



**LAFCO MEETING
AGENDA
Wednesday, August 3, 2011
1:15 PM**

**Isaac Newton Senter Auditorium
70 West Hedding Street, First Floor, San Jose, CA 95110**

**CHAIRPERSON: Liz Kniss • VICE-CHAIRPERSON: Pete Constant
COMMISSIONERS: Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson
ALTERNATES: Al Pinheiro, Sam Liccardo, George Shirakawa, 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

1. **ROLL CALL**
2. **PUBLIC COMMENTS**

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.

3. **APPROVE MINUTES OF JUNE 1, 2011 LAFCO MEETING**

CONSENT ITEMS

- *4. **EL CAMINO HOSPITAL DISTRICT ANNEXATION 2011**

A petition from the property owners for annexation of property (Assessor Parcel Number 182-50-045 and portions of Assessor Parcel Numbers 182-50-036, 182-50-034, and 182-50-024) located in the vicinity of Roble Alto Drive and Paseo Del Roble Drive in Los Altos Hills to the El Camino Hospital District.

Possible Action: Approve annexation to the El Camino Hospital District and waive protest proceedings.

ITEMS FOR DISCUSSION / ACTION

5. **PROPOSED WORK PLAN FOR EL CAMINO HOSPITAL DISTRICT SERVICE REVIEW**

Possible Action:

- a. Approve proposed work plan.
- b. Authorize staff to prepare a Draft Request for Proposal (RFP) for a firm to conduct a service review including a forensic auditing of specific financial issues for the El Camino Hospital District and authorize staff to provide Draft RFP to affected agencies and interested parties for their review and comment.
- c. Direct staff to provide the Revised Draft RFP to LAFCO for consideration at the October 5, 2011 LAFCO meeting.
- d. Appoint two LAFCO Commissioners to serve on the El Camino Hospital District Service Review Ad-Hoc Committee and Consultant Selection Committee.

6. **RESPONSE TO THE 2010-2011 CIVIL GRAND JURY REPORT ENTITLED, "LAFCO'S RESPONSIBILITY FOR SPECIAL DISTRICTS: OVERSEEN OR OVERLOOKED?"**

Possible Action: Consider and approve staff response to the 2010-2011 Civil Grand Jury Report and direct staff to forward a response to the Presiding Judge of the Superior Court and the Foreperson of the 2010-2011 Santa Clara County Civil Grand Jury.

7. LEGISLATIVE UPDATE AND CALAFCO'S PROPOSED REVISIONS TO GOVERNMENT CODE SECTION 56133

Possible Action:

- a. Accept Legislative Update.
- b. Authorize support for CALAFCO's proposed revisions to Government Code Section 56133.

8. EXECUTIVE OFFICER'S REPORT

8.1 UPDATE ON LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW

For information only.

8.2 UPDATE ON IMPLEMENTATION OF LAFCO'S FIRE SERVICE REVIEW REPORT

For information only.

8.3 UPDATE ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY

For information only.

9. PENDING APPLICATIONS / UPCOMING PROJECTS

- City-Conducted Annexations/Reorganizations:
 - Downer No. 11 (San Jose)
 - East Dunne Avenue No. 20 (Morgan Hill)

10. COMMISSIONER REPORTS

11. NEWSPAPER ARTICLES / NEWSLETTERS

12. WRITTEN CORRESPONDENCE

- July 12, 2011 Email and Letter from Jeff Rusteen Re: 2010-2011 Santa Clara County Civil Grand Jury Report Entitled "Fighting Fire or Fighting Change? Rethinking Fire Department Response Protocol and Consolidation Opportunities"

13. ADJOURN

Adjourn to regular LAFCO meeting on Wednesday, October 5, 2011, at 1:15 PM in the Isaac Newton Senter Auditorium, 70 West Hedding Street, San Jose.

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 the message is for the LAFCO Clerk.



LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, JUNE 1, 2011

CALL TO ORDER

Acting Chairperson Pete Constant called the meeting to order at 1:15 p.m.

1. ROLL CALL

The following Commissioners and Alternate Commissioners were present:

- **Acting Chairperson Pete Constant**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Mike Wasserman**
- **Commissioner Susan Vicklund-Wilson**
- **Alternate Commissioner George Shirakawa** (Acting in place of Chairperson Liz Kniss; arrived at 1:20 p.m. and left at 2:25 p.m.)
- **Alternate Commissioner Al Pinheiro**
- **Alternate Commissioner Terry Trumbull**

The following Commissioners and Alternate Commissioners were absent:

- **Chairperson Liz Kniss**
- **Alternate Commissioner Sam Liccardo**

The following staff members were present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Analyst Dunia Noel**
- **LAFCO Counsel Mala Subramanian**

2. PUBLIC COMMENT

There is no public comment.

Acting Chairperson Constant, there being no objection, announced that agenda items for Commission action will be taken out of order.

3. APPROVE THE MINUTES OF APRIL 20, 2011 LAFCO MEETING

The Commission approved the minutes of April 20, 2011 LAFCO meeting, as submitted.

