	\$ _____	<input type="checkbox"/> PAID \$ _____	<input type="checkbox"/> FORGIVEN \$ _____	\$ _____	_____% RATE	\$ _____	CALENDAR YEAR \$ _____ PERELECTION** \$ _____
<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$ _____	\$ _____	<input type="checkbox"/> PAID \$ _____	<input type="checkbox"/> FORGIVEN \$ _____	\$ _____	_____% RATE	\$ _____	CALENDAR YEAR \$ _____ PERELECTION** \$ _____
<b>SUBTOTALS \$</b>								\$ _____	\$ _____

## Schedule B Summary

1. Loans received this period ..... \$ 800-  
(Total Column (b) plus unitemized loans of less than \$100.)
2. Loans paid or forgiven this period ..... \$ 800-  
(Total Column (c) plus loans under \$100 paid or forgiven.)  
(Include loans paid by a third party that are also itemized on Schedule A.)
3. Net change this period. (Subtract Line 2 from Line 1.) ..... NET \$ 800-  
Enter the net here and on the Summary Page, Column A, Line 2.  
(May be a negative number)

(Enter (e) on Schedule E, Line 3)

†Contributor Codes

- IND - Individual
- COM - Recipient Committee (other than PTY or SCC)
- OTH - Other (e.g., business entity)
- PTY - Political Party
- SCC - Small Contributor Committee

\*Amounts forgiven or paid by another party also must be reported on Schedule A.  
\*\* If required.

SEP 23 '08 05:20PM ARIES CONSULTANTS

# Schedule B - Part 2 Loan Guarantors

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE B - PART 2

Statement covers period from <u>1/1/08</u> through <u>8/16/08</u>	<b>CALIFORNIA FORM 460</b>
Page <u>5</u> of <u>16</u>	I.D. NUMBER

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

*SMNA, Inc*

FULL NAME, STREET ADDRESS AND ZIP CODE OF GUARANTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	LOAN	AMOUNT GUARANTEED THIS PERIOD	CUMULATIVE TO DATE	BALANCE OUTSTANDING TO DATE
<i>None</i>	<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		LENDER  DATE		CALENDAR YEAR \$ PER ELECTION (IF REQUIRED) \$	
	<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		LENDER  DATE		CALENDAR YEAR \$ PER ELECTION (IF REQUIRED) \$	
	<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		LENDER  DATE		CALENDAR YEAR \$ PER ELECTION (IF REQUIRED) \$	
	<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		LENDER  DATE		CALENDAR YEAR \$ PER ELECTION (IF REQUIRED) \$	

**SUBTOTAL \$**

Enter on Summary Page, Line 17 only.

**Schedule C  
Nonmonetary Contributions Received**

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE C

Statement covers period from <u>Jan 1, 2008</u> through <u>Aug 16, 2008</u>	<b>CALIFORNIA FORM 460</b>
	Page <u>6</u> of <u>10</u>
	I.D. NUMBER <u>Nbc</u>

SEE INSTRUCTIONS ON REVERSE  
NAME OF FILER

SM NA, INC.

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	DESCRIPTION OF GOODS OR SERVICES	AMOUNT/ FAIR MARKET VALUE	CUMULATIVE TO DATE CALENDAR YEAR (JAN 1 - DEC 31)	PER ELECTION TO DATE (IF REQUIRED)
4/2008	Cordovalle San Martin 95046	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		round of golf	\$200	200-	
4/2008	Solva Ranches Highland & Santa Ana San Martin, CA	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		10 bales hay	\$120	120-	
4/2008	South valley disposal, inc Gilroy, CA	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		dumpster service	\$100	100-	
4/2008	Pacific Security fence inc San Martin Ave San Martin, CA	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		dog kennel	\$150	150-	

Attach additional information on appropriately labeled continuation sheets.

SUBTOTAL \$ 570-

**Schedule C Summary**

- Amount received this period - itemized nonmonetary contributions.  
(Include all Schedule C subtotals.) ..... \$ 1985-
- Amount received this period - unitemized nonmonetary contributions of less than \$100 ..... \$ 3343-
- Total nonmonetary contributions received this period.  
(Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Lines 4 and 10.) ..... TOTAL \$ 5328-

\*Contributor Codes  
IND - Individual  
COM - Recipient Committee  
(other than PTY or SCC)  
OTH - Other (e.g., business entity)  
PTY - Political Party  
SCC - Small Contributor Committee

Schedule X (Continuation Sheet)
Monetary Contributions Received

Type or print in ink.
Amounts may be rounded
to whole dollars.

SCHEDULE X (CONT.)

Statement covers period
from Jul 1, 2008
through Aug 16, 2008
CALIFORNIA FORM 460
Page 7 of 16
I.D. NUMBER None

NAME OF FILER

SMNA, Inc

Table with 7 columns: DATE RECEIVED, FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR, CONTRIBUTOR CODE, IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER, AMOUNT RECEIVED THIS PERIOD, CUMULATIVE TO DATE CALENDAR YEAR, PER ELECTION TO DATE. Rows include contributions from South Valley disposal, Silva Ranches, Cerveralle, Pacific Security Fence, and Cal Stone.

\*Contributor Codes
IND - Individual
COM - Recipient Committee
OTH - Other (e.g., business entity)
PTY - Political Party
SCC - Small Contributor Committee

<sup>C</sup>  
Schedule ~~A~~ (Continuation Sheet)  
Monetary Contributions Received

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE <sup>C</sup> (CONT.)

Statement covers period		CALIFORNIA FORM <b>460</b>
from	1/1/08	
through	8/16/08	Page <u>8</u> of <u>16</u>
NAME OF FILER		I.D. NUMBER

NAME OF FILER  
*SMNA, Inc*

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
<i>Aug 2008</i>	<i>Gitroy golf course Hacker pass rd. Gitroy, CA 95020</i>	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		<i>Golf \$110</i>	<i>100 -</i>	
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				

SUBTOTAL \$ *110 -*

\*Contributor Codes  
 IND - Individual  
 COM - Recipient Committee  
       (other than PTY or SCC)  
 OTH - Other (e.g., business entity)  
 PTY - Political Party  
 SCC - Small Contributor Committee

# Schedule D Summary of Expenditures Supporting/Opposing Other Candidates, Measures and Committees

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE D

Statement covers period from <u>1/1/2008</u> through <u>8/16/08</u>	<b>CALIFORNIA FORM 460</b>
Page <u>9</u> of <u>16</u>	I.D. NUMBER <u>None</u>

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

*OMNA, Inc*

DATE	NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	TYPE OF PAYMENT	DESCRIPTION (IF REQUIRED)	AMOUNT THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1-DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
	<i>None</i>	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure				
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose					
		<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure				
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose					
		<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure				
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose					
<b>SUBTOTAL \$</b>						

### Schedule D Summary

1. Itemized contributions and independent expenditures made this period. (Include all Schedule D subtotals.) ..... \$ \_\_\_\_\_
2. Unitemized contributions and independent expenditures made this period of under \$100 ..... \$ \_\_\_\_\_
3. Total contributions and independent expenditures made this period. (Add Lines 1 and 2. Do not enter on the Summary Page.) ..... **TOTAL \$** \_\_\_\_\_

**Schedule E  
Payments Made**

Type or print in Ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period from <u>1/1/08</u> through <u>8/16/08</u>	<b>CALIFORNIA FORM 460</b>
	Page <u>10</u> of <u>16</u>
	I.D. NUMBER <u>None</u>

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Smith, Inc

**CODES:** If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- |  |  |  |
|--|--|--|
| <b>CMP</b> campaign paraphernalia/misc.                                  | <b>MBR</b> member communications                     | <b>RAD</b> radio airtime and production costs                        |
| <b>CNS</b> campaign consultants  | <b>MTG</b> meetings and appearances                  | <b>RFD</b> returned contributions                                    |
| <b>CTB</b> contribution (explain nonmonetary)*                           | <b>OFC</b> office expenses                           | <b>SAL</b> campaign workers' salaries                                |
| <b>CVC</b> civic donations   | <b>PET</b> petition circulating                      | <b>TEL</b> t.v. or cable airtime and production costs                |
| <b>FIL</b> candidate filing/ballot fees                                  | <b>PHO</b> phone banks                               | <b>TRC</b> candidate travel, lodging, and meals                      |
| <b>FND</b> fundraising events  | <b>POL</b> polling and survey research               | <b>TRS</b> staff/spouse travel, lodging, and meals                   |
| <b>IND</b> independent expenditure supporting/opposing others (explain)* | <b>POS</b> postage, delivery and messenger services  | <b>TSF</b> transfer between committees of the same candidate/sponsor |
| <b>LEG</b> legal defense   | <b>PRO</b> professional services (legal, accounting) | <b>VOT</b> voter registration  |
| <b>LT</b> campaign literature and mailings                               | <b>PRT</b> print ads                                 | <b>WEB</b> information technology costs (Internet, e-mail)           |

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
<u>Wester &amp; Kelley Irvine, CA</u>	<u>PRO</u>		<u>\$5294</u>
<u>LAFCO</u>	<u>?</u>	<u>LAFCO fees</u>	<u>\$34,710</u>
<u>Scott Brown Grass Valley, CA</u>	<u>PRO</u>		<u>\$2750</u>
<b>SUBTOTAL \$</b>			<u>42714</u>

\* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

**Schedule E Summary**

- Itemized payments made this period. (Include all Schedule E subtotals.) ..... \$ 51015
- Unitemized payments made this period of under \$100 ..... \$ \_\_\_\_\_
- Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).) ..... \$ \_\_\_\_\_
- Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.) ..... **TOTAL \$** 51015



P. 12/18

# Schedule E (Continuation Sheet) Payments Made

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE E (CONT.)

Statement covers period		<b>CALIFORNIA FORM 460</b>
from	11/08	
through	8/16/08	Page 11 of 16
		I.D. NUMBER None

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Sm NA, Inc

**CODES:** If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- |   |   |   |
|---|---|---|
| CMP campaign paraphernalia/misc.                                  | MBR member communications                     | RAD radio airtime and production costs                        |
| CNS campaign consultants  | MTG meetings and appearances                  | RFD returned contributions                                    |
| CTB contribution (explain nonmonetary)*                           | OFC office expenses                           | SAL campaign workers' salaries                                |
| CVC civic donations   | PET petition circulating                      | TEL t.v. or cable airtime and production costs                |
| FIL candidate filing/ballot fees                                  | PHO phone banks                               | TRC candidate travel, lodging, and meals                      |
| FND fundraising events  | POL polling and survey research               | TRS staff/spouse travel, lodging, and meals                   |
| IND independent expenditure supporting/opposing others (explain)* | PCS postage, delivery and messenger services  | TSF transfer between committees of the same candidate/sponsor |
| LEG legal defense   | PRO professional services (legal, accounting) | VOT voter registration  |
| LIT campaign literature and mailings                              | PRT print ads                                 | WEB information technology costs (internet, e-mail)           |

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
William Ross Palo Alto, CA	PRO		\$3000
Jaguar technologies	OFC		191.
mantra reimbursements	LIT		395
Staves Silkscreening Morgan Hill, CA	FND		1000
National Trophy gilroy CA	FND		218

\* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

**SUBTOTAL \$ 4804**

SEP 23 '08 05:23PM ARIES CONSULTANTS

**Schedule E  
(Continuation Sheet)  
Payments Made**

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period from <u>1/1/08</u> through <u>8/16/08</u>	<b>CALIFORNIA FORM 460</b>
	Page <u>12</u> of <u>16</u>
	I.D. NUMBER <u>None</u>

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

SMNA, Inc

**CODES:** If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- |   |   |   |
|---|---|---|
| CMP campaign paraphernalia/misc.                                  | MBR member communications                     | RAD radio airtime and production costs                        |
| CNS campaign consultants  | MTG meetings and appearances                  | RFD returned contributions                                    |
| CTB contribution (explain nonmonetary)*                           | OFC office expenses                           | SAL campaign workers' salaries                                |
| CVC civic donations   | PET petition circulating                      | TEL t.v. or cable airtime and production costs                |
| FIL candidate filing/ballot fees                                  | PHO phone banks                               | TRC candidate travel, lodging, and meals                      |
| FND fundraising events  | POL polling and survey research               | TRS staff/spouse travel, lodging, and meals                   |
| IND independent expenditure supporting/opposing others (explain)* | POS postage, delivery and messenger services  | TSF transfer between committees of the same candidate/sponsor |
| LEG legal defense   | PRO professional services (legal, accounting) | VOT voter registration  |
| LIT campaign literature and mailings                              | PRT print ads                                 | WEB information technology costs (internet, e-mail)           |

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
<u>San Martin County Park Monterey Rd San Martin CA</u>	<u>FND</u>	<u>Park rental</u>	<u>\$1000</u>
<u>W Henry Band San Martin</u>	<u>FND</u>	<u>band</u>	<u>\$500</u>
<u>Catering by drama</u>	<u>FND</u>	<u>car show</u>	<u>1344</u>
<u>MISC expenses spaghetti social</u>	<u>FND</u>		<u>885.</u>
<u>Car show MISC</u>	<u>FND</u>		<u>617</u>

\* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

**SUBTOTAL \$4296**

Schedule E  
(Continuation Sheet)  
Payments Made

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period from <u>4/1/08</u> through <u>8/16/08</u>	CALIFORNIA FORM <b>460</b> Page <u>3</u> of <u>16</u> I.D. NUMBER <u>—</u>
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SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

SMNA, Inc

**CODES:** If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- |  |  |  |
|--|--|--|
| <b>CMP</b> campaign paraphernalia/misc.                                  | <b>MBR</b> member communications                     | <b>RAD</b> radio airtime and production costs                        |
| <b>CNS</b> campaign consultants  | <b>MTG</b> meetings and appearances                  | <b>RFD</b> returned contributions                                    |
| <b>CTB</b> contribution (explain non-monetary)*                          | <b>OFC</b> office expenses                           | <b>SAL</b> campaign workers' salaries                                |
| <b>CVC</b> civic donations   | <b>PET</b> petition circulating                      | <b>TEL</b> t.v. or cable airtime and production costs                |
| <b>FIL</b> candidate filing/ballot fees                                  | <b>PHO</b> phone banks                               | <b>TRC</b> candidate travel, lodging, and meals                      |
| <b>FND</b> fundraising events  | <b>POL</b> polling and survey research               | <b>TRS</b> staff/spouse travel, lodging, and meals                   |
| <b>IND</b> independent expenditure supporting/opposing others (explain)* | <b>POS</b> postage, delivery and messenger services  | <b>TSF</b> transfer between committees of the same candidate/sponsor |
| <b>LEG</b> legal defense   | <b>PRO</b> professional services (legal, accounting) | <b>VOT</b> voter registration  |
| <b>LIT</b> campaign literature and mailings                              | <b>PRT</b> print ads                                 | <b>WEB</b> information technology costs (Internet, e-mail)           |

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
<u>Pacific Diversified Insurance</u>	<u>PRO</u>		<u>\$26</u>

\* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTAL \$ 26

Schedule F
Accrued Expenses (Unpaid Bills)

Type or print in ink.
Amounts may be rounded
to whole dollars.

Statement covers period
from 11/1/08
through 8/16/08

CALIFORNIA FORM 460

Page 14 of 16

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

SMJA, Inc

I.D. NUMBER

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- CMP campaign paraphernalia/misc.
CNS campaign consultants
CTB contribution (explain nonmonetary)\*
CVC civic donations
FIL candidate filing/ballot fees
FND fundraising events
IND independent expenditure supporting/opposing others (explain)\*
LEG legal defense
LIT campaign literature and mailings
MER member communications
MTG meetings and appearances
OFC office expenses
PET petition circulating
PHO phone banks
POL polling and survey research
POS postage, delivery and messenger services
PRO professional services (legal, accounting)
PRT print ads
RAD radio airtime and production costs
RFD returned contributions
SAL campaign workers' salaries
TEL t.v. or cable airtime and production costs
TRC candidate travel, lodging, and meals
TRS staff/spouse travel, lodging, and meals
TSF transfer between committees of the same candidate/sponsor
VOT voter registration
WEB information technology costs (internet, e-mail)

Table with 6 columns: NAME AND ADDRESS OF CREDITOR, CODE OR DESCRIPTION OF PAYMENT, (a) OUTSTANDING BALANCE BEGINNING OF THIS PERIOD, (b) AMOUNT INCURRED THIS PERIOD, (c) AMOUNT PAID THIS PERIOD, (d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD. Includes handwritten 'None' in the first row.

\* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTALS \$ \$ \$ \$

Schedule F Summary

- 1. Total accrued expenses incurred this period. (Include all Schedule F, Column (b) subtotals for accrued expenses of \$100 or more, plus total unitemized accrued expenses under \$100.) INCURRED TOTALS \$
2. Total accrued expenses paid this period. (Include all Schedule F, Column (c) subtotals for payments on accrued expenses of \$100 or more, plus total unitemized payments on accrued expenses under \$100.) PAID TOTALS \$
3. Net change this period. (Subtract Line 2 from Line 1. Enter the difference here and on the Summary Page, Column A, Line 9.) NET \$

**Schedule G  
Payments Made by an Agent or Independent  
Contractor (on Behalf of This Committee)**

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE G

Statement covers period		<b>CALIFORNIA FORM 460</b>
from	1/1/08	
through	8/16/08	Page 15 of 16
NAME OF FILER		I.D. NUMBER

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
*SMNA, Inc*

NAME OF AGENT OR INDEPENDENT CONTRACTOR

**CODES:** If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- |   |  |  |
|---|--|--|
| <b>CMP</b> campaign paraphernalia/misc.                                 | <b>MCR</b> member communications                     | <b>RAD</b> radio airtime and production costs                        |
| <b>CNS</b> campaign consultants   | <b>MTG</b> meetings and appearances                  | <b>RFD</b> returned contributions                                    |
| <b>CTB</b> contribution (explain nonmonetary)*                          | <b>OFC</b> office expenses                           | <b>SAL</b> campaign workers' salaries                                |
| <b>CVC</b> civic donations  | <b>PET</b> petition circulating                      | <b>TEL</b> t.v. or cable airtime and production costs                |
| <b>FIL</b> candidate filing/ballot fees                                 | <b>PHO</b> phone banks                               | <b>TRC</b> candidate travel, lodging, and meals                      |
| <b>FND</b> fundraising events   | <b>POL</b> polling and survey research               | <b>TRS</b> staff/spouse travel, lodging, and meals                   |
| <b>ND</b> independent expenditure supporting/opposing others (explain)* | <b>POS</b> postage, delivery and messenger services  | <b>TSF</b> transfer between committees of the same candidate/sponsor |
| <b>LEG</b> legal defense  | <b>PRO</b> professional services (legal, accounting) | <b>VOT</b> voter registration  |
| <b>LIT</b> campaign literature and mailings                             | <b>PRT</b> print ads                                 | <b>WEB</b> information technology costs (internet, e-mail)           |

\* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

NAME AND ADDRESS OF PAYEE OR CREDITOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
<i>None</i>			

Attach additional information on appropriately labeled continuation sheets.