Motion: Susan Vicklund-Wilson **Second:** Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

4. WEST VALLEY SANITATION DISTRICT 2011-1 (QUARRY ROAD)

The Commission adopted **Resolution No. 2011-01**, approving the annexation to the West Valley Sanitation District of approximately 0.577 acres (APN 532-27-009) located at

16860 Quarry Road in the Town of Los Gatos. Said Resolution, by reference hereto, is made part of these minutes.

Motion: Susan Vicklund-Wilson **Second:** Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

5. **LOS GATOS URBAN SERVICE AREA AMENDMENT 2010 (LANDS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT)**

Ms. Noel presented the staff report.

Acting Chairperson Constant declared the public hearing open, determined that there are no members of the public who wished to speak on the item, and declared the public hearing closed.

Commissioner Wasserman informed that his motion included the CEQA action.

The Commission adopted **Resolution No. 2011-2**, amending the urban service area boundary of the Town of Los Gatos to exclude approximately 16.1 acres of land consisting of two parcels (APNs 575-04-011 and a portion of 575-05-001) owned by the Midpeninsula Regional Open Space District. Said Resolution, by reference hereto, is made part of these minutes.

Motion: Mike Wasserman **Second:** Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

6. **FINAL LAFCO BUDGET FOR FISCAL YEAR 2011-2012**

Ms. Palacherla presented the staff report.

Acting Chairperson Constant declared the public hearing open, determined that there are no members of the public who wished to speak on the item, and declared the public hearing closed.

The Commission (a) adopted the Final LAFCO Budget for Fiscal Year 2011-2012; (b) found that the Final LAFCO Budget for Fiscal Year 2012 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; (c) authorized staff to transmit the Final LAFCO Budget adopted by the Commission including the estimated agency costs to each of the cities, to the County and to the Cities Association; and, (d) directed the County Auditor-Controller to apportion LAFCO costs to cities and the County using the most recent edition of the Cities Annual Report published by the State Controller, and to collect payment pursuant to Government Code §56381.

Motion: Susan Vicklund-Wilson **Second:** Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

8. **TAKEN OUT OF ORDER: APPOINT PUBLIC MEMBER AND ALTERNATE PUBLIC MEMBER**

Acting Chairperson Constant determined that there are no members of the public who wished to speak on the item.

In response to an inquiry by **Commissioner Abe-Koga**, **Acting Chairperson Constant** stated that at the February 2, 2011 meeting (Item No. 5), the Commission was presented with two options to fill the public and alternate public member positions, namely, to reappoint the incumbents or to hold a formal, advertised recruitment process, and that the Commission voted to reappoint the incumbents. In response to a follow-up inquiry by **Commissioner Abe-Koga**, **Acting Chairperson Constant** informed that the Commission has the discretion to reappoint the incumbents or seek applications from the public.

The Commission reappointed Susan Vicklund-Wilson as LAFCO public commissioner and Terry Trumbull as LAFCO alternate public commissioner to new four-year terms for a period from May 2011 to May 2015.

Motion: Margaret Abe-Koga

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman

NOES: None

ABSTAIN: Susan Vicklund-Wilson

Acting Chairperson Constant directed staff to include the topic of selection and appointment of public and alternate members in a future review of LAFCO policies.

7. **EL CAMINO HOSPITAL DISTRICT AND SERVICES OUTSIDE ITS BOUNDARY**

Ms. Palacherla presented the staff report summarizing the information in the April 2011 staff report regarding the issue of the El Camino Hospital District providing services beyond its boundaries as well as the information in the February 2011 staff report regarding transparency issues related to the operations and financing relationships between the El Camino Hospital District and the non-profit corporation, and other issues including whether the District is performing the functions for which it was created and how the District is using its property tax revenues. She informed that these issues will be addressed in the next countywide service review, to be discussed under Agenda Item No. 9.

Acting Chairperson Constant expressed concern about how the El Camino Hospital District, a public entity formed to provide hospital services, has given away its assets to a non-profit entity. He noted that it is difficult to distinguish the District from the non-profit. **Acting Chairperson Constant** also questioned the District's continued existence given that the non-profit is now providing the services that the government agency was originally formed to provide. He inquired as to where the tax revenues are being spent because the non-profit has stated that it is not using tax money to provide hospital services. He questioned how the District and the non-profit were able to segregate their funds enough to establish if the District is providing services outside of its boundary.

Commissioner Wasserman supported staff's recommendation that the next service review should study this issue further and agreed with Commissioner Constant that more clarification is required as to the finances for operating the hospital and on the use of the tax revenues that the District is receiving.

Commissioner Abe-Koga expressed appreciation that a service review will be conducted to address these issues, stating that she resides within the District and is concerned about the recent taxes and bond measures for the retrofitting of the hospital. She proposed that the staff report be received and that LAFCO not accept the report's conclusion until further analysis can be done to determine whether or not the District is providing services outside of its boundary.

Commissioner Wilson confirmed her understanding that a countywide service review would be conducted shortly, which will be carried out with an outside consultant, and would look deeper into this issue. She added that the service review would identify any other special districts that are not performing their mandated functions and that LAFCO has the ability to consider their dissolution. **Commissioner Shirakawa** suggested that the District staff provide a presentation to the Commission.

In response to an inquiry by **Acting Chairperson Constant**, Ms. Palacherla informed that the staff report's conclusion that the District is not providing services outside its boundary was based on the information provided by the District. **Acting Chairperson Constant** stated that the Commission's action should be to receive the staff report rather than accept it because it is not confirmed that the District is, in fact, not providing services outside its boundary. He then requested that staff ensure that the service review work plan specifically include a forensic accounting of the district to follow the tax revenues. He stated that this is LAFCO's paramount responsibility because the public relies on agencies like LAFCO to look out for their interest.

At the request of **Commissioner Wilson**, Ms. Subramanian agreed that without forensic accounting expertise, it is not possible for staff to be certain whether or not the District is providing services outside its boundary and added that such experts would be able to determine the accuracy of the information through the service review process.

Commissioner Shirakawa directed staff to request all financial reports and accounting data from the District.

Greg Caligari, Cox Castle Nicholson, legal counsel for El Camino Hospital District, informed that the District will continue to cooperate with LAFCO on the service review.

Commissioner Wasserman requested that Mr. Caligari provide all existing reports, audits and annual statements that would be helpful in the matter, and Mr. Caligari expressed agreement.

The Commission received the staff report and directed staff to take a closer look at the El Camino Hospital District, its tax dollars and use, as part of the service review, and that the issue be brought back to the Commission for further action after the service review is completed.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

9. PROPOSED REVISION TO LAFCO'S WORK PLAN FOR REMAINING SERVICE REVIEWS

Ms. Noel presented the staff report.

In response to an inquiry by **Acting Chairperson Constant**, Ms. Noel advised that the Commission may decide to have a separate service review for the El Camino Hospital District; however, a single countywide service review could also be phased to study the District separately. **Commissioner Wilson** stated that a countywide service review may allow LAFCO to identify other districts that are not performing their mandated functions. **Commissioner Wasserman** stated that the \$80,000 allotted for the countywide service reviews be expended first and, based on the findings, the Commission may decide on further action.

Commissioner Abe-Koga stated that it has already been determined that the District is one of those that the Commission should take a closer look and proposed that the service review of the District be completed ahead of the reviews of other agencies. **Acting Chairperson Constant** commented that the Commission should be able to take action on issues about the El Camino Hospital District in a timely manner and expressed support for a single countywide service review as long as it is done in mini-sections that would allow the Commission to take action. Ms. Palacherla advised that based on commission discussion, the service review for the Hospital District would require different expertise than that required for reviewing the other agencies and informed that a work plan will be presented to the Commission.

In response to an inquiry by **Commissioner Wilson**, Ms. Palacherla informed that staff is currently working on the Water Service Review and would bring back a work plan for the countywide service review in October 2011. **Commissioner Wilson** requested that staff present a status report or initial work plan at the August 3, 2011 meeting if a comprehensive work plan is unavailable at that time.

The Commission approved the revision to the Service Review Work Plan, authorized staff to conduct a single countywide service review for all services (excluding fire protection service and water service) provided by cities and special districts, and to bring back a status update or initial work plan at the August 3, 2011 LAFCO meeting.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

13.4 TAKEN OUT OF ORDER: CALAFCO ANNUAL CONFERENCE IN NAPA, CALIFORNIA: AUGUST 31 THROUGH SEPTEMBER 2, 2011

Ms. Palacherla presented the staff report.

The Commission authorized commissioners and staff to attend the 2011 CALAFCO Annual Conference and authorized travel expenses to be funded by the LAFCO budget.

Motion: Susan Vicklund-Wilson **Second:** Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

13.5 TAKEN OUT OF ORDER: DESIGNATE VOTING DELEGATE AND ALTERNATE FOR SANTA CLARA LAFCO

Commissioner Wilson volunteered to be the voting delegate and **Commissioner Constant** volunteered as alternate voting delegate at the CALAFCO Conference.

The Commission designated Commissioner Susan Vicklund-Wilson as the voting delegate and Commissioner Pete Constant as the alternate voting delegate at the CALAFCO Conference.

Motion: Susan Vicklund-Wilson **Second:** Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

13.6 TAKEN OUT OF ORDER: NOMINATIONS TO THE CALAFCO BOARD OF DIRECTORS

Ms. Palacherla informed that the staff report is revised to state that Commissioner Wilson would seek reelection if there are no other public member candidates nominated to the CALAFCO Board of Directors from the Coastal Region.

Commissioner Wilson requested nomination to the CALAFCO Board of Directors conditioned on interest from other public members in the Coastal Region.

Nominated Commissioner Susan Vicklund-Wilson to the CALAFCO Board of Directors.

Motion: Mike Wasserman **Second:** Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

10. UPDATE ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY

Ms. Noel provided the staff report. She added that staff will meet with the City of Cupertino planning staff on July 2, 2011.

Commissioners Constant and **Wasserman** briefly discussed the number of remaining islands in San Jose and Los Gatos.