TOTAL\* \$

\* Do not transfer to any other schedule or to the Summary Page. This total may not equal the amount paid to the agent or independent contractor as reported on Schedule E.

Schedule H  
Loans Made to Others\*

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period  
from 1/1/08  
through 2/16/08

CALIFORNIA FORM **460**  
Page 16 of 16  
I.D. NUMBER  
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SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
Omnia, Inc

FULL NAME, STREET ADDRESS AND ZIP CODE OF RECIPIENT (IF COMMITTEE, ALSO ENTER I.O. NUMBER)	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	(a) OUTSTANDING BALANCE BEGINNING THIS PERIOD	(b) AMOUNT LOANED THIS PERIOD	(c) REPAYMENT OR FORGIVENESS THIS PERIOD*		(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	(e) INTEREST RECEIVED	(f) ORIGINAL AMOUNT OF LOAN	(g) CUMULATIVE LOANS TO DATE	
				<input type="checkbox"/> PAID	<input type="checkbox"/> FORGIVEN				CALENDAR YEAR	PERELECTION**
<u>None</u>		\$ _____	\$ _____	\$ _____	\$ _____	DATE DUE _____	_____% RATE	\$ _____ DATE INCURRED _____	\$ _____	\$ _____
		\$ _____	\$ _____	\$ _____	\$ _____	DATE DUE _____	_____% RATE	\$ _____ DATE INCURRED _____	\$ _____	\$ _____
		<b>SUBTOTALS</b>		\$ _____	\$ _____	\$ _____	\$ _____			

\*Loans that are contributions to another candidate or committee must also be summarized on Schedule D. Loans forgiven must also be reported on Schedule E.

(Enter (e) on Schedule I, Line 3)

Schedule H Summary

- 1. Loans made this period ..... \$ \_\_\_\_\_  
(Total Column (b) plus unitemized loans of less than \$100.)
- 2. Payments received on loans ..... \$ \_\_\_\_\_  
(Total Column (c) plus unitemized payments of less than \$100.)
- 3. Net change this period. (Subtract Line 2 from Line 1.) ..... **NET \$** \_\_\_\_\_  
(Enter the net here and on the Summary Page, Column A, Line 7.)

\*\*If Required

P.17/18  
SEP 23 '08 05:25PM ARIES CONSULTANTS

**Schedule I  
Miscellaneous Increases to Cash**

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE I

Statement covers period  
from 1/1/08  
through 8/16/08

**CALIFORNIA FORM 460**  
Page 13 of 17  
I.D. NUMBER  
—

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

SOMJA, Inc

DATE RECEIVED	FULL NAME AND ADDRESS OF SOURCE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	DESCRIPTION OF RECEIPT	AMOUNT OF INCREASE TO CASH
-	<u>Sale of Non monetary items</u>		<u>5328</u>

Attach additional information on appropriately labeled continuation sheets.

SUBTOTAL \$ 5328

**Schedule I Summary**

- 1. Itemized increases to cash this period. .... \$ \_\_\_\_\_
- 2. Unitemized increases to cash of under \$100 this period. .... \$ \_\_\_\_\_
- 3. Total of all interest received this period on loans made to others. (Schedule H, Column (e).) .... \$ \_\_\_\_\_
- 4. Total miscellaneous increases to cash this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Line 14.) .... **TOTAL \$ 5328**

**PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN**

**STATEMENT OF LAFCO STAFF COSTS**

Statement Month: July 2008

<b>Beginning Balance</b>	<b>AMOUNT</b>
<b>BALANCE FROM THE PREVIOUS STATEMENT</b>	<b>\$ 140,653.67</b>

<b>Staff Time for September 2007</b>					\$ 12,816.83
	LAFCO Staff	Hours	Hourly Rate*	Cost	
	LAFCO Clerk	11.50	\$ 106.00	\$ 1,219.00	
	LAFCO Analyst	4.45	\$ 164.00	\$ 729.80	
	LAFCO Counsel (BB&K)			\$ 5,726.53	
	LAFCO Executive Officer	28.25	\$ 182.00	\$ 5,141.50	
<b>Expenses</b>					\$ 3.15
	Postage for sending the July 30, 2008 memo update on CFA (7 x \$0.45)			\$ 3.15	
<b>TOTAL DUE FOR THE CURRENT STATEMENT</b>					<b>\$ 12,819.98</b>

<b>BALANCE DUE TO DATE</b>	<b>\$ 153,473.65</b>
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*\*New staff hourly rates were approved by LAFCO and are effective June 5, 2008*

**NOTE:** Pursuant to the Fee Agreement for the San Martin Incorporation Proposal, the payment for LAFCO staff costs is due prior to the first LAFCO public hearing, which is expected to occur on October 1, 2008.



JULY 2008

STAFF	DATE	ACTIVITY/TASK	HOUR UNITS	MONTHLY TOTAL
EXECUTIVE OFFICER	7/1/2008	Phone meeting with attorneys, proponents re CFA issues and follow up phone call with attorney	2.00	28.25
	7/2/2008	Prepare for and attend LAFCO meeting	5.00	
	7/7/2008	Review disclosure issues and schedule for incorporation	0.50	
	7/8/2008	Phone conversation with Sylvia Hamilton	0.25	
	7/10/2008	Discuss road costs in CFA with Ron Jackson and follow up	1.00	
	7/11/2008	Update from Scott Smith	0.50	
	7/14/2008	Phone discussion with Mala and follow up, Review emails from Rick van't Rood	2.00	
	7/16/2008	Phone conversation with Ron Jackson re. road funds and with Berkson re. road funds and CFA Review and work on other incorporation issues: schedule, disclosure, fees invoices, CFA	2.00	
	7/17/2008	Phone call with Mala re. CFA issues, certificate of filing and review and follow up w/ Berkson re responses to comments on CFA	2.50	
	7/18/2008	Work on CFA issues related to road costs, forward communication protocol information to Commissioners	1.50	
	7/21/2008	Work on CFA issues re. road costs, Phone conversation with Kieser re. CFA	2.00	
	7/22/2008	Review and discuss further revisions to the CFA tables, prepare memo re. CFA table revisions, revenue neutrality letter to BoS	3.00	
	7/23/2008	Phone meeting w/ attorney re CFA issues, disclosure issues, Prepare letter regarding certificate of filing, memo re. CFA tables, Provide update to Commission re. incorporation issues	6.00	
LAFCO ANALYST	7/22/2008	Conference call with M. Subramanian regarding CFA	0.30	4.45
	7/23/2008	Mail and email Memo regarding Certificate of Filing for Proposed San Martin Incorporation	0.15	
	7/24/2008	Conference call with M. Subramanian regarding CFA	0.20	
	7/25/2008	Conference call with M. Subramanian and Proponents regarding CFA issues and follow-up discussion regarding CFA	1.80	
	7/25/2008	Email to Proponents regarding FPPC form and information	0.10	
	7/28/2008	Conference call with M. Subramanian regarding CFA	0.20	

JULY 2008

STAFF	DATE	ACTIVITY/TASK	HOUR UNITS	MONTHLY TOTAL
LAFCO ANALYST (Continued)	7/29/2008	Conference call with M. Subramanian regarding city attorney transition year costs and conference call with R. Berkson regarding Tables 1 and 3	0.40	
	7/30/2008	Conference call with M. Subramanian regarding release of sales tax information	0.30	
	7/30/2008	Conference call with M. Subramanian regarding Tables 1 & 3	0.50	
	7/31/2008	Finalize LAFCO Memo on CFA and RN; email and mail Tables 1 & 3 and Memo to LAFCO, Proponents, and County; and request/verify posting on LAFCO Website	0.50	
LAFCO CLERK	7/1/2008	Prepare for July 2, 2008 special LAFCO meeting on San Martin incorporation: supplies, maps, request to speak forms, and make copies of documents for distribution, etc.	0.75	11.50
	7/2/2008	Set up Board Chambers and attend the July 2, 2008 special LAFCO meeting	3.50	
	7/7/2008	Update San Martin files with staff reports and correspondence from the July 2, 2008 special LAFCO meeting	0.25	
	7/8/2008	Prepare minutes of July 2 special LAFCO meeting	2.25	
	7/9/2008	Continue to prepare minutes of July 2 special LAFCO meeting	1.75	
	7/11/2008	Continue working on the minutes of July 2 special LAFCO meeting	1.25	
	7/30/2008	Update website re. July 30, 2008 memo on update to CFA, revised CFA tables 1 and 3, and LAFCO letter to Santa Clara County Board of Supervisors; and send hard copies to LAFCO Commissioners and the proponents by mail.	1.75	

**PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN**

**STATEMENT OF LAFCO STAFF COSTS**

Statement Month: August 2008

<b>Beginning Balance</b>	<b>AMOUNT</b>
<b>BALANCE FROM THE PREVIOUS STATEMENT</b>	<b>\$ 153,473.65</b>

<b>Staff Time for September 2007</b>					\$ 6,186.41
LAFCO Staff	Hours	Hourly Rate*	Cost		
LAFCO Clerk	1.10	\$ 106.00	\$ 116.60		
LAFCO Analyst	0.70	\$ 164.00	\$ 114.80		
LAFCO Counsel			\$ 3,953.01		
LAFCO Executive Officer	11.00	\$ 182.00	\$ 2,002.00		
<b>Expenses</b>					\$ -
<b>TOTAL DUE FOR THE CURRENT STATEMENT</b>					<b>\$ 6,186.41</b>

<b>BALANCE DUE TO DATE</b>	<b>\$ 159,660.06</b>
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*\*Staff hourly rate has been updated per LAFCO Resolution No. 2008-03 of June 4, 2008, revising the LAFCO Fee Schedule.*

**NOTE:** Pursuant to the Fee Agreement for the San Martin Incorporation Proposal, the payment for LAFCO staff costs is due prior to the first LAFCO public hearing, which is expected to occur in November 2008. An invoice will be provided thirty days prior to the first hearing.

AUGUST 2008

STAFF	DATE	ACTIVITY/TASK	HOUR UNITS	MONTHLY TOTAL
EXECUTIVE OFFICER	8/19/2008	Review correspondence and status of issues	1.00	11.00
	8/21/2008	Follow up on incorporation issues	1.00	
	8/22/2008	Phone meeting with attorney to discuss incorporation issues, follow up	1.50	
	8/25/2008	Phone meeting with attorney and proponents	1.00	
	8/26/2008	Review incorporation issues, Discuss w/ Berkson re. revenue neutrality options	1.50	
	8/28/2008	Prepare staff report	2.00	
	8/29/2008	Prepare staff report	3.00	
LAFCO ANALYST	8/01/2008	Conference call with M. Subramanian regarding Revenue Neutrality	0.20	0.70
	8/8/2008	Conference call with M. Subramanian regarding County Staff Report and Proponent's Letter regarding Revenue Neutrality	0.50	
LAFCO CLERK	8/1/2008	Prepare monthly staff time invoice for July 2008	0.50	1.10
	8/27/2008	Scan and email to Rick Van't Rood September and October 2007 invoices	0.10	
	8/28/2008	Prepare draft agenda for September 10, 2008 closed session and special meeting on San Martin	0.50	

# Resolution of Commendation

**WHEREAS**, Kathy Kretchmer, joined the County of Santa Clara as a Deputy County Counsel in 1985; and

**WHEREAS**, Kathy Kretchmer has for the past 20 years served as the LAFCO Counsel where she has provided reliable legal advice and made invaluable contributions to the Local Agency Formation Commission of Santa Clara County; and

**WHEREAS**, Kathy Kretchmer is greatly respected for her long-term commitment to LAFCO, her knowledge of LAFCO law, and her expertise in the many facets of her role as LAFCO Counsel, a role that requires teamwork, problem-solving and consensus building skills; and

**WHEREAS**, Kathy Kretchmer has set high standards for herself, maintains a professional level of service, and is well respected throughout the LAFCO community and by the members of the California Association of LAFCOs (CALAFCO) for her active participation and for her many contributions to the organization; and

**WHEREAS**, Kathy Kretchmer has played a very significant role in the development and administration of LAFCO policies and state law, and in the fulfillment of LAFCO's mandate to prevent urban sprawl, to promote orderly growth and development, to ensure the efficient delivery of services, and to protect agricultural land and open space resources; and

**WHEREAS**, Kathy Kretchmer has embodied a true sense of integrity, commitment and compassion as a public service employee and her departure from LAFCO is a tremendous loss to the Local Agency Formation Commission of Santa Clara County.

**NOW THEREFORE, BE IT RESOLVED** that the Local Agency Formation Commission of Santa Clara County hereby thanks, gives due honor and commends

## KATHY KRETCHMER

For her many, many contributions and 20 years of dedicated service to LAFCO and extends its best wishes to Kathy as she continues to serve various County departments with distinction.

**PASSED AND ADOPTED**, this First Day of October, Two Thousand and Eight, by unanimous vote.

\_\_\_\_\_  
Pete Constant  
Chairperson

\_\_\_\_\_  
Blanca Alvarado  
Member

\_\_\_\_\_  
Donald F. Gage  
Member

\_\_\_\_\_  
John Howe  
Member

\_\_\_\_\_  
Susan Vicklund-Wilson  
Member

LAFCO Meeting: October 1, 2008

**TO:** LAFCO

**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
Emmanuel Abello, Clerk

**SUBJECT:** 2007-2008 LAFCO Annual Report  
Agenda Item # 8

### **RECOMMENDATION**

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Accept the 2007-2008 Annual Report. (July 1, 2007 to June 30, 2008)

### **ANNEXATION & REORGANIZATION ACTIVITY**

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During Fiscal Year 2007-2008, LAFCO approved 3 reorganization proposals, two of them being annexations to two different sanitary districts and one involving the City of San Jose. Last year, LAFCO approved 5 reorganization proposals, all of them being annexations to sanitary districts.

The number of city-conducted annexations that LAFCO staff processed this year totaled 13 proposals in six jurisdictions, as compared to 14 proposals in 4 cities the year before. The acreage annexed was 10.68 acres in Gilroy, 90 acres in Los Altos Hills, 4.24 acres in Los Gatos, 18.41 acres in Morgan Hill, 14.55 acres in Mountain View, and 6.69 acres in San Jose.

### **ISLAND ANNEXATIONS**

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The City of San Jose was the only city to complete island annexations during Fiscal Year 2007-2008. The City annexed 10 unincorporated islands totaling 61.75 acres.

Working with the City of San Jose and the County, LAFCO staff continued to help coordinate the overall island annexation program. LAFCO staff assisted and advised San Jose on their public outreach process, coordinated the preparation of maps and reports by the County Surveyor and Assessors' Offices, was available to attend island annexation community meetings and hearings, provided technical assistance on the island annexation process and law, and worked with and completed all necessary paperwork as required by the State Board of Equalization.

LAFCO staff is currently working with the City of San Jose on Phase 3 of their island annexation program. Phase 3 involves 6 unincorporated islands that are larger in size (15 to 147 acres) and have a significant amount of population.

#### **URBAN SERVICE AREA AMENDMENTS**

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LAFCO heard and approved an urban service area amendment for the City of San Jose that included the expansion of the City's USA to include approximately 3.20 acres of land.

#### **OUT-OF-AGENCY CONTRACT FOR SERVICE REQUESTS**

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LAFCO approved a request by the City of Los Altos Hills to extend sewer service to a single-family residence located at 10700 Mora Drive outside Los Altos Hills' city limits. In October 2008, LAFCO denied a request by the City of Los Altos Hills to extend sewer service to a single-family residence located at 10885 West Loyola outside Los Altos Hills' city limits. This property was subsequently annexed to Los Altos Hills as part of the West Loyola Annexation which was recorded on October 18, 2007.

#### **COMMISSION AND STAFF CHANGES**

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In April 2008, the Santa Clara County Cities Association reappointed John Howe as the cities' representative to LAFCO and reappointed Al Pinheiro as his alternate. The terms end in May 2012.

The LAFCO Executive Officer position was increased to a full-time position from a 0.80 position. The LAFCO Analyst and the LAFCO Clerk positions continue to be staffed at a full time level. Other LAFCO staff, include the LAFCO Surveyor which is staffed by the County Surveyor's Office, and the LAFCO Counsel which is staffed from the County Counsel's Office and is available on contract to work on LAFCO issues on an as needed basis. Ginny Millar, LAFCO's long-time Surveyor, retired in December 2007 and Jack Schepens is the position. In June 2008, the County Counsel's Office reassigned the LAFCO Counsel replacing Kathy Kretchmer, with Steve Mitra.

#### **OTHER PROJECTS / STUDIES**

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##### **Service Review and Sphere of Influence (SOI) Updates in the Northwest Santa Clara County Area**

LAFCO adopted the Northwest Santa Clara County Service Review and updated the spheres of influence for the involved agencies in October 2007. The Report covered ten cities including Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Saratoga, Sunnyvale and nine special districts including Cupertino Sanitary District, El Camino Hospital

District, Midpeninsula Regional Open Space District, Rancho Rinconada Recreation and Park District, Santa Clara Valley Transportation Authority, Saratoga Cemetery District, West Bay Sanitary District and West Valley Sanitation District.

A Technical Advisory Committee (TAC) was established to serve as a liaison between LAFCO and the affected agencies, as well as to provide technical expertise and guidance throughout the service review process. In addition to LAFCO Commissioner John Howe and LAFCO staff, the members of TAC include:

*Representing the Santa Clara County/Cities Managers' Association*  
Debra Figone, Town Manager, Town of Los Gatos

*Representing the Santa Clara County Municipal Public Works Officers' Association*  
Glenn Roberts, Public Works Director, City of Palo Alto

*Representing the Santa Clara County Special Districts Association*  
Pete Siemens, Board Member, Midpeninsula Regional Open Space District

*Representing the Santa Clara County Planning Officials Association*  
Steve Piasecki, Community Development Director, City of Cupertino

The final report provides an overview of each of the cities and special districts and includes service review determinations and SOI recommendations and findings required by state law. As part of the Service Review and Sphere of Influence Update, LAFCO amended the SOI boundaries for the City of Palo Alto and the Town of Los Altos Hills to move two unincorporated residential areas (Altamont Circle and Moody Road) from Palo Alto's SOI to Los Altos Hills' SOI in order to provide for more appropriate future planning. The El Camino Hospital's SOI was amended to include all of Sunnyvale and Cupertino in order to more accurately delineate the District's service area. The West Valley Sanitation District's SOI was amended to include two areas that are currently receiving District services and to also more accurately delineate the District's service area. A copy of this report is available on the LAFCO website.

### **Sphere of Influence (SOI) Updates for Fire Districts in Santa Clara County**

In December 2007, LAFCO adopted Sphere of Influence Reports for the Los Altos Hills County Fire District, the Santa Clara County Central Fire Protection District, the Saratoga Fire Protection District, and the South Santa Clara County Fire Protection District. In these reports, LAFCO reaffirmed the sphere of influence boundary for each fire protection district and made the required sphere



of influence determinations. These reports are also available on the LAFCO website.

### **Sphere of Influence (SOI) Updates for Water and Resource Conservation Districts in Santa Clara County**

In December 2007, LAFCO adopted the Sphere of Influence Update for Aldercroft Heights County Water District, Guadalupe-Coyote Resource Conservation District, Loma Prieta Resource Conservation District, Purissima Hills County Water District, and Santa Clara Valley Water District. As part of the SOI Update, LAFCO amended the sphere of influence boundary for the Purissima Hills County Water District to include three parcels that are already receiving service from the District and made sphere of influence determinations for these five districts.

In December 2007, LAFCO also adopted the Sphere of Influence Update for the San Martin County Water District. As part of the SOI Update, LAFCO amended the SOI for the District to include an additional 173 acres in order to address the out-of-agency service already being provided by the District and made sphere of influence determinations for the District.

Both reports are also available on the LAFCO website.

### **San Martin Incorporation**

LAFCO received a petition and application for the incorporation of the Town of San Martin in February 2007. Since that time, LAFCO has been heavily involved in processing this complex application, including retaining Economic & Planning Systems (EPS) to prepare the Comprehensive Fiscal Analysis and retaining Michael Brandman Associates (MBA) to conduct the environmental analysis.

#### **Comprehensive Fiscal Analysis (CFA) and Revenue Neutrality Activities**

In August and September of 2007, the CFA Consultant and LAFCO staff worked with the various governmental agencies and departments to collect the necessary data to prepare the CFA. EPS then prepared an Administrative Draft CFA which was reviewed by LAFCO staff, County staff, and the incorporation proponents. Revenue neutrality negotiations were held between December 2007 and March 2008 without reaching an agreement. The Public Hearing Draft CFA was released for a 30-day public review and comment period in March 2008. At the May 2008 LAFCO Hearing, LAFCO accepted comments on the Draft CFA and directed staff to revise the CFA and Plan for Services. LAFCO also directed Special Legal Counsel to review the record and to provide a legal analysis at the June 2008 meeting. At the June meeting, LAFCO staff presented revised tables which included new information concerning election costs and repayment to the County of the

transition year costs. LAFCO Special Legal Counsel provided their legal analysis at the July 2008 meeting.

#### **Environmental Review and Alternative Boundaries Activities**

In November 2007, LAFCO released the Draft Initial Study and Proposed Negative Declaration (Draft IS/ND) for public review. In December 2007, LAFCO held a public hearing to accept comments on the document. At the meeting, LAFCO staff also provided a report to the Commission on alternative boundaries. In February 2008, LAFCO identified a preferred alternative boundary for the proposed incorporation and directed staff to revise the IS/ND, and to re-circulate the document for public review and comment. In March 2008, LAFCO circulated the revised IS/ND for public review and comment. In May 2008, LAFCO accepted comments and directed LAFCO Special Legal Counsel to review the entire record and to advise LAFCO at the June meeting. At the June 2008 LAFCO Public Hearing, LAFCO directed staff to proceed with the Negative Declaration.

#### **Special Legal Counsel Hired**

In April 2008, County Counsel withdrew as LAFCO Counsel for the proposed incorporation of the Town of San Martin due to a conflict of interest, because the incorporation proponents and the County were unable to reach agreement with regard to revenue neutrality and that as a result the responsibility for imposing revenue neutrality terms and conditions now shifts to LAFCO. In May 2008, LAFCO hired Best Best and Krieger to advise and to represent LAFCO on the proposed incorporation.

### **Participation in CALAFCO Activities**

#### **CALAFCO Most Effective Commission Award 2007**

LAFCO received the "Most Effective Commission Award" from CALAFCO in September 2007 for the Commission's adoption of Agricultural Mitigation Policies and LAFCO's successful efforts to work with the County and the various cities to annex unincorporated islands.

#### **CALAFCO Executive Board Member**

Commissioner Susan Vicklund Wilson, public member, is serving her third term on the CALAFCO Executive Board and is currently the Vice Chair. Commissioner Wilson also participates on the CALAFCO Legislative Committee.

### **CALAFCO Annual Conference (September 2007)**

LAFCO staff and Commissioners Constant, Howe, and Wilson attended the 2007 CALAFCO Conference in Sacramento. Commissioner Wilson was a moderator for the "CEQA Basics" Session and panelist for the "Sustaining Agriculture: Exploring LAFCO's Role" session.

### **CALAFCO Staff Workshop (April 2008)**

Santa Clara LAFCO hosted the 2008 CALAFCO Staff Workshop in San Jose. Staff chaired the program and facilities planning committee, helped organize various sessions and the mobile workshop, facilitated/moderated some sessions, prepared and published the program. The Workshop set an attendance record for CALAFCO and received high marks from the attendees.

### **CALAFCO University "LAFCO Clerking: Session for Solutions" (October 2007)**

Emmanuel Abello, LAFCO Clerk, attended the course and taught a session on "Clerking: The Big Picture."

### **CALAFCO University "Agriculture and Open Space Mitigation" (July 2008)**

LAFCO staff and Commissioner Constant attended the workshop conducted by CALAFCO on "Agriculture and Open Space Mitigation Policies, Practices, and Definitions."

## **Other Miscellaneous Projects and Activities**

### **Participation in the Santa Clara County Special Districts Association**

LAFCO staff continues to attend the quarterly meetings of the Santa Clara County Special Districts Association and provides an update to the association on LAFCO activities that are of interest to special districts. At the June 2008 Association Meeting, LAFCO staff provided an overview of the process to seat special districts on LAFCO.

### **Participation on Martial Cottle Park Master Plan Technical Advisory Committee**

In 2007, the Santa Clara County Parks Department began working on the Martial Cottle Park Master Plan, a plan to preserve and create a 287 acre public park which would educate the public about the agricultural heritage of the Santa Clara Valley. LAFCO staff participates on the Technical Advisory Committee which was formed to provide technical feedback to the CA State Parks Department and the Santa Clara County Parks and Recreation

Department throughout the planning process. The planning process is expected to conclude at the end of 2009.

**Coyote Valley Specific Plan (CVSP)**

During the past year, LAFCO staff has been monitoring the Coyote Valley Specific Plan, attending Task Force meetings and community workshops, participating on the CVSP Technical Advisory Committee, providing written comments where appropriate. This project was recently terminated by the proponents. The City has compiled the multi-year work into a vision plan entitled the "Coyote Valley Plan - A Vision for Sustainable Development."

**Attachment A: LAFCO Application Processing Activity Summary and Maps Depicting Application Locations**

**LAFCO APPLICATIONS  
JULY 1, 2007 THROUGH JUNE 30, 2008**

**CITY ANNEXATIONS**

**CITY CONDUCTED ANNEXATIONS**

<b>City</b>	<b>Proposal Name</b>	<b>Date Recorded</b>	<b>Document #</b>	<b>Acreage Approved</b>
<b>Gilroy</b>	Vickery Avenue Reorganization 05-01	07/18/07	19517294	10.68
				<b>City Total</b>
				<b>10.68</b>
<b>Los Altos Hills</b>	West Loyola Annexation	10/18/07	19623318	90.00
				<b>City Total</b>
				<b>90.00</b>
<b>Los Gatos</b>	Blackberry Hill Road No. 5	02/22/08	19752686	1.98
	East La Chiquita Avenue No. 1	02/22/08	19752684	0.65
	Kennedy Road No. 16	02/22/08	19752685	0.62
	Stephenie Lane No. 3	05/08/08	19846349	0.33
	Topping Way No. 5	05/08/08	19846350	0.66
				<b>City Total</b>
				<b>4.24</b>
<b>Morgan Hill</b>	Santa Teresa No. 3	12/03/07	19669782	18.41
				<b>City Total</b>
				<b>18.41</b>
<b>Mountain View</b>	Grant Road Annexation	02/22/08	19723552	14.55
				<b>City Total</b>
				<b>14.55</b>
<b>San Jose</b>	Burbank No. 39	04/08/08	19805741	0.11
	McKee No. 129	09/11/07	19581571	0.82
	McKee No. 134	06/27/08	19900951	1.33
	Monterey Park No. 109	07/11/07	19502460	4.43
				<b>City Total</b>
				<b>6.69</b>
<b>Total City Conducted Annexations</b>				<b>144.57 Acres</b>

**LAFCO CONDUCTED REORGANIZATIONS**

<b>San Jose</b>	Riverside No. 52	Reorganization	05/08/08	19846351	14.72
					<b>City Total</b>
					<b>14.72</b>
<b>Total LAFCO Conducted Reorganizations</b>					<b>14.72 Acres</b>

**ISLAND ANNEXATIONS**

<b>San Jose</b>	San Jose Pocket #26: Penitencia Creek No. 76		03/11/08	19772183	1.14
	San Jose Pocket #27: Story Road No. 58		03/11/08	19772180	6.93

**LAFCO APPLICATIONS**  
**JULY 1, 2007 THROUGH JUNE 30, 2008**

<b>City</b>	<b>Proposal Name</b>	<b>Date Recorded</b>	<b>Document #</b>	<b>Acreage Approved</b>
<b>San Jose</b>	San Jose Pocket #28: Capitol No. 55	03/11/08	19772182	0.74
	San Jose Pocket #29: Capitol No. 56	03/11/08	19772181	0.27
	San Jose Pocket #30: McKinley No. 110	01/28/08	19723549	3.50
	San Jose Pocket #31: Evergreen No. 200	04/08/08	19805740	34.10
	San Jose Pocket #32: Evergreen No. 201	03/12/08	19773222	2.50
	San Jose Pocket #33: Hillview No. 73	01/28/08	19723550	8.55
	San Jose Pocket #34: Parker No. 25	01/28/08	19723547	3.49
	San Jose Pocket #35: Parker No. 26	01/28/08	19723548	0.53
<b>Total Island Annexations</b>				<b>61.75 Acres</b>

**SPECIAL DISTRICT ANNEXATIONS**

	<b>Proposal Name</b>	<b>LAFCO Action</b>	<b>Document # Date Recorded</b>	<b>Acreage</b>
<b>West Valley Sanitation District</b>	West Valley Sanitation District	04/16/07	19916048	29.78
	2008-1 (Canon Drive)	Protest Proceedings on 06/19/08	7/11/08	
<b>Cupertino Sanitary District</b>	Cupertino Sanitary District	05/30/07	19502459	1.10
	Prospect Road No. 6		7/11/07	
<b>Total Special District Annexations</b>				<b>30.88 Acres</b>

**LAFCO APPLICATIONS**  
**JULY 1, 2007 THROUGH JUNE 30, 2008**

**URBAN SERVICE AREA AMENDMENTS (USA)**

	<b>Proposal Name</b>	<b>LAFCO Action</b>	<b>Document # Date Recorded</b>	<b>Acreage</b>
<b>San Jose</b>	San Jose USA Amendment 2007 - Riverside No. 52	02/06/08	19846351 5/08/08	3.20
<i>Total USA Amendments</i>				<b>3.20 Acres</b>

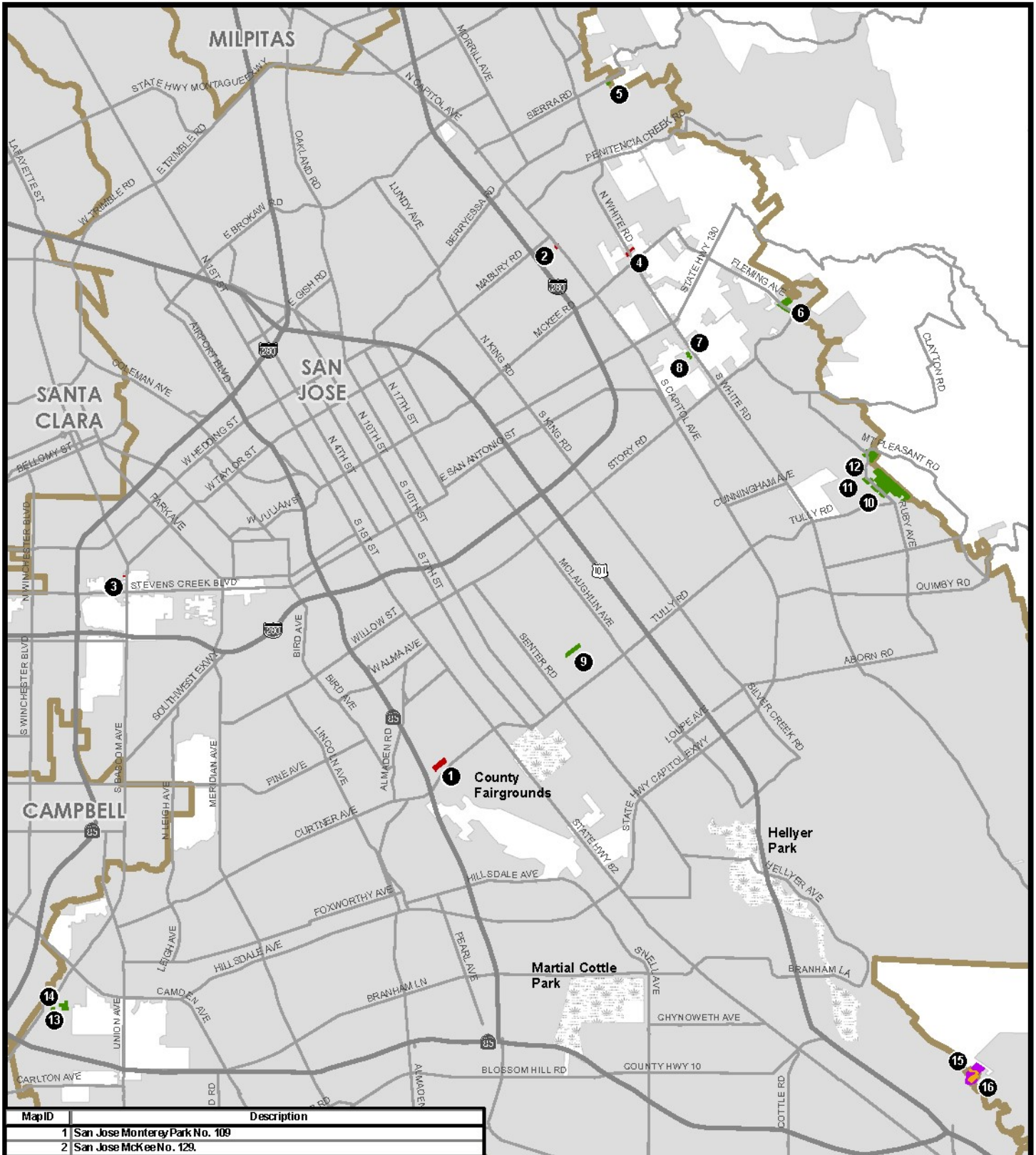
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**OUT OF AGENCY CONTRACT FOR SERVICE (OACS)**

	<b>Proposal Name</b>	<b>LAFCO Action</b>	<b>Type of Action</b>	<b>Acreage</b>
<b>Los Altos Hills</b>	OACS for Sewer Service to 10700 Mora Drive (Vaughn)	10/03/07	Approved	4.58
	OACS for Sewer Service to 10885 West Loyola (O'Keeffe)	10/03/07	Denied	-

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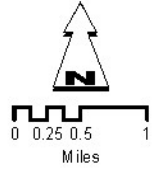
# LAFCO Application Activity: San Jose, FY 2007



MapID	Description
1	San Jose Monterey Park No. 109
2	San Jose McKee No. 129
3	San Jose Burbank No. 39
4	San Jose McKee No. 134
5	San Jose Pocket #26: Penitencia Creek No. 76
6	San Jose Pocket #27: Story Road No. 58
7	San Jose Pocket #28: Capitol No. 55
8	San Jose Pocket #29: Capitol No. 56
9	San Jose Pocket #30: McKinley No. 110
10	San Jose Pocket #31: Evergreen No. 200
11	San Jose Pocket #32: Evergreen No. 201
12	San Jose Pocket #33: Hillview No. 73
13	San Jose Pocket #34: Parker No. 25
14	San Jose Pocket #35: Parker No. 26
15	San Jose Riverside No. 52
16	San Jose Riverside No. 52, USA Expansion

## LAFCO Application Type

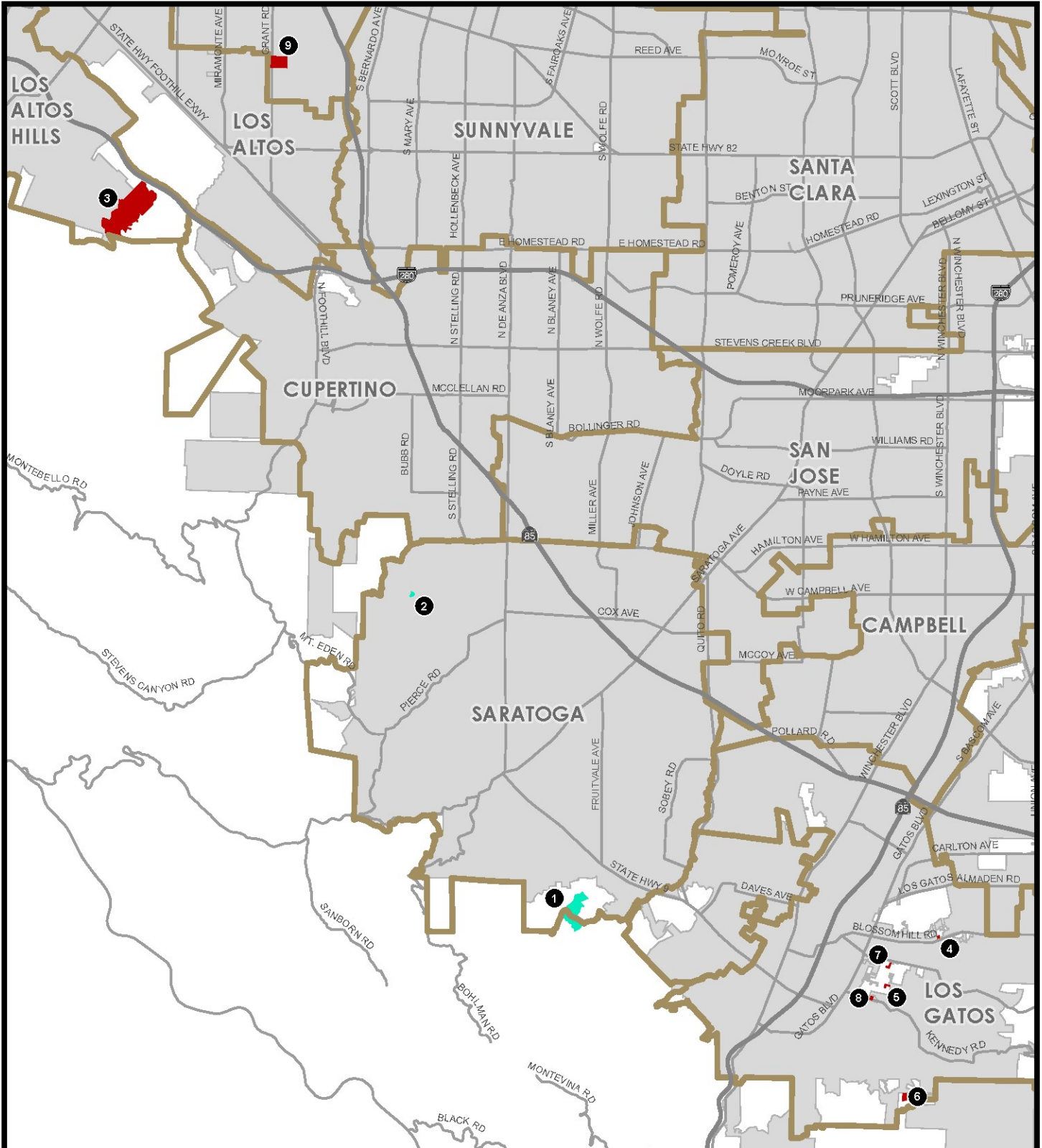
- Island Annexations
- Urban Service Area Amendment (USA)
- LAFCO Conducted Reorganization
- City Conducted Annexations
- Urban Service Areas (USA)



This map was prepared by the San Jose Council Planning Office. It is not intended to be used for any other purpose. The City of San Jose is not responsible for any errors or omissions. The City of San Jose is not responsible for any errors or omissions.