In response to an inquiry by **Commissioner Wilson**, Ms. Noel informed that the special provision for island annexation will sunset on January 1, 2014; however, she noted that cities should begin their island annexation because it is a long process. **Commissioner Wilson** requested that status updates on island annexations be made a continuing item on the agenda.

Curtis Wright, former Mayor of Monte Sereno, suggested that no reference be made to sunset date as cities may feel that they do not have to do anything after that date. He recommended that the Commissioners work directly with the city council members. He also stated that there is a perception among some residents in unincorporated areas that they receive better services at a lesser expense and more relaxed law and building code enforcement in the County.

The Commission accepted the report and directed staff to include a status report on island annexations as a recurring item on the agenda.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

11. LEGISLATIVE REPORT

Ms. Palacherla presented the report. The Commission accepted the report.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

12. UPDATE ON CALIFORNIA FORWARD'S SMART GOVERNMENT FRAMEWORK AND REGIONAL STAKEHOLDER ROUNDTABLES

Ms. Palacherla presented the report. She added that there is a follow up meeting on June 24, 2011 from 9:00 a.m. to 12:30 p.m. at the Cupertino Community Center and would email this information to the Commissioners.

The Commission accepted the report.

Motion: Mike Wasserman

Second: Susan Vicklund-Wilson

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

13.1 UPDATE ON LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW

Ms. Noel presented the staff report.

13.2 UPDATE ON IMPLEMENTATION OF LAFCO'S ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

Ms. Noel presented the staff report.

13.3 UPDATE ON CONDUCTING FURTHER ANALYSIS OF OPPORTUNITIES FOR FIRE SERVICE EFFICIENCIES INCLUDING CHANGES IN GOVERNANCE STRUCTURE OF FIRE DISTRICTS

Ms. Noel presented the staff report.

14. PENDING APPLICATIONS / UPCOMING PROJECTS

The Commission noted the pending application.

15. NEWSPAPER ARTICLES / NEWSLETTERS

There are no newspaper articles/newsletters.

16. WRITTEN CORRESPONDENCE

There was no written correspondence.

17. ADJOURN

Adjourned at 2:27 p.m. to the next meeting on Wednesday, August 3, 2011 in Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Pete Constant, Acting-Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk

LAFCO MEETING: August 3, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: El Camino Hospital District Annexation 2011

STAFF RECOMMENDATION

1. CEQA Action

- a. Find that the proposed annexation is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed project has the potential for causing a significant adverse effect on the environment.

2. Proposal

- a. Approve the proposed annexation of APN 182-50-045 and portions of APNs 182-50-036, 182-50-034, and 182-50-024 to the El Camino Hospital District, as described and depicted in Exhibits A & B (Attachment A).
- b. Waive protest proceedings pursuant to Government Code Section 56663(c).

PROJECT DESCRIPTION

The owners of APN 182-50-045 have applied to LAFCO, by petition, in order to annex the parcel into the El Camino Hospital District (ECHD). The purpose of the annexation is to (work with the County Assessor to) obtain just one assessor parcel number for their single legal lot and to thus receive one property tax bill and to pay just one set of parcel taxes and special assessments. The petition has been amended by LAFCO staff to include the annexation of portions of APNs 182-50-036, 182-50-034, and 182-50-024 in order to create a more logical tax rate area boundary for the District. See attached map of proposal area (Attachment A).

The owners of these additional parcels have given their consent to the annexation of certain portions of these parcels. There will be no additional financial impact to the owners of these parcels as the remaining portion of each of these parcels is already within the ECHD and a share of the property tax from these properties already supports ECHD.

BACKGROUND

The applicant owns a developed single legal lot in the Town of Los Altos Hills that is actually divided into two separate parcels for tax assessment purposes because the lot is split by a tax rate area boundary. Specifically, this single legal lot is assigned two separate assessor parcel numbers because only a portion of the lot is within the El Camino Hospital District. The remaining portion (i.e. APN 182-50-045) is currently outside of the District's boundary. As a result, the applicant receives two property tax bills (i.e. a bill for the portion of the lot that is within the District and a bill for the portion of the lot that is not within the District) from the County Tax Collector. Although for assessment purposes the single lot is recognized as two separate parcels, it is a single legal lot developed with a single-family residence located at 27975 Roble Alto in Los Altos Hills. The applicant would like to receive a single property tax bill and a pay only one set of parcel taxes and special assessments.

The applicant has discussed their situation with the County Assessor and has determined that the only way to achieve this is to have APN 182-50-045 annexed to the El Camino Hospital District. According to the County Assessor, once the two assessor parcels are both within the El Camino Hospital District, the property owners can request that the County Assessor assign just one assessor parcel number to the single legal lot because both assessor parcels will be in the same tax rate area. The property owners would then receive one property tax bill and pay just one set of parcel taxes and special assessments. LAFCO staff has confirmed this information with the County Assessor.

Pursuant to Government Code Section 56857, LAFCO staff notified the El Camino Hospital District that LAFCO had received this request and had placed this item on LAFCO's April 20th Agenda for informational purposes. The law provides that if within 60 days of placing the item on the LAFCO agenda, the District adopts and transmits to LAFCO a resolution requesting termination of proceedings, then, LAFCO must terminate the proceedings upon receipt of the resolution.