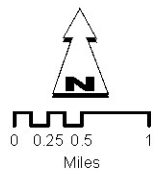
# LAFCO Application Activity: Los Altos Hills/Los Gatos/Mountain View West Valley and Cupertino Sanitary Districts, FY 2007



MapID	Description
1	West Valley Sanitation District, 2008-1 (Canon Drive)
2	Cupertino Sanitary District, Prospect Road No. 6
3	Los Altos Hills, West Loyola Annexation
4	Los Gatos Stephenie Lane No. 3
5	Los Gatos Topping Way No. 5
6	Los Gatos, Blackberry Hill Road No. 5
7	Los Gatos, East La Chiquita Avenue No. 1
8	Los Gatos, Kennedy Road No. 16.
9	Mountain View, Grant Road Annexation

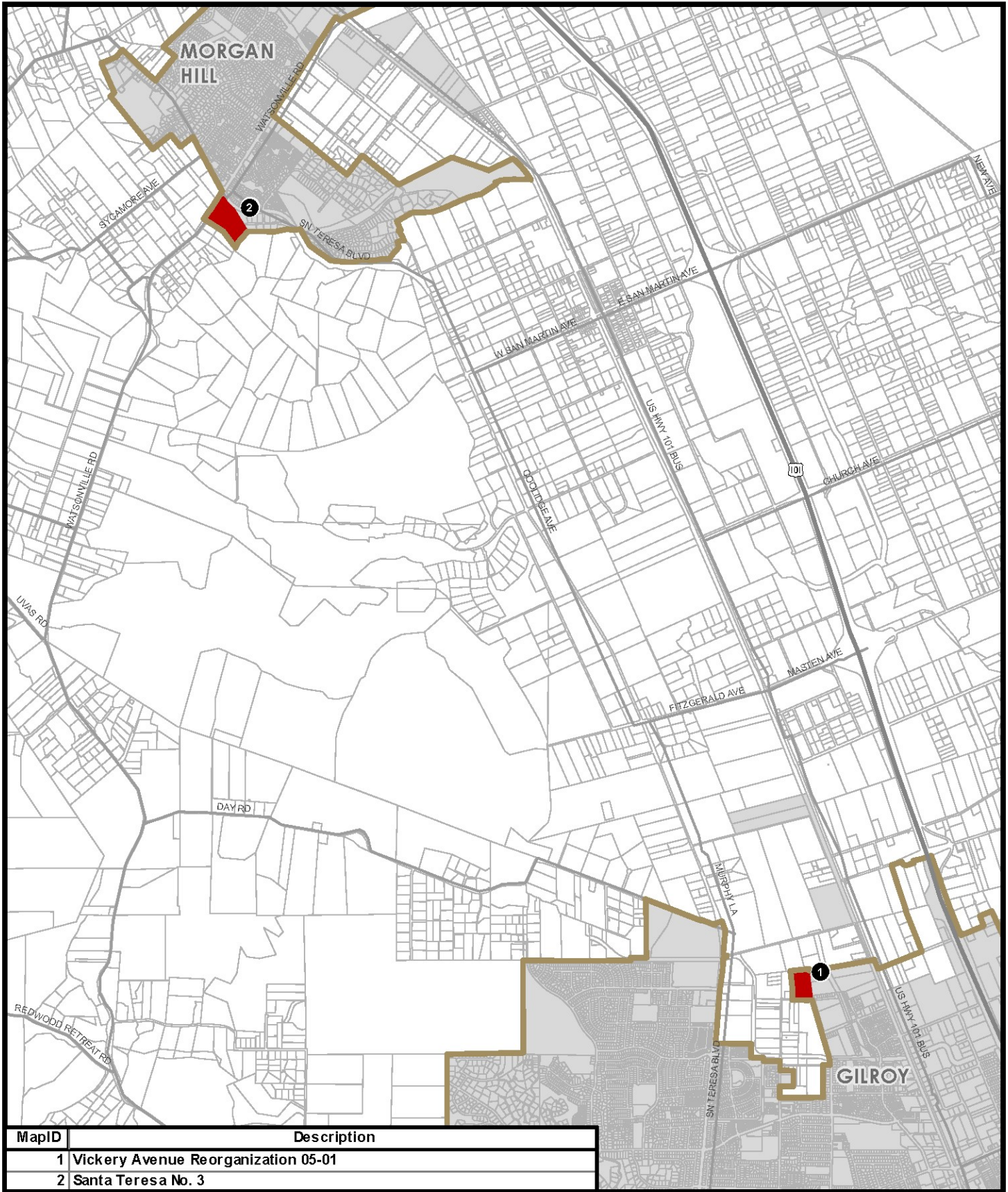
## LAFCO Application Type

- City Conducted Annexation
- Special District Annexation
- Urban Service Areas (USA)



Map provided by the Santa Clara County Planning Office. The CA data was compiled by the County's Planning Office. The map is for informational purposes only. It is not intended to be used for legal or financial purposes. The County is not responsible for any errors or omissions on this map.

# LAFCO Application Activity: Morgan Hill/Gilroy, FY 2007



MapID	Description
1	Vickery Avenue Reorganization 05-01
2	Santa Teresa No. 3

## LAFCO Application Types



City Conducted Annexations



Urban Service Areas (USA)



This map was created by the Santa Clara County Planning Office. The GIS data was compiled from various sources. With special thanks to the Planning Office for their assistance. 9/24/2008 11:50:13 AM - Y:\Projects\LAFCO\Projects\LAFCO Applications 2007.mxd

LAFCO Meeting Date: October 1, 2008

**TO:** LAFCO

**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst

**SUBJECT: Legislative Update**  
Agenda Item # 9

**STAFF RECOMMENDATION**

---

For Information Only

**Bills signed into Law, Effective on January 1, 2009**

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**AB 1263 (Caballero)**

This bill, sponsored by CALAFCO, makes several changes to CKH:

- allows LAFCO to process islands created by county boundary changes after 2000 under the island annexation provisions, and
- clarifies that LAFCOs are authorized to establish a schedule of fees for applications as well as establish a deposit schedule and charge "service charges" against that deposit. Any mandatory time limits for commission action may be deferred until the applicant pays the required fee, service charge, or deposit.

The bill also makes non-substantive language clarifications to 56375.

**AB 1998 (Silva)**

This bill transfers responsibility for administering the financial disclosure requirements contained in AB 745 from LAFCO to the Fair Political Practices Committee (FPPC) and includes the AB 745 requirements in the Political Reform Act.

**AB 2484 (Caballero)**

This bill adds a proposal for the provision of new or different services, or the divestiture of the power to the definition of "change of organization". It requires

that such a proposal be initiated only by the legislative body of that special district and prohibits the commission from approving such proposals unless it can be determined that the special district will have sufficient revenues to provide the services.

**AB 3047 (Committee on Local Government)**

This is the annual CALAFCO Omnibus Bill that contains technical changes to the CKH Act.

**SB 1458 (Committee on Local Government)**

This bill revises the County Service Area (CSA) law and makes conforming changes to the CKH Act. This bill is the culmination of the work of the CSA Rewrite Work Group, of which CALAFCO was a participant.

**SB 1191 (Alquist)**

This bill adds to the list of powers of a community services district (CSD), the authority to own, operate and provide broadband services.

**Bills Awaiting Governor's Signature**

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**SB 301 (Romero)**

This bill eliminates the July 1, 2009 sunset created by AB 1602 on Vehicle License Fund (VLF) subventions for incorporations and inhabited annexations. VLF is a major revenue source for the proposed Town of San Martin. Santa Clara LAFCO sent a letter in support of the bill.

**SB 375 (Steinberg)**

This bill, is touted as "landmark legislation" for the implementation of AB 32 greenhouse gas reduction requirements that would link planning, land use, transportation, housing and climate change. The following brief description of the bill is an excerpt from a report to the CALAFCO Board prepared by the CALAFCO Executive Director.

SB 375 links the Regional Transportation Plan (RTP) with the Regional Housing Needs Assessment (RHNA) and CEQA. Its authors say it will increase community sustainability, make it easier to develop within the urban footprints, links transportation and housing, reduces greenhouse gases and carbon emissions, increases the likelihood of affordable housing, and increases the quality of life by reducing congestion and commutes.

The bill does basically five things:

1. Directs the California Air Resources Board (CARB) to establish gas reduction targets for each region of the state. Metropolitan Planning Agencies will then prepare transportation and development plans that achieve those reductions (i.e. blueprint and transportation plans).
2. Amends the Regional Transportation Plan and process to require regions design a development pattern that reduces commutes, including the preparation of a "Sustainable Communities Strategy" (SCS) or an "Alternative Planning Strategy" if the SCS does not achieve the CARB targets for gas reductions. Future transportation funding is linked to SCS.
3. Through the SCS, it reduces the urban footprint for growth and reduces traffic congestion by reducing vehicle trips traveled. In theory it places the same number of housing units in a smaller footprint.
4. Amends the Regional Housing Needs Assessment to align it with the RTP. They will now run on the same 8-year cycle and will be tied together. Both the RTP and RHNA must be internally consistent and achieve the housing, gas reduction and energy conservation goals of the state.
5. Amends CEQA to reward projects (transportation projects for jurisdictions and development projects for builders) that achieve these goals through limits on CEQA review.

For LAFCo, the bill would require the sustainable communities strategies (SCS) to consider the spheres of influence and boundaries that have been adopted by LAFCos for their region. Under this bill the authority for local land use decisions remains with the local jurisdiction. While there are incentives and strong encouragement for jurisdictions to adhere to the SCS or the alternative it remains a voluntary approach. LAFCo review of any proposals could potentially consider consistency with the SCS or alternative under current law (§56668).

SB 375 offers LAFCos the opportunity to reflect on the future roles and responsibilities of the commission. LAFCos have the unique opportunity to be an important player in many decisions in two ways: 1) Since special districts are not affected by SB 375 - yet in many cases their services and boundaries are integral to growth - LAFCo is the one authority that can ensure district growth is consistent with the SCS or alternative; and 2) while SB 375 leaves ultimate land use authority to local agencies, LAFCo can help assure that proposals are consistent with the SCS and could deny proposals that do not contribute to regional housing or GHG reduction goals. In other words, LAFCo could continue to fulfill its role as the "legislature's watchdog."

On August 8, 2008, the CALAFCO Board took a support position on the bill.

Attached is a letter (Attachment A) from Orange County LAFCO opposing SB 375 that they requested be forwarded to LAFCOs.



September 12, 2008

**CHAIR**  
**JOHN WITHERS**  
Director  
Irvine Ranch Water District

**SUBJECT: LAFCOs and SB 375**

**VICE CHAIR**  
**SUSAN WILSON**  
Representative of  
General Public

Dear Fellow LAFCO Commissioners:

**CHERYL BROTHERS**  
Councilmember  
City of Fountain Valley

I am writing you on behalf of the Orange County Local Agency Formation Commission (LAFCO) regarding SB 375.

**BILL CAMPBELL**  
Supervisor  
3<sup>rd</sup> District

Each of you represents a unique part of California and that diversity is our strength. One size does not fit all or address the diversity of people and agencies that make up California. And you, as a locally elected representative, truly know and understand how to best enhance the life of the citizens you serve. However we believe that your ability to address the needs of your neighbors is being undermined.

**PETER HERZOG**  
Councilmember  
City of Lake Forest

**JOHN MOORLACH**  
Supervisor  
2<sup>nd</sup> District

We believe that local control is being undermined by SB 375. The proponents of this bill have called it a "watershed moment", "landmark legislation" and "the most important land use bill" in decades. The many statewide organizations, including CALAFCO, who diligently worked to amend the bill, tell us that it is better now than it was before. That may be true but it is still a problematic bill that erodes local authority.

**ARLENE SCHAFFER**  
Director  
Costa Mesa  
Sanitary District

**ALTERNATE**  
**PAT BATES**  
Supervisor  
5<sup>th</sup> District

SB 375 places local control in the hands of regional planning organizations and the California Air Resources Board (CARB), a single purpose regulatory agency with no experience in land use planning or in addressing the myriad of issues that communities must face. CARB does not have the same depth of knowledge or understanding of local issues as an area's locally elected representatives.

**ALTERNATE**  
**PATSY MARSHALL**  
Councilmember  
City of Buena Park

**ALTERNATE**  
**RHONDA MCCUNE**  
Representative of  
General Public

**ALTERNATE**  
**CHARLEY WILSON**  
Director  
Santa Margarita  
Water District

In summary, here is how SB 375 will change your decision making authority. CARB now has the statewide authority to regulate greenhouse gas emissions. SB 375 makes CARB the lead agency to decide how much greenhouse gas must be reduced in each area. CARB will then tell the 17 Metropolitan Planning Organizations (MPOs) what those goals are and each MPO must develop a transportation plan and land use plan, known as a Sustainable Communities Strategy, to meet those goals. The

**JOYCE CROTHWAITE**  
Executive Officer

Sustainable Communities Strategy must direct "growth in the right direction" and must be approved by CARB. CARB has the absolute, unilateral authority to reject every Sustainable Communities Strategy even if ALL the local agencies have agreed upon it.

While SB 375 does not technically require agencies to change their land use plans to conform to the Sustainable Communities Strategy, it carries a big stick. State and federal transportation monies would be funneled only to those areas that change their land use plans to conform to the Sustainable Communities Strategy. So you may not be "required" to change your area's development patterns but don't count on getting money to meet your transportation needs!

SB 375 is only the beginning. There is already discussion about additional legislation next year to "implement" the provisions of SB 375. Some have said this is a first step toward regional planning and ultimately regional governance. Centralized land use control and governance should not be supported.

What is most troubling is the haste with which SB 375 was approved. The final version was not put into print until August 13, 2008 and was rushed through the Legislature to meet the August 31 deadline. Eighteen (18) days for a "landmark" piece of legislation with potentially far-reaching consequences prevents the vast majority of Californians and even most elected representatives from knowing the details and impacts of SB 375, much less being able to voice their concerns.

There are two courses of immediate action you can take. First letters requesting a veto of SB 375 should be sent to the Governor immediately. Secondly, we urge you to contact the CALAFCO Board and ask that they re-consider their recent support for SB 375 until there is a full understanding of the consequences of this piece of legislation.

We look forward to working with in the future to support your ability to enhance the unique character of your county and to meet the varied challenges you face without the interference from a centralized control by CARB or other state agencies.

  
Peter Herzog  
Orange County LAFCO Commissioner

Sept. 18, 2008

To the Commissioners of LAFCO

We, the Committee For Campbell Annexation (CFCA) of Modified Parcel 6-1. We have contacted 99 of the 167 residents in the modified map enclosed. As per the flyer attached 90.75% of these residents wish to be annexed by The City of Campbell. The City of San Jose Council Members opposed our modification, as well as the Planning Department of San Jose.

I suggest to you, LAFCO look into the attached flyer, (that we have dropped on all of the Yes voters doorstops on Sept. 16) . The area that we are proposing to go to Campbell, uses Hurst as a boundary street. This is a LOGICAL boundary line as explained on the flyer. The City of Campbell is responsive to our request, as per Mayor Burrs' letter.

In the Initiation meeting of Aug 19, 2008, The San Jose Council voted to Initiate the proceedings as originally proposed by the Planning Dept. At this meeting there was a No vote by Pete Constant, who said that it should be looked at further. We sent Mr. Constant the complete petition with all the signatures after this Aug. 19 meeting.

The proceedings are now moving forward with the Ordering meeting to be held on Sept. 23. Time is running out, but we think we have a case that bears consideration by LAFCO.

We request that you look at this logical boundary that makes sense. Please do not ignore this request, just because it would require more study and more meetings. It will require some strong recommendations from LAFCO to redraw this boundary. We hope that you will recommend a change to the old boundaries that were probably correct when drawn, but are now illogical.

Thanks for your attention to this matter.

Committee For Campbell Annexation  
Jerry Bleeg, Chairman

Paul Turner. Sec./Treas.

Attached: 5 Page Flyer



This is an update of the petition to modify the annexation of County Pocket 6-1. Our proposed boundaries only include the area running East from Leigh Ave. to Hurst and South from Montemar to the back lots of Dry Creek be annexed to the City of Campbell rather than to San Jose. (See map)

We appeared before the City Council of San Jose on August 19, 2008 and presented our case. They voted to proceed with annexation as originally proposed. Their argument is that the Planning Dept. of San Jose feels that the logical boundary between the two cities is Leigh Ave rather than Hurst. The petition area consists of 167 residences and of the residents that we were able to contact, 90% want to go to The City of Campbell. Our petition with signatures were presented to the Planning Department and LAFCO (who drew the original boundaries) and Pierluigi Oliverio, who would be the Councilman. After our presentation, Mr. Oliverio said that the City of San Jose would take good care of us and he dismissed the great preponderance of residents in the petition that wish to go to the City of Campbell and said he had 2 e-mails that said they wanted to be annexed by San Jose. We need to change his mind.

The street breakdown of the petition is as follows by each street.

Street Name	Total	Yes	No	Other *
McBain	31	14	2	15
Patio	33	17	3	13
Cabana	33	21	0	12
Campbell	24	23	0	1
Arroyo Seco	37	21	4	12
Leigh/Leigh Ann Pl.	9	3	3	3
Totals	167	99	12	56

\*The other consists of unable to contact or undecided. Many people will not answer the door. The percentages of those who signed yes or no is 90.75% Yes to 9.25% No.

**PLAN OF ACTION TO TAKE NOW:**

There will be an Ordering meeting at the San Jose City Council Chambers to ORDER annexation to proceed with the boundaries as originally proposed, on Sept. 23 at 7PM. Go to the meeting if you can, but SEND A LETTER TO MR. OLIVERIO NOW WITH YOUR NAME AND SIGNATURE. (E-mails are too easily deleted)

The logical boundary is Hurst Ave. as shown on the map with Police patrolling both sides of Leigh. Remember that San Jose, Ca. 95125 will still be your address. (San Jose has in the past annexed Campbell, Morgan Hill Zip codes and the Post Office did not change to San Jose). Willow Glen is a district set up by the Realtors and is closely related to 95125, but has no official designation. San Jose now collects a 5% tax on All Utilities and Campbell does not have this tax or a separate transfer tax. We have approval for this small area to be annexed by Campbell, a nice small city. Time is running out.

We have enclosed the letter from Mayor Donald Burr and a map of the proposed annexation. THE NEXT ACTION IS UP TO YOU. LET YOUR CONCERN BE KNOWN TO MR OLIVERIO. WRITE AND MAIL TODAY.

**Contacts:**

Pierluigi Oliverio, City Council Member District 6,  
City of San Jose  
200 E. Santa Clara St. 3rd Floor  
San Jose, Ca. 95113

In your letter state the obvious ....That Hurst is a more logical boundary than Leigh. Read Mayor Donald Burr's letter and you will see why. State that undivided police patrol on Leigh Ave. is a benefit to both cities. Also, that you like being in a smaller city without the problems of the big city. The property taxes will not change, but if we go to San Jose we will be faced with a 5% tax on all utilities(water,electric, gas, telephone) School districts will remain the same. There are smaller issues like Street Sweeping and Garbage Containers. Contact any resident that was annexed by Campbell in 2006 and get their opinion. We do not see any advantage of being annexed by San Jose and the City of Campbell supports our proposal.

**WRITE YOUR LETTER NOW AND MAIL IT MR. OLIVERIO.** We need to have the Council of San Jose study this annexation further and not proceed with the ORDER at this time. As one of the San Jose council members said "Are we going to take these people in to San Jose, Kicking and Screaming... Residences cost us more in services than we receive in taxes and we are in a budget crisis in the City now." We have no guarantee that logic will prevail, but give it your best effort, with a letter today. THANKS FOR YOUR ATTENTION. It is your last chance to stop from being annexed by San Jose.

**COMMITTEE FOR CAMPBELL ANNEXATION**

Jerry Bleeg, Chairman  
1999 Campbell Ave.  
San Jose , Ca. 95125  
408-377-4016

Paul Turner, Sec./ Treas  
1850 Cabana Dr.  
San Jose, Ca. 95125  
408-371-6542

**Attachments:**

Mayor Burrs' letter from the City of Campbell  
Proposed Map of annexation to Campbell  
City of San Jose Planning Department rejection letter

A HAND WRITTEN LETTER IS BEST



**CITY OF CAMPBELL**  
Mayor's Office

August 5, 2008

The Honorable Pierluigi Oliverio  
San Jose City Council  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

**Re: County Pocket Annexation 6-1, Meridian No. 73**

Dear Councilman Oliverio,

I am writing to express the position of the City of Campbell regarding the annexation of the County pocket known as "Meridian No. 73" (San Jose refers to it as 6-1). I understand that the City of San Jose will be holding a public hearing on this matter on August 19, 2008 and I would request that this letter be part of the record.

The City of Campbell has received a petition supporting annexation to our city from eighty percent of the residents of a portion of this pocket (east boundary: Hurst Avenue, west boundary: Leigh Avenue, north boundary: McBain Avenue and south boundary: rear property line of residences on Dry Creek Road).

Campbell is supportive of the residents' effort. To date, neither San Jose nor LAFCO have expressed interest in adjusting the existing Sphere of Influence or Urban Service Area boundary. San Jose has previously cited a 1984 policy that focused more on *deannexation* issues. The City of Campbell believes we should reexamine decades old policies that may not be appropriate anymore and would like to see boundary adjustments that respect the wishes of the residents while still maintaining logical borders (Hurst is already a border between our cities). Remember, we are not talking about San Jose "giving up" land here, we are talking about where County pockets should be incorporated.

I would ask that San Jose reconsider its position and not move forward with the annexation process for this area at this time. Then we could collectively engage in discussions with the residents to reach a mutually agreeable solution.

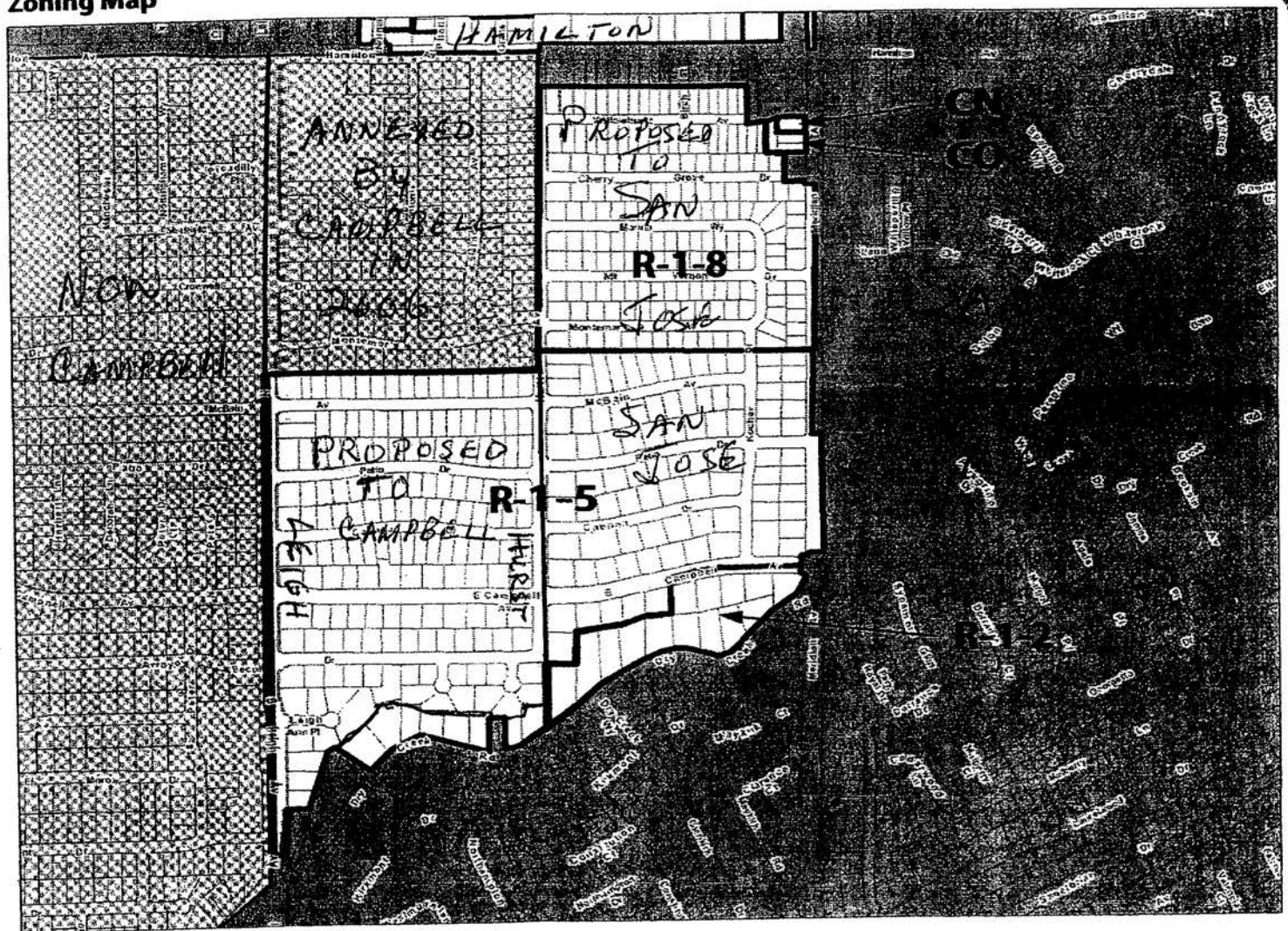
Thank you for your attention to this matter.

Sincerely,

Donald R. Burr  
Mayor

cc: Campbell City Council  
San Jose City Council  
Debra Figone, San Jose City Manager  
Joseph Horwedel, San Jose Planning, Building and Code Enforcement  
Neelima Palacherla, LAFCO Executive Officer  
Dan Rich, Campbell City Manager  
Jackie Young, Principal Planner  
Jerry Bleeg

## Zoning Map



### Zoning Map Symbols

- R-1-2: Single Family Residence District, maximum of 2 units per acre, new lots minimum 20,000 square feet
- R-1-5: Single Family Residence District, maximum of 5 units per acre, new lots minimum 8,000 square feet
- R-1-8: Single Family Residence District, maximum of 8 units per acre, new lots minimum 5,445 square feet
- R-2: Two-Family Residence District, 8 to 14.5 units per acre
- R-M: Multiple Residence District, maximum of 25 units per acre

- CO: Commercial Office District, low intensity office uses in or near residential areas
- CP: Commercial Pedestrian District, pedestrian oriented retail/commercial uses
- CN: Commercial Neighborhood District, neighborhood serving commercial uses

For additional information on allowed uses, densities, setbacks, or other zoning information, development standards and use tables are available on the County Island Annexation Program website at: <http://www.sanjoseca.gov/planning/annex/maps.asp>

The full Zoning Ordinance is also available to download online at: <http://www.sanjoseca.gov/planning/zoning/zoning.asp>



*Department of Planning, Building and Code Enforcement*  
JOSEPH HORWEDEL, DIRECTOR

June 30, 2008

Jerry Bleeg  
Committee for Campbell Annexation  
1991 Campbell Avenue  
San Jose, CA 95125

RE: **Meridian No. 73.** Reorganization/Annexation to the City of San Jose of an approximately 147 gross acre County island consisting of 455 parcels between Hamilton Avenue and Dry Creek Road; West of Meridian Avenue and East of the City of Campbell boundary.

Dear Jerry Bleeg:

I am writing in response to your letter and petition dated June 20, 2008 to Campbell Mayor, Donald Burr, opposing the City of San Jose's proposed annexation of all or a portion of the subject unincorporated pocket.

In order to create the most logical City boundaries, San Jose City staff intends to recommend that the San Jose City Council approve the annexation of this county island in its entirety in accordance with the long-established Sphere of Influence and Urban Service Area boundaries. In staff's analysis, Leigh Avenue is the most logical boundary between the City of San Jose and the City of Campbell. It is preferable to align city boundaries with more prominent streets rather than with internal neighborhood streets, in order to minimize confusion for the various agencies responsible for providing urban services (including emergency response) to the area.

We do not support the suggested use of Hurst Avenue as the boundary as it would necessitate time-consuming and costly changes to the Urban Service Areas and Spheres of Influence of both San Jose and Campbell and lead to inefficiencies in the delivery of city services. A boundary along Hurst Avenue would also unnecessarily result in a further split of your neighborhood into two separate jurisdictions.

As you have been previously notified, the annexation of this area will be considered at a public hearing before the San Jose City Council on Tuesday, August 19, 2008 (Initiation) at 1:30 p.m. and Tuesday, September 23, 2008 (Ordering) at 7:00 p.m. The hearings will take place at the San Jose City Council Chambers, 200 East Santa Clara Street, San Jose, CA 95133-1905. Thank you for interest and please contact Richard Buikema of my staff should you have further questions at 408-535-7835.

Sincerely,

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

cc: Pierluigi Oliverio, Councilmember, City of San Jose  
Dan Rich, City Manager, City of Campbell

September, 2008

## Report to the Membership 2007-08 Activities

### An Important Legislative Year

#### Six Bills Already Signed by Governor

By Bill Chiat, CALAFCO Executive Director and Legislative Chair

2008 has been a successful legislative year for CALAFCO. To date six of the eight bills sponsored or supported by CALAFCO have passed the legislature and were signed by the Governor. Another bill—SB 301—has passed and awaits action by the Governor. The final bill of interest to LAFCoS—SB 375—remains in the legislative process.

CALAFCO also opposed several bills and was successful in working with sponsors to find alternate solutions and prevent the bills from moving out of committee. Among the bills were ones that would change the composition of a LAFCo, allow fire protection districts to independently negotiate property tax exchange agreements, altering the CKH requirements for change of service for a specific district, and alter the definition of an island created by a city annexation or incorporation. Here's a summary of CALAFCO legislation and the effect on LAFCos.

#### Signed by Governor Laws take effect 1 January 2009

**AB 1263** (Caballero). This law makes changes to CKH that were requested by LAFCos. Most importantly it clarifies that LAFCos are authorized to establish both a schedule of fees for applications and a deposit schedule and charge "service charges" against that deposit. Several LAFCos have been challenged on their authority to charge processing fees and/or actual costs. This bill also authorizes LAFCo to process islands created by county boundary changes under the island annexation provisions of CKH. The bill also makes non-substantive language clarifications to §56375 which identify the powers of a LAFCo.

**AB 1998** (Silva). This law moves the responsibility for the LAFCo financial disclosure

requirements from LAFCo to the Fair Political Practices Commission. More substantially it places that financial disclosure language in the Political Reform Act. While LAFCos value the financial reporting requirements, they benefit significantly by eliminating the workload of reviewing and processing the disclosure forms and enforcing the requirements. These tasks are now in the hands of the FPPC.

**AB 2484** (Caballero). This law clarifies and improves the process for special districts to add or remove powers. It includes within the definition of "change of organization" a proposal for the exercise of new or different functions or classes of services, or the divestiture of the power to provide functions or classes of services, within all or part of the jurisdictional boundaries of a special district. In addition the law requires a special district to include in its proposal a plan for financing the service and prohibits the approval of proposals where LAFCo determines that the district will not have sufficient revenues to carry out the proposed services. The law requires LAFCo to take the same actions for a proposal for a new or different function or class of services, or a divestiture of a power with regard to written protests as it does for an annexation or formation.

**AB 3047** (Assembly Local Government Committee). This is the CALAFCO Omnibus Bill which makes non-substantive changes to CKH as requested by member LAFCos. Several of the components have substantial benefit to LAFCos, including the elimination of the requirement for duplicate mailings to registered voters and landowners, making several changes to number of days for actions to occur so there is consistency throughout the Act.

**SB 1458** (Senate Local Government Committee). This law makes significant improvements to the 1950s-era County Service Area law. The formation and powers of CSAs have long been a problem for LAFCos and the community. This law makes the forma-

#### CONFERENCE EDITION



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# The Sphere

## CALAFCO Journal

September, 2008

The Sphere is a quarterly publication of the California Association of Local Agency Formation Commissions.

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Don Lockhart, Deputy Exec. Officer  
Clark Alsop, Legal Counsel

To submit articles, event announcements, comments or other materials noteworthy to LAFCo commissioners and staff, please contact the Editor at 916-442-6536 or [wchiat@calafco.org](mailto:wchiat@calafco.org).

The contents of this newsletter do not necessarily represent the views of CALAFCO, its members, or their professional or official affiliations.

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CALIFORNIA ASSOCIATION OF  
LOCAL AGENCY FORMATION  
COMMISSIONS

**CALAFCO**

## Report to the Membership 2007-08 Activities

### To the Members:

The CALAFCO Board of Directors is proud to report that the Association has accomplished much in the past year towards achieving its strategic objectives. This included improving its financial management policies and procedures, education services, legislative services, and administrative services, while ending the year on solid financial ground.

Our accomplishments would not have been possible without the strong leadership of our Executive Director, Bill Chiat, the efforts of LAFCo executive officers and staff, and the support of Associate Members. In particular the Board thanks the many volunteer LAFCo staff who have stepped forward to host events, serve as speakers and on planning committees, and serve as CALAFCO staff officers. **Thank You** to the Commissions that have supported their staff as they have served in educational and advocacy roles for all LAFCos.

### FINANCIAL MANAGEMENT

The Board adopted a series of financial management policies that were put into operation this year. That includes placing all CALAFCO financial records and accounting into Quickbooks and establishing clear protocols for managing and reporting financials. The quarterly financial reports to the Board have been improved and provide a much clearer picture of the financial resources. CALAFCO has continued to submit timely filings to maintain its 501(c)(3) classification with state and federal regulatory agencies.

Significant additions were made to the Association's fund reserve this year which will help support member services in uncertain economic times and avoid the need to tap members for additional funds. These resulted from financially successful

conferences and prudent management of the Association's resources. Several uncertainties exist in 2008-09 with the need to move the CALAFCO office, but the Executive Director is working closely with our current landlord to manage costs. The Board has created a prudent reserve of approximately 34% (\$78,345) of the annual operations budget outside of the conference and workshops. The Association has qualified and opened an account with the Local Agency Investment Fund (LAIF) and has significantly increased interest income.