On June 29, 2011, LAFCO received Resolution 2011-3 from the Hospital District's Board indicating that the District does not oppose the annexation of APN 182-50-045. This resolution enabled LAFCO staff to process the application and to place the proposal on the August 3rd LAFCO agenda for consideration and potential action. The District's Legal Counsel has also indicated verbally that the District also does not oppose the annexation of portions of APNs 182-50-036, 182-50-034, and 182-50-024.

The El Camino Hospital District was formed in 1956 pursuant to the Health and Safety Code in order to establish, maintain, and operate health care facilities and to provide a full range of health services. The District has several funding sources including a share of the 1% property tax from properties within the District's boundary and several bond measures. The District has sold its hospital in Mountain View to El Camino Hospital, a non-profit corporation that now operates the hospital. The non-profit corporation also

operates a hospital in Los Gatos which is located outside of the District's boundaries. LAFCO has been researching several issues concerning the District and its operations. Please see Agenda Item No. 5 for further information on this research.

ENVIRONMENTAL ASSESSMENT

LAFCO is the Lead Agency under CEQA for the proposed annexation to the El Camino Hospital District. LAFCO staff has determined that the proposal is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed project has the potential for causing a significant adverse effect on the environment.

CONSISTENCY WITH LAFCO FACTORS AND POLICIES

Logical and Orderly, Efficient Boundaries

The annexation boundaries are definite and certain. The subject area (i.e. APN 182-50-045 and portions of APNs 182-50-036, 182-50-034, and 182-50-024) is located within the El Camino Hospital District's Sphere of Influence (SOI), contiguous to the District's existing boundary, and eligible for annexation to the District. The annexation does not create islands or areas difficult to serve. The annexation also meets LAFCO's street annexation policies and does not split lines of assessment.

The proposed annexation would allow for the El Camino Hospital District to annex the subject area and assist the owners APN 182-50-045 in their effort to work with the County Assessor to obtain just one assessor parcel number for their single legal lot and to thus receive one property tax bill and to pay just one set of parcel taxes and special assessments.

Conversion of Prime Agricultural Land and Open Space, Growth Inducement

The proposal does not include agricultural land or Williamson Act land. The subject area consists of legal lots, each developed with one single-family home and are located in the Town of Los Altos Hills. The surrounding neighborhood is residential in nature. The proposed annexation to the El Camino Hospital District will not result in any change in land use or in the jurisdiction that has land use authority over the proposal area. Further subdivision of any of the lots for development purposes is not possible under the Town of Los Altos Hills rules and regulations. Any further development of the lots would be subject to the Town's review process.

Fiscal Impact on Affected Agencies as a Result of Redistribution of Property Tax Revenues

The County of Santa Clara's 1981 Master Property Tax Sharing Agreement between the County, cities and special districts in the county would apply to this proposed annexation. The proposed annexation to El Camino Hospital District will result in a redistribution of property tax revenue from existing affected agencies in the annexation area to the El Camino Hospital District. There will be a positive fiscal impact to the Hospital District because the Hospital District, beginning July 1, 2012, will receive a

percentage of the total property tax revenue collected for APN 182-50-045. The County Controller estimates that ECHD will receive an additional \$1.10 annually with the proposed annexation. The exact amount will depend on the annual growth in total assessed value of the parcel. The remaining affected agencies (excluding school districts) will each receive a lesser percentage of the total property tax revenue. In this particular case, the decrease is very small or almost negligible. The County Controller estimates that the County will lose annually approx. 45 cents, the Los Altos Hills County Fire District will lose approx. 33 cents, the Town of Los Altos Hills will lose approx. 9 cents, and the other affected agencies will each lose a few cents at most annually as a result of the proposed annexation.

Additionally, if the owners of APN 182-50-045 are successful in their efforts to have their single legal lot assigned one assessor parcel number rather than two, the amount the owners pay annually in special assessments will change. Instead of paying the following special assessments annually for two assessor parcels, they will pay them for only one assessor parcel.

- Palo Alto Unified School District Parcel Tax
- Santa Clara Valley Water District Clean Safe Creeks
- Santa Clara County Vector Control
- County Library
- Santa Clara Valley Water District Flood Control

The amount of special assessments paid by the owners of APN 182-50-045 would be reduced by approximately \$728.22 annually.

As noted earlier, there will be no additional financial impact to the owners of APNs 182-50-036, 182-50-034, and 182-50-024 (only a specific portion of each of these parcels is part of the proposed subject annexation area) as the remaining portion of each of these parcels is already within the ECHD and a share of the property tax from these parcels already supports ECHD. Please see attached map of the proposal area (Attachment A) which depicts the existing and proposed boundary of ECHD.

WAIVER OF PROTEST PROCEEDINGS

Government Code Section 56663(c) allows LAFCO to waive protest proceedings for an uninhabited annexation (i.e. an annexation territory that contains less than 12 registered voters) if all owners of land within the annexation area consent to the annexation and no written opposition to the waiver of protest proceedings is received from any affected agency. The proposed annexation has 100% landowner consent and no affected agency has opposed the waiver of protest proceedings. Therefore LAFCO may waive protest proceedings.

CONCLUSION

The owners of APN 182-50-045 have applied to LAFCO in order to annex the parcel into the El Camino Hospital District. The proposed annexation would allow for the El Camino Hospital District to annex APN 182-50-045 and assist the landowners in their

effort to work with the County Assessor to obtain just one assessor parcel number for their single legal lot and to thus receive one property tax bill and to pay just one set of parcel taxes and special assessments. The petition has been amended by LAFCO staff to also include the annexation of certain portions of APNs 182-50-036, 182-50-034, and 182-50-024 to the El Camino Hospital District in order to create a more logical tax rate area boundary for the ECHD. The owners of these additional parcels have given their consent to the annexation of portions of these parcels. The subject area (i.e. APN 182-50-045 and portions of APNs 182-50-036, 182-50-034, and 182-50-024) is located within the El Camino Hospital District's SOI boundary, contiguous to the District's boundary, and eligible for annexation to the District. El Camino Hospital District has provided LAFCO with a resolution indicating that they do not oppose the annexation of APN 182-50-045 and the District's Legal Counsel has indicated verbally that the District does not oppose the annexation of portions of APNs 182-50-036, 182-50-034, and 182-50-024. The proposal is consistent with LAFCO's Policies. Staff therefore recommends the approval of this request for annexation to the El Camino Hospital District.

ATTACHMENT

Attachment A: Vicinity map showing the subject properties / surroundings and Exhibits A & B include Legal Description and Map of Proposed Boundaries of the El Camino Hospital District Annexation 2011

El Camino Hospital District 2011

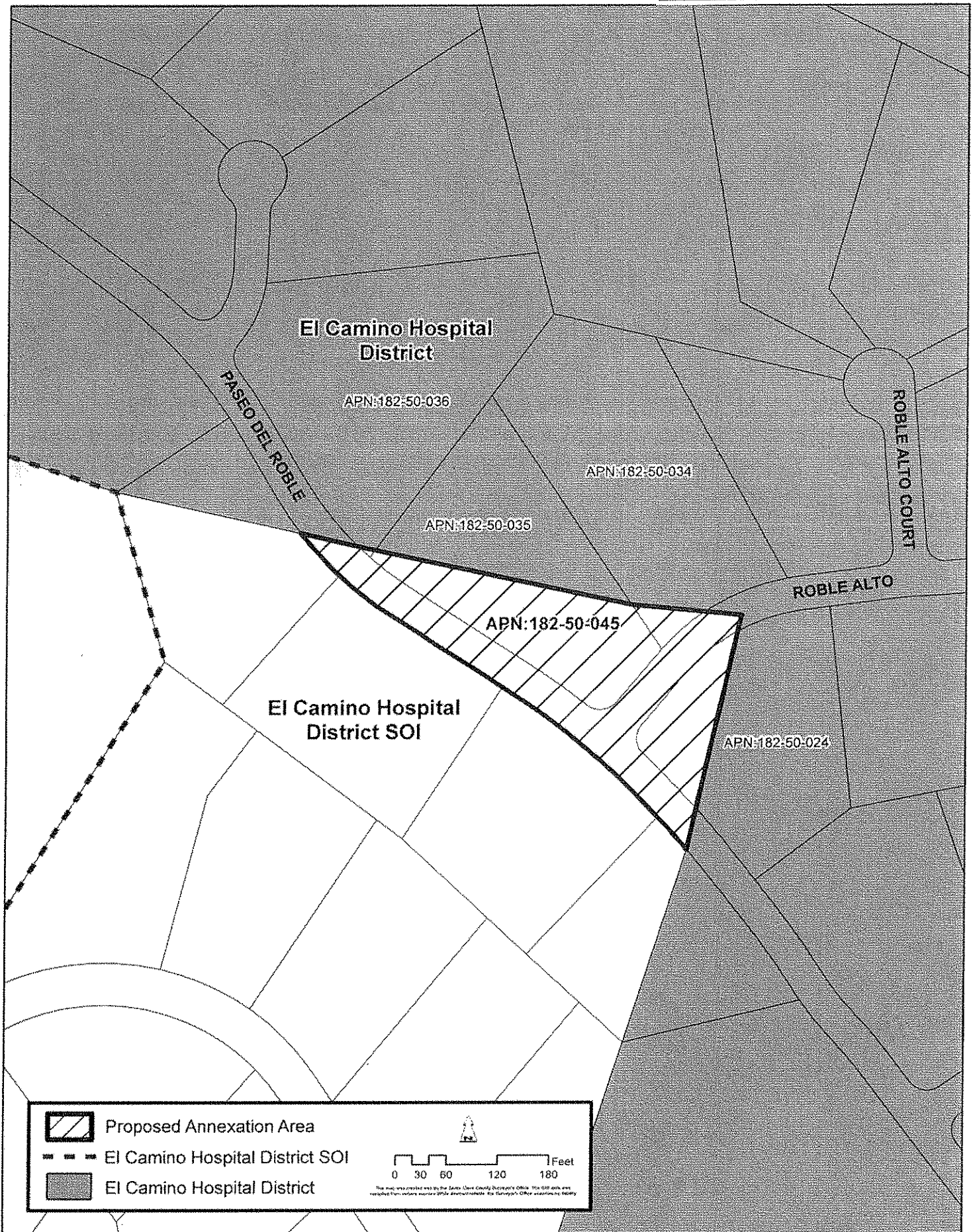


EXHIBIT 'A'