### EDUCATIONAL SERVICES

#### Staff Workshop and Annual Conference

CALAFCO continued its tradition of quality, educational programs with organizing and carrying out the Staff Workshop in San Jose in April and planning the annual conference in Los Angeles. These important events would not be possible without the outstanding efforts of the volunteer staff and commissioners from the host committees. Thank you to **Los Angeles LAFCo** for hosting the 2008 conference and **Santa Clara LAFCo** for hosting the 2008 workshop.

#### CALAFCO University

Four new CALAFCO U courses were offered this past year with over 125 participants. Courses included the Workshop for Clerks, Water Determinations, Delta Decisions, and Agriculture and Open Space Policies and Mitigation. For members unable to attend the courses, materials for most classes are available on the website. These courses were attended by both commission staff and associate members and provided important information and opportunities for dialogue on critical LAFCo issues.

#### AICP Credit

For the certified planners, CALAFCO has been accredited as a provider of continuing education credits for the

American Institute of Certified Planners. Planners may now earn credit towards their professional certification through most CALAFCO courses, workshops and conferences.

**Website**

Additions were made to the website, including expansion of educational and resource materials and increased use by members for posting job announcements and proposal requests. Two new pages include the **Special District Resource** page and the **LAFCo Court Decisions and Attorney General Opinion** page. Our website is well-used; we average 6,500 visits per week.

CALAFCO continues to maintain list-serves for staff and counsel which fosters the sharing of information and resources. In addition CALAFCO maintains an up-to-the-minute legislative posting in the members section of the website.

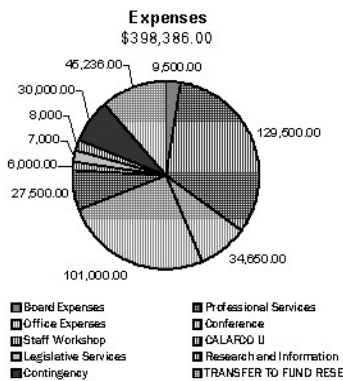
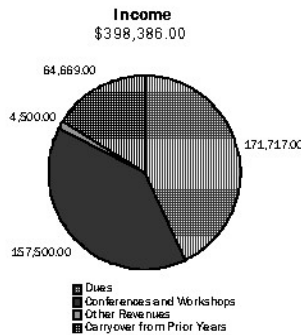
**Publications**

Published the quarterly journal, *The Sphere*, now with a circulation of over 800. Published the annual *Membership Directory* with regular updates of the on-line version. CALAFCO also began distributing the annual update of Cortese-Knox-Hertzberg Act, at a reduced cost, on behalf of Assembly Publications at the request of Association members.

**LEGISLATIVE SERVICES**

**Legislative Policy and Committee**

For the first time in over a dozen years the CALAFCO Board thoroughly reviewed and adopted a new set of Legislative Policies to guide the Association. The policies were developed with the input of the Legislative Committee and Association members. It provided a foundation to pursue specific legislative initiatives to clarify LAFCo authority on a number of issues raised by Association



2008-09 Fund Reserve \$78,345.00

**CALAFCO Adopted  
FY 2008-09 Budget**

members, and to respond to issues that emerged during the year at the Legislature and State regulatory agencies. The Board also established a formal Legislative Committee that met regularly throughout the session to propose and review legislation which affects LAFCos.

The positive results of the Committee's efforts in producing new legislation and avoiding bad legislation would have been impossible without the strong leadership of Bill Chiat as the Committee Chair and his representation of CALAFCO as an important stakeholder in the legislative process. The volunteer efforts of LAFCo staff, counsel and board members have been critical to providing recommendations to the Board on legislative issues and in supporting Bill's efforts in the legislative process.

**Legislative Agenda**

CALAFCO had a broad legislative agenda, sponsoring or supporting eight bills. Please see the separate summary of 2007-08 legislation. In addition, CALAFCO worked to keep several bills that would have adversely affected LAFCo from being heard. Most CALAFCO bills enjoyed bipartisan support.

**Legislature Education**

Due to our efforts to help solve problems and resolve issues constructively, CALAFCO continues to be a sought-after resource to legislative committees, members and staff. Those activities included CALAFCO representatives on the County Service Area rewrite work group and the stakeholders who crafted SB 375. We expect that there will be significant legislative activity this year as a follow up to SB 375 that will demand CALAFCO's continuing attention.

**ADMINISTRATIVE SERVICES**

**Administrative Support for CALAFCO and Events**

The Association retained administrative support services which now allows it to provide centralized event registration, dues payments and all other financial activities. This removes a huge burden from volunteer LAFCo staff who are hosting a conference or workshop, and eliminates confusion on where to send registrations or dues. CALAFCO has partnered with CSAC to acquire an event registration system which creates a single database for CALAFCO members and eliminates the need to start from scratch for each event. CALAFCO is now able to invoice directly for member dues, which again eliminates a significant time burden from the volunteer staff.

**Sincerely,  
CALAFCO Board of Directors**



# TRACKS Around the State



## AMADOR

Amador LAFCo has completed a county-wide Municipal Service Review (MSR) with in depth analysis

of water, wastewater and fire services, as well as analysis of all other services. An aggressive sphere review program will keep the Commission busy through the beginning of 2009, with adoption of an original sphere of influence for many agencies. The MSR is already generating discussions about friendly reorganizations and willing dissolutions of some agencies. The MSR requirements are challenging for most rural small counties. Amador LAFCo was able to facilitate a voluntary cooperative funding effort among the cities, the Amador Water Agency, the County to get this big job done.

## NAPA

LAFCo of Napa County is pleased to announce the hiring of **Brendon Freeman** as the agency's new analyst. Brendon was raised in Napa and recently graduated from the University of California at Davis with a degree in economics. Brendon will be responsible for helping to prepare the agency's second round of municipal service reviews along with overseeing the implementation of an electronic document management system.

### **Napa's Approach to Municipal Service Reviews and Sphere of Influence Updates**

In October 2001, LAFCo of Napa County adopted a study schedule to prepare its first round of municipal service reviews (MSR) and sphere of influence (SOI) updates for all local agencies under its jurisdiction by January 2006. The inaugural study schedule was ambitious in design to include both agency-specific and service-specific MSRs with the goal of analyzing local agencies in the context of several studies. The adoption of the inaugural study schedule also coincided with LAFCo's establishing a full time analyst position to prepare the majority of the reports in-house.

Almost seven years and three analysts later, LAFCo is inching closer to completing its inaugural study schedule with only SOI updates for two cemetery districts remaining. Several important lessons have been learned in the course of preparing this first round of MSRs and SOI updates – most of which are positive with the exception of a few agonizing missteps along the way. In terms of positives, as intended, LAFCo has measurably improved its decision-making by developing a better

understanding of the level and range of governmental services in the region and in relationship to local conditions and needs. LAFCo has also leveraged the process to address other important issues, including educating cities and special districts of the Commission's role in approving out-of-agency agreements involving new and extended services. Finally, the process has enhanced local governance, particularly for many of the small special districts that benefit from LAFCo's third-party analysis of their services and structures.

As for challenges, LAFCo certainly underestimated the amount of time needed to collect and analyze information necessary to prepare the first round of MSRs, often resulting in stale information being presented in the reports. LAFCo also did not adequately focus the MSRs to consider the relationship between the state's housing allocation process with land and use and service planning. Further, LAFCo missed an opportunity to incorporate terms and conditions into the SOI updates to help guide future annexation proposals.

Drawing on lessons learned, LAFCo recently adopted a new study schedule to prepare a second round of MSRs and SOI updates over the next five years. Markedly, the second round will include the preparation of mostly agency-specific MSRs allowing LAFCo to concentrate on the breadth of services provided by each agency as part of a single report. The second round of MSRs will focus more on the influence of the State's housing allocation process on land use and service planning issues as well as address the increasing role of non-public contractors providing key local governmental services, such as garbage collection and public transportation.

LAFCo's decision to prepare a second round of MSRs and SOI updates reflects its belief the process of reviewing and re-reviewing local services and agencies has value. LAFCo is also fortunate that its funding agencies see the value in this process, at least as measured by supporting the Commission's decision to continue to fund a fulltime analyst position. Time will tell how effective LAFCo has been in preparing and using MSRs and SOI updates to coordinate logical growth and development, but it is certainly off to a good start.

*Submitted by: Keene Simonds, Napa LAFCo Executive Officer*

## ORANGE

Hey, it's summer in the OC and despite the *outside* draw of near perfect weather, white sand beaches and endless waves, the OCLAFCO staff have been hard at work *inside* their offices crafting a new strategic plan for FY 2008-2009. We would like to share three of the plan's key projects we will be focusing on during the next twelve months:

### (1) MSRs – A “Best Practices” Approach to the Municipal Service Review Process

I know, I know. Not another approach to MSRs! I’ll be brief. OCLAFCO will be working on a plan that looks at the interdependent relationships between agencies providing similar services. We will be using MSRs to highlight individual agency “best practices” and hopefully develop some standardized “benchmarks” for evaluating services countywide and possibly statewide. You can chart our progress on our MSR webpage that should be up in the next few months on OCLAFCO’s website ([www.odafco.org](http://www.odafco.org)).

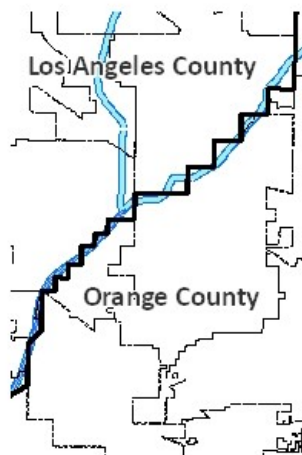
### (2) Islands – New Tools to Successfully Annex Remaining Islands

OCLAFCO has developed one of the most successful island annexation programs statewide. (As you know, modesty has never been an OCLAFCO strength.) Over the last five years, 35 small islands have been annexed to adjacent cities. These residents are now enjoying a higher level of municipal services and the other benefits of living within a city.

The remaining 35 islands in OC present some unique challenges, but we have recently increased our “arsenal” of tools to further encourage cities to consider island annexations. Our Commission’s Islands Incentive Program (which is being offered for two years) includes waiving application fees, LAFCo staff preparation of all application materials, fast tracking of island applications, staff-sponsored workshops, and funding of fiscal analyses for targeted islands.

### (3) County Boundaries – Who’s Watching the Borders?

Historically, the northwest boundary between Orange and Los Angeles counties was determined by the natural course of the Coyote Creek. On the west side of the creek was Los Angeles County, on the east side, Orange County. Over the last 100 years or so, the course of the river was dramatically altered due to encroaching urbanization and flood control improvements. Unfortunately, corresponding county boundary adjustments were not made to reflect the changed course of the river. This has resulted in parts of neighborhoods within several cities split by outdated county boundaries. In some cases, there are portions of Orange County cities actually located in Los Angeles County. (At least these folks are well represented – they have a city council, the OC Board of Supervisors and the LA Board of Supervisors to complain to!)



OCLAFCO staff recently completed a *County Boundary Report* which identifies potential boundary issues between the two counties. Although LAFCos have no authority to change county boundaries (this is done by joint action of the respective boards of supervisors), someone had to step up and identify the issue. (I told you OCLAFCO is not shy.) The report was presented by LAFCo staff to the OC Board of Supervisors and hopefully will be presented to the LA County Board in the near future. If we get the go-ahead, OCLAFCO will play a facilitating role in getting the affected cities and counties to amend the county boundary line to match current conditions. Respective city annexations and detachments would occur subsequently.

### Rossmoor Incorporation News

A final update – On May 22, 2008, Orange LAFCo approved the incorporation of Rossmoor, a residential community of about 10,500 residents sandwiched between the cities of Seal Beach and Los Alamitos. With annexation to either city a long-shot (that’s another story for a future column), and the County desirous of getting out of the municipal service delivery business, Rossmoor’s long-term governance options are limited. To proactively address the issue, the Rossmoor Community Services District filed an application for incorporation. The kicker? Rossmoor is all residential with the exception of a single shopping center anchored by two small restaurants and a Blockbuster video rental store.

To make up for the lack of sales tax revenue, the applicant has proposed a utility user tax (UUT) for Rossmoor residents on three utilities: natural gas, electricity, and water. Both the incorporation measure and two alternative utility user tax options (7% and 9%) will be on the November 4, 2008 ballot. The incorporation measure and at least one of the utility user tax measures must pass for the incorporation to be successful. To our knowledge, this is the first incorporation in the state that would require a UUT to be approved concurrently with incorporation. Will the Rossmoor residents support incorporation? What about a UUT? Stay tuned.

*Submitted by: Bob Aldrich, Orange LAFCo*

### SAN DIEGO

#### LAFCo’s Role within California’s Diminishing Water Supply Landscape

The San Diego region imports the majority of its domestic water from the Metropolitan Water District of Southern California. Since 1991, the San Diego region has reduced its dependence on imported water from 95% to 76%; however, the Colorado River basin has been experiencing increasing drought conditions for the last 8 years, and the San Diego region has experienced its driest two-year weather period since record keeping began in 1801. In June 2008, the Governor issued Executive Order S-06-08 declaring a statewide drought, which directed state agencies and



**Governor Schwarzenegger Declares Statewide Drought in June, 2008**

departments to take immediate action to address the serious drought conditions and water delivery reductions in California. Accordingly, the San Diego LAFCo has made it a priority as to whether an adequate regional

water supply exists to support anticipated water needs in proposed annexation areas.

Due to the worsening drought conditions affecting the State, the Metropolitan Water District of Southern California has begun withdrawing water from storage to meet its current-year demands. This situation has caused the San Diego County Water Authority to activate Stage 1 of its Drought Management Plan, which initiates actions and programs to address water supply limitations due to drought or other conditions. Stage 1 involves voluntary supply management and has directly impacted the agricultural producers in San Diego County who receive discounted water rates in exchange for participation in the voluntary water restriction program. Local agricultural producers have experienced 30% mandatory reductions to their water supply and some growers are stumping avocado trees and pulling out citrus trees due to water shortages.

As the timing of a jurisdictional change proposal is directly related to the ability of the annexing entity to provide needed public services, San Diego LAFCo has responded to these drought conditions by requiring jurisdictional change proposals to submit updated water availability letters and additional water supply information from the providing agencies.

Acquiring this service-related information early on in the proposal analysis process allows for specific acknowledgement of any supply-related deficiencies that may delay the proposal's ability to be heard by the Commission. In addition, the San Diego LAFCo has recognized the importance of the availability of sewer treatment capacity to serve proposal areas.

By implementing supplemental disclosure requirements in regards to water supply, available sewer treatment capacity, and the ability to provide timely sewer service, the San Diego LAFCo has placed greater emphasis on the condition and adequacy of regional infrastructure systems. It is hoped that the increased scrutiny devoted to this matter will result in more informed LAFCo decisions.

*Submitted by: Robert Barry, San Diego LAFCo*



**SANTA BARBARA**

**Controversy in Santa Barbara County**

Santa Barbara LAFCo found itself embroiled in a controversy in the last few months that generated significant public interest and strong feelings. Some of the underlying issues may be relevant to other LAFCos.

**Does a CSD Preserve or Damage Agriculture?**

Forty years ago the "Lakeview Estates" subdivision was created by its owner without reliance on the Subdivision Map Act. The 1,590 acre subdivision is comprised of 39 parcels each of which is 40 acres in size. The terrain is steep. The nearest county-maintained road is one-third mile away via a recorded easement across a neighbor's property.

The tract is part of the Santa Rita Hills that has been shown to be an excellent wine growing region with award winning pinot noir grapes and other varieties being cultivated, as well as commercial lavender and cattle grazing.

Located about eight miles from the City of Lompoc, the subdivision was formed in anticipation of the construction of a dam that would form a lake on the Santa Ynez River; the dam was never built yet the name of the subdivision remains.

The numerous owners have been unsuccessful in trying to organize themselves to privately fund and maintain an adequate road system to allow year-round access to their parcels. Due to the lack of dependable access, the County Fire Department imposed a moratorium on permits for structures such as homes and barns.

During part of the year the owners cannot access their land to feed and care for their livestock or crops and vineyards. Due to the moratorium on structures, landowners are only able to construct 12' by 15' sheds, too small to house needed equipment to service their 40 acres.

Since the Board of Supervisors does not want to become involved creating and operating a County-governed district, a petition to create a Community Services District to construct and maintain roads and possibly underground electrical utilities was submitted to the Commission.

Opponents, including the Santa Barbara Citizens Action Network, argued that forming the CSD will lead to "urban sprawl" by allowing parcels owners to construct homes and lead to the ruination of the area. Proponents concede some homes might result from better access, either primary homes or caretaker dwellings, but contend that adequate roads are essential for agriculture to be successful. And they note any change to allow smaller lots will require a General Plan Amendment and rezoning, actions that no one has been suggesting.

LAFCo found itself in a difficult position, with strong views on all sides of the issue, so you can probably appreciate the news headline the day after the Commission approved the formation, which read "Ag Land: Preserved or Doomed. Santa Rita Hills Service District Approved."

*Submitted by: Cathy Schlottmann, Chair and Bob Braitman, Executive Officer, Santa Barbara LAFCo*

# SUPREME COURT STRIKES DOWN OPEN SPACE ASSESSMENT UNDER PROP. 218

By Michael G. Colantuono

On July 14, 2008, the California Supreme Court decided its first substantive case under the assessment provisions of 1996's Prop. 218, "The Taxpayers Right to Vote Act." In doing so, it struck down an open-space assessment on the ground it did not demonstrate special benefit to the assessed property either as required by Proposition 218 or Proposition 13 and because the amounts assessed were not proportional to the special benefits conferred. The unanimous decision written by the Court's most conservative member, Justice Chin, sets out a new, more demanding standard of judicial review of local government assessment decisions and has significant implications for assessment financing in California.

The case is *Silicon Valley Taxpayers Association v. Santa Clara County Open Space Authority*. The Authority imposed an assessment to fund future, regional, open-space acquisitions which applied throughout the District (which has a population of 1.2 million) and was \$20 per year for all single-family residential parcels. Because the acquisitions were prospective and the Authority did not want to reveal to landowners exactly how much it might pay for a given site, the engineer had an unusual task in demonstrating special benefit to private property from unspecified, future acquisitions and calculating the proportionate benefit from such acquisitions attributed to each property. The San Jose Court of Appeal found, over a lengthy dissent by a well-respected, moderately conservative Justice, that open space acquisitions sufficiently benefited property to justify assessment and that the spread of benefit was properly determined.

This case was the California Supreme Court's first opportunity to consider the assessment provisions of Proposition 218 since glancing reference in the *Richmond* case in 2004 which held that water connection charges were not assessments and a 2001 decision that the Ventura Harbor District could not impose assessments to pay off a judgment lien because doing so did not benefit property.

## Implications of the Case

So, what does the case mean in practical terms? A full answer to that question will develop as lower courts apply the case, but we offer a few initial observations: First, open space assessments, regional park assessments and other assessments that provide broad and diffuse benefit to a large area and that benefit all members of society – tenants, landowners and visitors alike – have always been difficult to justify as conferring special benefit sufficient to be assessments and not special taxes (for which 2/3-voter approval is required). This case makes that burden harder still. Thus, great care will now be required in drafting engineer's reports for such assessments and legal review of those reports is essential. For some programs of this type, local governments may wish to consider special taxes, general taxes (which require majority voter approval), or non-property-related fees such as inspection and service fees (which do not require voter or property-owner approval but generally do not raise the substantial sums need for capital improvements).

Second, the newly heighten standard of judicial review means that care must be taken to prepare a solid engineer's report and a good record to support the decision that a program confers special benefit and the assessment is apportioned among properties in proportion to that benefit. Some general benefit will exist with virtually every assessment regime, and that general benefit must be accounted for and funded from non-assessment revenues.

Third, the proportionality requirement remains poorly defined. This case simply tells us that the engineer's report in issue did not attempt an analysis that is now required, but we are told little about what that analysis must be. Some level of judicial deference on proportionality judgments may be inevitable, notwithstanding the heightened standard stated in this case because line-drawing exercises are, by their nature, arbitrary at the margin. Whether a given class of property should bear 20% of the benefit and cost of a program or 22% is not a question that lends itself to a black-and-white answer; a discretionary judgment is required. If local governments exercise that discretion responsibly and develop good records to support those judgments, courts will likely uphold them.

**Michael G. Colantuono** is a partner at Colantuono & Levin, P.C., counsel for several LAFCos, and a CALAFCO Gold Associate Member.

Visit [www.calafco.org/Court\\_Decisions](http://www.calafco.org/Court_Decisions) for complete information and links to decisions on court cases and Attorney General decisions which affect LAFCos.



California Supreme Court

# PHILISTINE RETREATS, WATER GETS CHEAPER

By Pat McCormick, Executive Officer, Santa Cruz LAFCo

## The Setting

In the August 2007 Sphere article titled “*David vs. Goliath in the Redwoods*,” I described a fight by a group of water customers (“David”) in the community of Felton to transfer the ownership and operation of the local water system from a large private water company (“Goliath”) to a county water district. In this edition, I report on the conclusion of that battle.

Felton is one of a series of small unincorporated communities along the San Lorenzo River Valley north of Santa Cruz. The water system in Felton, which has been owned and operated since 2001 by the California-American Water Company, contains about 1300 water connections serving 3400 people.

## The Story

The story started in 1965 when the fledgling San Lorenzo Valley Water District (SLVWD) decided that the valley’s series of small funky water systems should be fixed up and interconnected. Felton and several of the other valley towns were served by separate systems. The SLVWD prepared to sell bonds to purchase the systems including using eminent domain to acquire the systems owned by the Citizens Water Company. The majority of the people in Felton liked their small water company and feared that the water district’s plans would result in costly water. So, by mutual consensus, Felton was left out of the district boundary and the assessment. Using eminent domain, the district completed the public acquisition of the other systems.

Thus began a 40+ year experiment to compare whether a private or public operator provided better cost-effective

water service in the San Lorenzo Valley. The hilly service areas, the water sources, and the infrastructure needs were similar in Felton and the other valley communities. This as close to a perfect “apples to apples” comparison as could be designed outside of a test tube.

In 1985, when LAFCo drew the first water agency spheres of influence in the San Lorenzo Valley, it excluded Felton from any public agency’s sphere. LAFCo was protecting the turf of the Citizens Water Company. The Felton system was sold to a large American water corporation in 2001, and sold the next year to a larger European corporation. The new owners proceeded to make a series of operational changes and filed for large rate hikes with the California Public Utilities Commission (PUC). The residents organized to contest the rate hikes and the lack of any local control over the water system. They were confounded why water service in Felton should cost a lot more than the four other communities in the valley that had virtually the same water sources and service geography.

A group of Feltonians slung into action, organized a non-profit, and lobbied the county and water district to help argue their position with the PUC. The water company’s position was that the Felton system wasn’t for sale, and that they would continue to file for rate increases as permitted under the PUC’s rules.

After not being able to get a sympathetic ear with the PUC, the Feltonians convinced LAFCo to amend the water district’s sphere to include Felton, and convinced the Board of Supervisors to call an election on an assessment to buy the

Felton water system and convey it to the SLVWD for operation. Their theory was that with public ownership of the system, their property tax bills would go up and their water bills would go down. They expected their total water costs would eventually be lower under public ownership.

In 2005 the Felton property owners passed a Mello-Roos assessment to authorize up to \$11,000,000 in bonds to cover the acquisition process and purchase price. The projected maximum cost to a typical homeowner was \$696 per year for 30 years. The first \$1 million in bonds were sold, and the water district hired special counsel to proceed with acquisition process, which resulted in the district filing an eminent domain petition in Superior Court.

As a result of mediation, the California-American Water Company and the SLVWD came to a transfer agreement one working day before the jury trial was to begin to set the acquisition price.

On July 26, 2008, the Felton community held a celebration party. The transfer is scheduled to be completed in August 2008 at which time the SLVWD will begin operating the Felton system.

In calculations done by the Felton customers’ group, the



total bi-monthly water cost (water bill + acquisition assessment) for a typical residential customer in Felton will drop from \$177 under the California-American Water Company to \$175 under the SLVWD. When the acquisition occurred, Cal-Am had a rate application pending at the PUC to increase water rates 54% in 2009, 6% in 2010, and 6% in 2011.

The Felton customers also believe that they will benefit in non-monetary ways from being able to participate in the political processes of a locally elected water district board.

### Points for LAFcos to Ponder

- ◆ The company water rate regulation by the California PUC resulted in much higher water rates in Felton than in the nearby non-regulated communities served by the water district.
- ◆ Rate cases before the PUC are conducted as administrative law hearings, and effective representation of the customers can require hiring an attorney with special expertise in PUC law and regulations.
- ◆ Over 40+ years, the imperfect checks and balances available though a locally elected water board did a better job in balancing improvement needs and water rates than the PUC did in regulating the water company. In the district, if rates went up too fast, or if water supply or quality became inadequate due to underinvestment or mismanagement, the electoral process tended to detect and correct bad decisions.
- ◆ The Felton type of water system transfer would not be available to other California communities if Proposition 98 had passed in June 2008. That proposition would have prohibited the use of eminent domain for a public entity to acquire a private asset (e.g., a water company) if the public entity was going to use the

asset for a substantially similar purpose (e.g. delivering domestic water). As future proposals are brought forth to limit the use of eminent domain in California, efforts should be made to assure that any community could continue to use eminent domain as a last-chance option to switch between which monopoly operates the water system.

- ◆ LAFcos should not presume that the PUC regulation of private water companies results in lower costs than the costs for publicly operated systems. In performing municipal service reviews and reviewing spheres of influence, LAFcos should consider public alternatives in selective situations where private company water costs or other major operational issues appear out of line.

## MARK YOUR CALENDAR



## 2009 CALAFCO ANNUAL CONFERENCE



TENAYA LODGE  
AT YOSEMITE

**October  
28-30, 2009**

## CALAFCO ASSOCIATE MEMBERS

*Their support makes our educational services possible*

### GOLD MEMBERS

Baker Manock  
& Jensen PC  
ATTORNEYS AT LAW



### SILVER MEMBERS

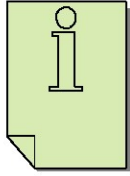
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- Pacific Mutual Consultants
- Project Resource Specialists
- Rancho Mission Viejo

**Thank You!**

## Business Continuity Planning and Management of Records

By Hedy Aref, President, Incrementum Document Solutions

Living in the Information Age constitutes a whole series of expectations placed upon us as individuals as well as groups both in the public and private sectors. Information accessibility and delivery is the single most critical aspect of our operations.



On a normal business day, we access current and historical records to make everyday decisions. In times of disaster – natural or man-made – information and its delivery becomes a vital part of saving lives and infrastructure. Information also plays a major role in post-disaster operations – getting organizations back up and running.

Many entities today realize the importance of business continuity planning and disaster recovery. After all, within the last several years, we have either been a part of local emergencies or witnessed disasters in other states and regions – many of which resulted in paralyzation of communities, towns, and cities.

While many see the urgency of safeguarding information in case of a disaster, most point to better protection of their electronic information which can be achieved through electronic replication, virtualization /fail over technology, and a whole host of other methods. Quite often, paper records are overlooked in business continuity planning. While a major percentage of information in all organizations still resides in filing cabinets and storage boxes, protecting this information in a progressive way has not always been a top priority.

Unfortunately, once paper-based records are gone, they are gone for good. If copying and storing duplicates offsite has been one way of addressing this issue, that needs to be reassessed – from a cost and accessibility perspective, as well as vulnerability to the same types of disasters because of the physical state the records are in.

The best, most efficient, and cost-effective way to store and protect paper-based records is to digitize them into a standard unalterable format – acceptable in the court of law (i.e.: TIFF Group IV). Once digitized, indexing them so they can be searched, and incorporating them into the organization's overall disaster recovery and business continuity planning is the most progressive way to manage this information. When digitized, these records are also more portable and can be better disseminated to constituents and other agencies in real time.

Remember, preventive measures taken will protect one of your most valuable assets – your records.

**Incrementum Document Solutions** is a new CALAFCO Associate Member. They are also members of the Santa Monica Organizations Active in Disasters.

## Budget Model Assists in Plans to Meet Fire Service Needs

By Dawn Mittleman, Senior Consultant, ESCi

*What a fire season this has been!* The average citizen need only look up at the hazy sky, filled with smoke and ash to realize the magnitude of the situation. Fire districts and departments across the state have been strained to the maximum. Usually our mutual aid system allows resources to be sent to a community with a large incident. This year with hundreds of fires occurring simultaneously across the state, there simply were not enough resources to go around.

LAFCo's can play a vital role to help fire agencies plan for the future. Updating Municipal Service Reviews provides the opportunity for a comprehensive review of fire agencies in the county. More fire districts will look to co-operative arrangements as a means of maintaining service levels with fewer resources.

ESCi has been involved in over 80% of fire co-operative arrangements across the country. These arrangements include consolidations, reorganizations, joint powers authorities and contracts for service. Our extensive knowledge of fire service and local government allows us to design options to meet the needs of a variety of situations.

An example of a unique approach to meet local needs was the formation of the Fontana Fire Protection District. San Bernardino LAFCo played a significant role by facilitating continued meetings and negotiations among fire agencies and stakeholders. Throughout the process ESCi used its computer driven budget modeling to advise the City of Fontana of actual public costs of service options. Our team developed a draft contract for services which included a transition plan, detailed scope of services to be provided and service level criteria. In order to assure that parties complied with long term plans,



LAFCo used its authority to include terms and conditions as part of the Commission's actions.

The City of Pacifica employed ESCi to conduct an analysis of options for fire service and analyze their fire assessment tax. Through our role as a neutral party, we were able to dispel perceptions regarding the use of the existing tax. Budget modeling provided actual short and long-term costs of the various options for service. In addition revenue forecasts were combined with service trends to project the City's ability to fund future fire service demands. GIS mapping was used to visually show topographically risks, population demographics, apparatus and personnel response capability, as well as the ability of neighboring agencies to respond to need. This level of comprehensive analysis allows communities to realistically plan for their future fire service demands.

**ESCi** is a CALAFCO Associate Member.

## Incorporation of a New City Does Not Require an Environmental Impact Report

By Julie Hayward Biggs, Burke, Williams & Sorensen, LLP

In our encounters over the last decade or so with incorporation of new cities, the question arises of whether review of a potential incorporation under the California Environmental Quality Act is required. The question has not been resolved in large part because proponents of new cities generally wish to avoid protracted litigation over the issue and instead comply with LAFCo directives to do environmental review. Generally speaking, the review is limited to an Initial Study and a Negative Declaration. That was the case, for example, in cities we assisted in the incorporation effort such as Laguna Woods (1999), Goleta (2002), and more recently, Wildomar (2008).

When a full Environmental Impact Report (EIR) is required, however, the cost factor is huge and proponents sometimes are willing to go to court rather than comply with such a requirement. That is what happened recently in Carmel Valley – and the proponents of cityhood won in a ruling that has implications for future new cities. The Superior Court in Monterey County recently ruled in favor of proponents of the new Town of Carmel Valley in their challenge to the Monterey County LAFCo's determination that an EIR was required prior to the question of incorporation being submitted to the electorate. This ruling is significant for proponents of new cities who are generally charged with the cost of preparation of all documents necessary to complete the incorporation application process.

Proponents for the Town of Carmel Valley filed their initial application for incorporation in 2002. After years of working with the Monterey LAFCo, the Commission determined in January, 2005 that incorporation of a new city was a "project" under the California Environmental Quality Act (CEQA). Based on that determination, which was opposed by the proponents, LAFCo circulated an Initial Study and determined that a Negative Declaration would need to be prepared and approved for the project.

The Negative Declaration was prepared and circulated for comment in the fall of 2005. In December LAFCo took action to approve the Negative Declaration. Following that action, proponents of cityhood successfully negotiated a Revenue Neutrality Agreement with the county, and completed and updated the Comprehensive Fiscal Analysis demonstrating the viability of the new city. LAFCo staff prepared the required report for the Commission recommending approval of incorporation and the scheduling of the election for June, 2007. The matter came before LAFCo for hearing on October 18, 2006.

At that hearing, the Commission determined, without any change to the Initial Study or new evidence submitted, that a full EIR would be required. Essentially, LAFCo ordered the proponents to start over.

Rather than do that, the proponents chose to challenge the determination that a full EIR was required. In the

ruling that was issued by the Superior Court on May 2, 2008, Judge Lydia Villareal made the following determinations:



1. Incorporation of a new city alone does not constitute a project under CEQA; and
2. Even if incorporation did constitute a project under CEQA, there was no substantial evidence in this case of any foreseeable physical impact on the environment that would warrant an EIR.

The rationale for these determinations is worth noting. LAFCo had contended that the incorporation would result in traffic and housing impacts. LAFCo relied in part on the Office of Planning and Research opinion that "incorporations are projects subject to CEQA review." The court rejected that opinion and noted that it was not binding on the court. The court looked to Section 15378 of the CEQA Guidelines and determined that the language there controls – "(b) Project does not include: (5) Organizational or administrative activities of governments that will not result indirect or indirect physical changes in the environment."

Among the decisions the Court relied on was *Simi Valley Recreation and Park District v. LAFCo of Ventura County* (1975) 51 Cal. App. 3d 648, which held that detachment of land from a district was not a project where the activity was only a change of organization or personnel and the only environmental impact was the replacement of one group of managers by others who might hold different views on the future use of the land in question. The court noted,

"LAFCo struggles to point to reasonably foreseeable changes which will occur in the environment. Traffic, housing and boundary changes were determined by LAFCo to be issues after the initial environmental review.

However, any changes in traffic are conjectured. At this point, no one knows if there will be new city hall construction or if the city hall will use leased space. No one knows where it might be located. No one knows how many employees might be hired. No one knows if there will be any new requirements pursuant to a housing elements plan. No one knows what, if any, boundary changes there might be and what impact this might have. Any possible impacts that might occur because of these issues cannot be meaningfully analyzed without more information. Environment review must be "late enough to provide meaningful information for environmental assessment."

The upshot of all of this is that, at least at the trial court level, there is some sentiment to support the proposition that incorporation of a new city is not a project under CEQA. Avoiding needless CEQA review of what is simply a reorganization and change of leadership should permit acceleration of incorporation efforts. Where construction of facilities is directly contemplated as part of the incorporation movement, however, the situation might warrant CEQA review. The key is focusing on reasonably foreseeable physical changes to the environment. Here the court held that newly elected leaders of a new jurisdiction would not, in and by themselves, cause reasonably foreseeable physical impacts on the environment.

**Julie Hayward Biggs** is a partner at **Burke, Williams & Sorensen, LLP** and a CALAFCo Associate Member



# San Luis Obispo Airport Area Annexed (Finally!)

By Paul Hood, Executive Officer, San Luis Obispo LAFCo

One of the first proposals I worked on when I came to San Luis Obispo County in 1980 was the proposed annexation of the San Luis Obispo Airport Area. Even prior to this time, this industrial/commercial area immediately south of the City of San Luis Obispo was developing rapidly in the unincorporated area, using wells, septic tanks and county services such as law enforcement and fire protection.

Although development in this area clearly impacts the city, many property owners resisted annexation because of concerns over potential restrictions on development and increases in fees. This led to a number of "interim or piece-meal annexations" initiated by property owners who wanted services from the city. Many of these properties were already approved for development by the county. From 1996 to 2002, LAFCo approved 15 annexations on the southern boundary of the city for a total of 269 acres. Many of these annexations were small (less than 15 acres). The largest contained 143 acres.

In 2002 the Commission made a decision to end the processing of these interim annexations due to concerns over adequate water supplies to serve the area and comprehensive planning issues. LAFCo directed the city to prepare a comprehensive plan for annexing the entire airport area that included a demonstration of an adequate and sustainable water supply. It was clear that piecing together one interim annexation after another was not facilitating planned or orderly growth within the city or the unincorporated area surrounding the airport. In response specific plans were approved by the city for the Margarita Area

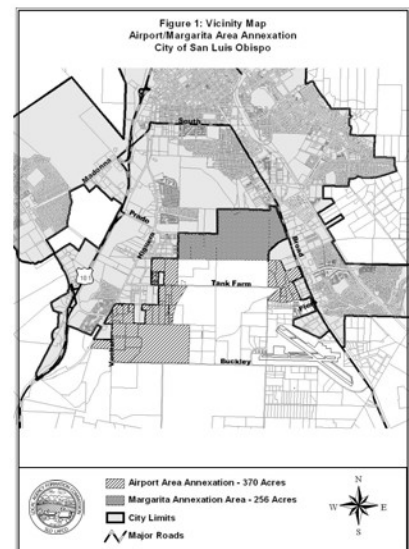
and Airport Area in October 2004 and August 2005, respectively. A Program EIR was also prepared and certified by the city for each area.