EL CAMINO HOSPITAL DISTRICT ANNEXATION 2011
GEOGRAPHIC DESCRIPTION

All that certain property in the Town of Los Altos Hills, County of Santa Clara, State of California, being a portion of Lot 10, Lot 34, Lot 35, Lot 36, Paseo Del Roble, and Roble Alto as shown on the map of Tract No. 5098 entitled "MATADERO OAKS", filed on December 17, 1973 in Book 334 of Maps at Pages 12 through 15, Santa Clara County records, being a portion of Rancho El Corte Madera, more particularly described as follows:

BEGINNING at an angle point in the general westerly line of that certain annexation entitled "RESOLUTION AND ORDER OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DECLARING THE TERRITORY ENCLOSED WITHIN THE PROPOSED BOUNDARIES OF THE EL CAMINO HOSPITAL DISTRICT DULY ORGANIZED AS A LOCAL HOSPITAL DISTRICT UNDER THE NAME OF EL CAMINO HOSPITAL DISTRICT, SETTING FORTH THE NAME AND BOUNDARIES OF SAID DISTRICT AND DECLARING THAT SAID DISTRICT IS DULY ORGANIZED AND INCORPORATED UNDER "THE LOCAL HOSPITAL DISTRICT LAW," DIVISION 23 OF THE HEALTH AND SAFETY CODE OF THE STATE OF CALIFORNIA", recorded in Book 3663 of Official Records at Page 126, Santa Clara County records, said angle point being where the line begins "Westerly along said Southerly line of Maud Schroll lands to the intersection of the southerly prolongation of the Westerly line of that certain parcel of land conveyed from Nellie Liddicoat to Walter J. Liddicoat, et al by deed recorded in Official Records Volume 470 at page 430, County of Santa Clara, State of California";

Thence (1) along said general westerly annexation line, South 16° 57' 43" West, 304.56 feet to a point on the southwesterly line of said Paseo Del Roble, said point being the beginning of a non-tangent curve, concave southwesterly, having a radius of 1,070.00 feet, from which the radius point bears South 48° 44' 29" West;

Thence leaving said annexation, along the general westerly line of said Paseo Del Roble the following three (3) courses:

(2) northwesterly, along said curve, through a central angle of 16° 37' 06", for an arc length of 310.35 feet;

(3) North 57° 52' 37" West, 119.52 feet to the beginning of a tangent curve to the right, having a radius of 430.00 feet;

(4) along said curve, through a central angle of 24° 37' 30", for an arc length of 184.81 feet to a point in the said general westerly line of said annexation;

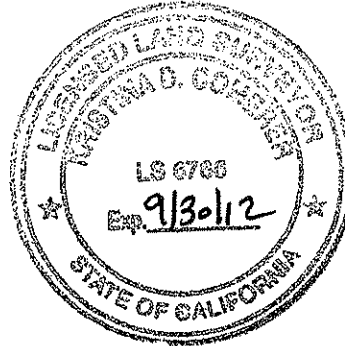
Thence (5) leaving said general southwesterly line of Paso Del Roble, along the said general westerly line of said annexation, South 79° 41' 29" East, 565.55 feet to the **POINT OF BEGINNING** and containing 1.976 acres of land, more or less.

END OF DESCRIPTION

For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

Kristina D. Comer
Kristina D. Comerer, PLS 6766

Date: July 18, 2011



DISCLAIMER:
 FOR ASSESSMENT PURPOSES ONLY. THIS
 DESCRIPTION OF LAND IS NOT A LEGAL
 PROPERTY DESCRIPTION AS DEFINED IN
 THE SUBDIVISION MAP ACT AND MAY NOT
 BE USED AS THE BASIS FOR AN OFFER FOR
 SALE OF THE LAND DESCRIBED.