The Airport/Margarita Area has been in the city's sphere of influence (SOI) since 1985. The SOI, which was updated in 2006, reaffirmed and expanded the sphere in this area. The updated sphere determination was based on a Municipal Service Review which concluded that the city is capable of providing services, including water, to the SOI areas. In recent years the city has been active in acquiring a supplemental water supply. Adoption of the updated SOI included development of a Memorandum of Agreement (MOA) between the City of San Luis Obispo and the County of San Luis Obispo. LAFCo staff facilitated the MOA discussions as a means of ensuring cooperation between the two agencies which had been lacking in the past. The City and County agreed on the extent of the city's SOI, the development standards and the zoning process. The approach was to ensure close coordination and cooperation on future planning and development of the areas within the city's SOI.

After a comprehensive public outreach program that included numerous presentations and public meetings by city and LAFCo staff, the San Luis Obispo City Council adopted a Resolution of Application to LAFCo to annex the airport area in May, 2007. The city decided to split the annexation into three phases based on several factors, including property owner support. Phase 1A comprised of approximately 626 acres and was approved by the Commission on April 17, 2008. This was

followed by a June 19 protest hearing which was insufficient to terminate proceedings.

This annexation was a long time in the works and the city worked diligently with property owners to assure that being annexed to the city would be a positive experience. The city is not requiring that properties hook-up to city services and is allowing properties to maintain their current water and wastewater systems as long as they'd like. The city entered into several pre-annexation agreements to document these commitments.



I guess the moral of the story is that sometimes good planning takes time. Also there needs to be a strong element of trust and cooperation among agencies, property owners and the public for good planning to succeed. In this case, LAFCo had the important role of facilitating this trust and cooperation to ensure the best possible service to the public. The final outcome after over 30 years of posturing was a successful annexation that serves the public interest by: 1) providing for the effective provision of services; 2) encouraging growth in appropriate areas; and 3) assuring that everybody has input to the process.

*Sometimes timing is everything!!*

## CASE STUDY

# San Bernardino Caps Multi-Year Project to Consolidate 26 Fire Districts; 18,000 Square Miles

By Kathleen Rollings-McDonald, Executive Officer, and Michael Tuerpe, LAFCo Analyst, San Bernardino LAFCo

The Local Agency Formation Commission for San Bernardino County spent just under three years processing a reorganization proposal submitted by the County of San Bernardino to restructure the 26 board-governed fire entities within the county into a single board-governed district. The impetus of the proposal was to: (1) simplify the delivery of fire protection services within the county provided by its board-governed special districts; (2) create a more effective and efficient management arrangement for fire protection and emergency medical response services within San Bernardino County, primarily for the unincorporated territory of the county; and (3) maintain the level of fire protection and emergency medical response service at its current level as a result of the reorganization.



Additionally, an alternative proposal was submitted by the City of Fontana to remove the board-governed fire protection district that overlaid the city from consideration and establish it as a subsidiary district of the city. The Commission considered this project over four hearings, six community meetings, three years of application processing and 15 years of discussion.

The entire County and City of Fontana proposals are available on the San Bernardino LAFCo website at [www.sbclafco.org](http://www.sbclafco.org). The dedicated page for these proposals contains the resolutions of the Commission's actions, staff reports, maps, and the county's maps of each fire district and regional area.

### **Board-Governed Fire Service in San Bernardino: 26 Entities – Financial and Efficiency Challenge**

A brief history of board-governed fire service in San Bernardino County is provided to illustrate the complexity of this project. The former County Fire was the outgrowth of a prior administrative consolidation of 31 separate budgetary units that encompassed 26 service entities spread throughout the county, not including contract agencies. Actual service was provided by the 26 entities within each of their respective boundaries which consisted of the following: seven county service areas (CSAs), 15 improvement zones of CSAs, and four fire protection districts.

As population growth in the county increased dramatically over time, public demand within the unincorporated areas for augmented levels of fire service also increased. As new unincorporated communities were formed, numerous fire protection and emergency medical response service agencies were created, many between 1950 and 1980. Some of these districts were formed under the "self governance" model, where the district is governed by an

independently-elected board of directors. In other areas, the County Board of Supervisors created entities under its jurisdiction for the provision of these services.

Until 1982 the county did not have a single consolidated agency for management of fire protection and emergency medical response. Instead, each of the board-governed fire protection districts was managed by a separate staffing structure that reported through the County Special Districts Department to the Board of Supervisors.

In 1994, the Board of Supervisors initiated an administrative management consolidation that brought all fire protection districts, CSAs and CSA improvement zones, with the exception of CSA 38, under the administrative oversight of a consolidated fire agency, operated under the umbrella of CSA 70. In January 1999, the entirety of all board-governed fire districts and all of CSA 38 and its improvement zones were placed under the auspices of the consolidated fire agency for administration, then identified as "County Fire."

Thus, since 1999, County Fire managed the responsibilities for structural fire response and emergency medical response for most of the unincorporated areas of the county, excluding the independently governed districts and municipalities which provide fire service. In 2002, the Board directed its staff to prepare studies to determine the financial health of the department with accompanying recommendations for improvement. These studies were motivated by a concern regarding the financial stability of a number of the individual districts and improvement zones within County Fire. The findings forecasted that by Fiscal Year 2010/11 fire operations could incur an overall deficit of \$83 million if circumstances remained unchanged. Among the recommendations were the implementation of a number of financing mechanisms (not part of this project) and a reorganization of the current County Fire for greater management efficiencies and effectiveness with the result that this would help extend the financial solvency of the districts.

### **An 18,353 Square Mile Annexation Proposal**

In July 2005, the Board initiated its applications for reorganization of the County Fire Department into a single board-governed district. The new district would be renamed the "San Bernardino County Fire Protection District." In addition, the applications proposed to include an area commonly known as the 'unfunded area' within the San Bernardino County Fire Protection District through annexation.

The county's submission consisted of two applications: sphere expansion (LAFCo 3001) and reorganization (LAFCo 3000). LAFCo 3001 consisted of a municipal service review and sphere of influence expansion to

include an additional 18,353 square miles within Yucca Valley FPD sphere and reduce the spheres for four board-governed fire entities to a zero sphere. The magnitude of the territory included in this SOI change is unprecedented in LAFCo considerations. The proposed expansion encompasses an estimated 11,745,691 acres of the county, or about 18,353 square miles. This area is slightly larger than the combined states of New Jersey, Connecticut and Rhode Island, which comprise a combined total of 15,478 square miles.

San Bernardino County selected the Yucca Valley Fire Protection District (YVFPD) as the agency for expansion of the sphere because it provided the full range of fire protection and emergency services.

LAFCo 3000 consisted of a reorganization of the YVFPD by expanding its jurisdictional boundaries through annexation to encompass the Board-governed fire entities and the unserved territory within the unincorporated area. The reorganization included annexation of 18,361 square miles to Yucca Valley FPD, dissolution of three fire protection districts, dissolution of CSA 38 and its 12 improvement zones; dissolution of three improvement zones of CSA 70; the removal of fire/ambulance/disaster preparedness powers from multi-function agencies; and the formation of four regional service zones. In addition to the four service zones, eight special service zones were established, seven having identical boundaries as those of existing districts where special taxes have been implemented for fire and/or emergency-related services and one which was modified to exclude territory within an independent fire protection district. By law, these entities must continue to have the special tax revenues protected through the establishment of service zones within the new parent district.

Once the applications were submitted to LAFCo, a process for circulation of the proposals for review and comment commenced and all affected and interested agencies and persons were requested to comment on the application. In addition, since the application proposed to annex the territory of two cities (Fontana and Grand Terrace) to the YVFPD, consent for this overlay was required from the respective cities. Consent was received from the Grand Terrace City Council. However, the response of the Fontana City Council was not to consent to the overlay of the YVFPD and to submit an alternative proposal for consideration with LAFCo 3000. That proposal (LAFCo 3000A) requested a modification to do the following:

- ◆ Remove dissolution of the Central Valley Fire Protection District (CVFPD) from the elements of consideration;
- ◆ Detach the territory not currently a part of the City of Fontana or its sphere of influence from the CVFPD and annex them to the Yucca Valley Fire Protection District; and
- ◆ Establish the retained portion of CVFPD as a subsidiary district of the City of Fontana and rename it the Fontana Fire Protection District.

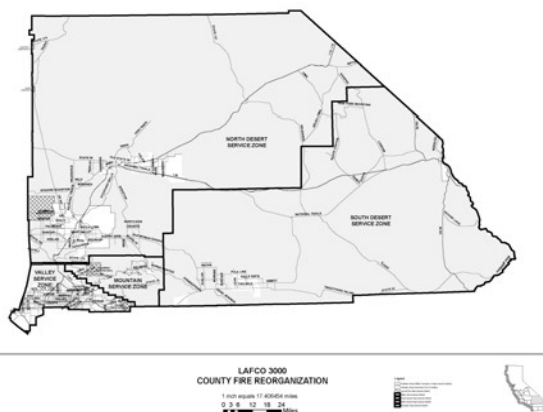
### **Three-year Staff Effort Processing the Proposals**

To inform the general population about the reorganization project, LAFCo and County Fire held a

community meeting in each of the four service zones. Each community meeting was advertised within local newspapers and members of the public and media were invited to attend. At each community meeting, LAFCo and County Fire staffs gave presentations about the project and answered all questions.

Since the proposal spanned the entire county and individual notice would have exceeded 1,000 landowner and registered voters, Commission policy allowed for advertisement in newspapers in lieu of individual mailed notice. In the end, there were 24 advertisements for the community meetings, 14 advertisements for the initial study and notice of hearing and 25 advertisements for the protest hearing.

Just by sheer size alone this was not a typical LAFCo project. This was a very complex reorganization action that consisted of a mix of annexations, dissolutions, removal of fire powers, removal of ambulance powers, removal of disaster preparedness powers and formation of new “service zones” to be managed under the proposed San Bernardino County Fire District. Due to its scale, LAFCo staff spent numerous hours, days, weeks, months and years planning, processing and analyzing these proposals.



### **Complex Issues Emerged; Were Resolved**

As large as the proposal was, in theory it seemed simple – detach and dissolve some entities, remove powers, and expand another with the full range of powers to encompass the former areas. However, the devil is in the details. Some of the issues that LAFCo had to deal with related to the Fontana alternative; transfer of facility assets and employees; establishment of appropriation limits; and distribution of existing property tax to the new fire entities. There were four other interesting issues.

The reorganization overlaid sovereign tribal lands. In order for a LAFCo application to include a determination related to tribal sovereign lands, consent had to be received from the Tribal Council and no opposition from the Bureau of Indian Affairs. Letters were forwarded to the affected tribes and the national and regional Bureau of Indian Affairs offices providing copies of the applications, outlining the process for review, and requesting a determination of the Tribal Council to the overlay of the Yucca Valley FPD. Ultimately, all four provided resolutions consenting to the overlay.

To accomplish the objective of revenue neutrality, as well as to take into account differing service levels based upon development type, the county proposed to establish four regional service zones under the umbrella of the Fire Protection District. These service zones were established to preserve property tax and other local revenue bases of the region to fund expenditures related to that region and to protect those dollars from being spent outside the region. Each zone would have a separate annual budget and be administered within the financial constraints of that budget.

The alternative proposal submitted by the City of Fontana resulted in several meetings with LAFCo staff, county administrative and fire staff, and staff from the city. The result of the meetings recommended that the Commission modify LAFCo 3000 (county proposal) to include the Fontana alternative and continue the proposal's evaluation process.

Among the many dissolutions and detachments proposed, the county's application included the dissolution of a particular service zone (CSA 70 Improvement Zone PM-1) and the formation of a new service zone (Service Zone PM-1). However, the territory of CSA 70 Zone PM-1 overlaid a portion of the independent Crest Forest Fire Protection District and LAFCo laws do not allow for the overlay of two fire protection districts within the same area, which could lead to a duplication of service. The boundaries of the new Service Zone PM-1 had to be modified to exclude the territory within the existing boundaries of the Crest Forest FPD. Further, a condition of approval was put in place to transfer the existing PM-1 special tax (\$17 per parcel) to the Crest Forest FPD for funding its paramedics.

The county annually allocated General Fund support to fire services, with \$8.3 million transferred in FY 2007-08. Originally, LAFCo staff recommended a requirement that this funding be made permanent. However, the Board of Supervisors did not agree with LAFCo's recommendation and held a workshop to discuss the issue. The Board position was that the funds remain discretionary as the County Fire reorganization was intended to establish service zones which could evaluate the level of service to be provided and also provide for elections to fund that level of service. LAFCo staff removed the requirement for permanent transfer as the reorganization and clarification of funding and service relationships as a first step in the process was required.

### A Successful Result: 2 Districts Emerge

On January 16, 2008, the Commission approved LAFCo 3000 as modified through adoption of LAFCo Resolution No. 2989. The reconsideration and protest periods passed, and the 34 conditions of approval were successfully completed by the deadline. The new San Bernardino County Fire Protection District will have:

- ◆ An assessed value of \$20.4 billion
- ◆ 91,500 registered voters
- ◆ A service area of approximately 11,750,811 acres or 18,361 +/- square miles.



The Fontana Fire Protection District (a city subsidiary district) will have:

- ◆ An assessed value of \$12.2 billion
- ◆ 53,731 registered voters
- ◆ A service area of 33,500 acres or 52.4 square miles



### Conclusion

This reorganization project started with discussions in 1993, the administrative consolidation in the mid-1990's, the county's study of fire service in 2004 and ended with numerous Commission meetings and hearings to work through the details resulting in 34 conditions of approval. In the end, this reorganization simplifies the delivery of fire protection services within San Bernardino County provided by its board-governed special districts by reducing the structure from 31 separate budgeting entities down to four manageable service zones. This will result in a more effective and efficient management arrangement for fire protection and emergency medical response services within San Bernardino County for its citizens as well as the three major transportation corridors for goods movement from Southern California ports.

### Report to the Membership 2007-08 Activities

CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS  
**CALAFCO**  
Sharing information and resources

**Annual Business Meeting**

**Thursday, September 4, 2008**  
**8:30 a.m. to 10:15 a.m.**

**The Sheraton Universal Hotel Ballroom**  
**333 Universal Hollywood Drive**  
**Universal City, California**

**AGENDA**

1. Call to Order
2. Roll Call of the LAFCos
3. Election of the Board of Directors
  - 3.1. Elections Committee report
  - 3.2. Nomination from the floor
  - 3.3. Candidates Forum
  - 3.4. Initiate voting process
4. Approve Minutes from the August 30, 2007 CALAFCO Business Meeting at the Hyatt Regency at Capital Park, Sacramento, CA.
5. Report from Board of Directors on Board and Association activities in 2008
6. New Business
  - 6.1. Other new business
7. Adjourn to 2009 Business Meeting, Thursday, October 29, 2009, Tenaya Lodge at Yosemite, Fish Camp, CA

# The Sphere

CALAFCO Journal

CALIFORNIA ASSOCIATION OF LOCAL AGENCY  
FORMATION COMMISSIONS

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Sacramento, CA 95814

www.calafco.org



CALAFCO provides educational, information sharing and technical support for its members by serving as a resource for, and collaborating with, the public, the legislative and executive branches of state government, and other organizations for the purpose of discouraging urban sprawl, preserving open-space and prime agricultural lands, and encouraging orderly growth and development of local agencies.

Sharing Information and Resources

## Legislation

Continued from front cover

tion and changes of a CSA consistent with LAFCo law and for the most part consistent with the CSD law revised several years ago. **NOTE:** It requires LAFCo and the county to agree on the existing powers of every CSA in the state by 1 January 2009. All other powers become latent and are subject to the CKH process.

**SB 1191** (Blakeslee). This law adds broadband services and facilities to the powers of a Community Services District, subject, of course, to LAFCo approval.

### Awaiting Governor's Signature

**SB 301** (Romero). This bill will remove the VLF subvention sunset for both incorporations and annexations and make the subventions permanent. The bill has passed the Senate and Assembly; however, it went back to the Senate for concurrence since the incorporation sunset provision was removed by amendment of the bill while in the Assembly. The legislation has passed and is being held in Enrollment until a budget is passed. This will avoid an automatic veto by the Governor. There has been no opposition to the bill, and it has enjoyed bipartisan support throughout the process.

### At Senate for Concurrence

**SB 375** (Steinberg). The bill links the Regional Transportation Plan (RTP) with the Regional Housing Needs Assessment (RHNA) and CEQA. Its authors say it will increase community

sustainability, make it easier to develop within urban footprints, link transportation and housing, reduce greenhouse gases and carbon emissions, increase affordable housing and increase quality of life by reducing congestion and commutes.

The bill does basically five things:

1. Directs the California Air Resources Board (CARB) to establish gas reduction targets for each region of the state. Metropolitan Planning Agencies then prepare transportation and development plans that achieve those reductions (i.e. blueprint plans).
2. Amends the Regional Transportation Plan process to require regions to design a development pattern that reduces commutes, including the preparation of a Sustainable Communities Strategy (SCS) or an Alternative Planning Strategy if the SCS does not achieve the CARB targets for gas reductions. Future transportation funding is linked to the SCS.
3. Through the SCS, it reduces the urban footprint for growth and reduces traffic congestion by fewer vehicle trips traveled. In theory it places the same number of housing units in a smaller footprint.
4. Amends RHNA to align it with the RTP. They will now run on the same 8-year cycle and will be tied together. Both the RTP and RHNA must be internally consistent and achieve the housing, gas reduction and energy conservation goals of the state.
5. Amends CEQA to reward projects that achieve these goals through limits on CEQA review.

On 8 August the CALAFCO Board took a **support** position on the bill.

For LAFCo, the bill requires the SCS to consider the spheres of influence that have been adopted by LAFCos for their region. The authority for local land use decisions remains with the local jurisdiction. While there are incentives for jurisdictions to adhere to the SCS or alternative it remains a voluntary approach. The bill does not diminish LAFCo's role or authority. LAFCo review of proposals could potentially consider consistency with the SCS or alternative under current law (§56668).

SB 375 offers LAFCo the opportunity to reflect on its future roles. This is a first step towards regional approaches to land use planning in California. LAFCos are uniquely situated to play a role in two ways: 1) since special districts are not affected by SB 375 – yet their services and boundaries are often integral to growth – LAFCo is the authority that can ensure district growth is consistent with the SCS or alternative; and 2) while SB 375 leaves ultimate land use authority to local agencies, LAFCo can help assure that proposals are consistent with the SCS and could deny proposals that do not contribute to housing or GHG reduction goals. In other words, LAFCo could continue to fulfill its role as the “legislature’s watchdog.” More to come!