TRACT NO. 5098
 "MATADERO OAKS"
 334 M. 12-15

APN: 182-50-036
 36

APN: 182-50-035
 LANDS OF FELCH
 DOC. NO. 13542696

APN: 182-50-034

CURVE TABLE

NO.	RADIUS	DELTA	LENGTH
C1	1070.00	16°37'06"	310.35
C2	430.00	24°37'30"	184.81

EXHIBIT B

PROPOSED ANNEXATION
 EL CAMINO HOSPITAL DISTRICT
 ANNEXATION 2011
 LYING WITHIN

THE TOWN OF LOS ALTOS HILLS

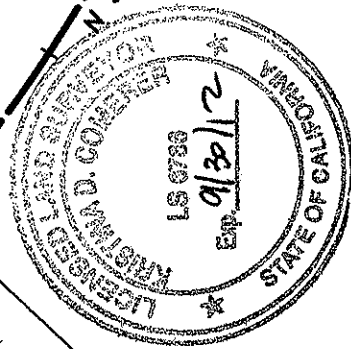
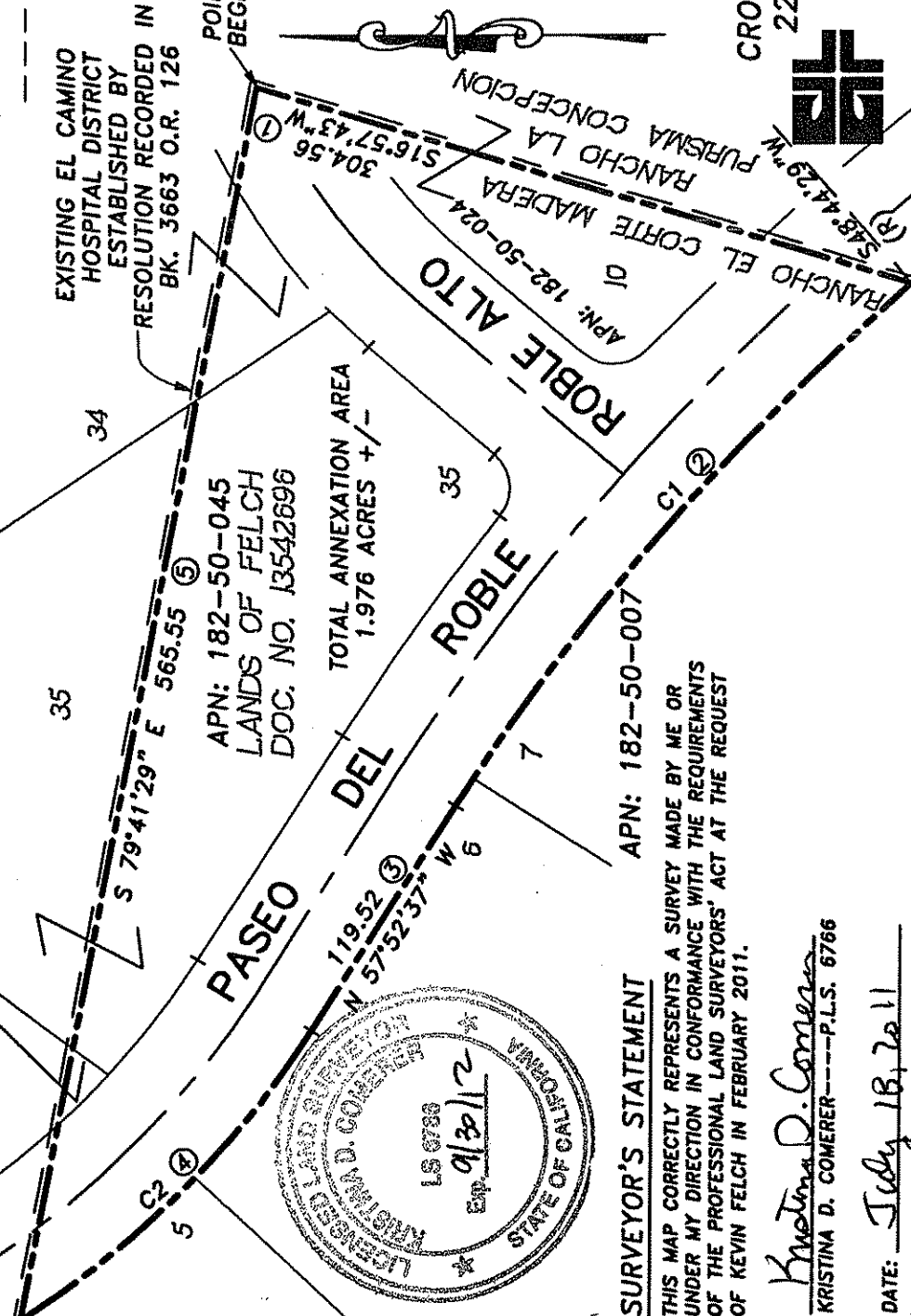
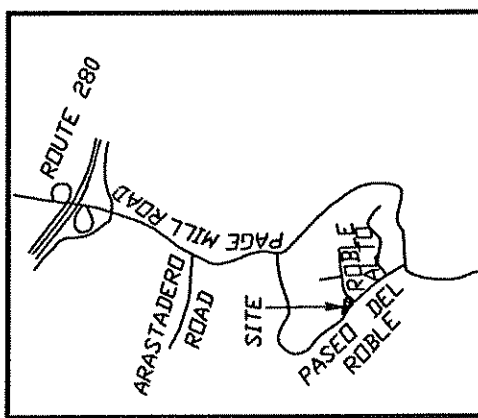
SANTA CLARA COUNTY, CALIFORNIA
 SCALE: 1" = 80'
 JULY 2011

LEGEND

- BOUNDARY LINE OF PROPOSED ANNEXATION
- - - EXISTING EL CAMINO HOSPITAL DISTRICT BOUNDARY

EXISTING EL CAMINO
 HOSPITAL DISTRICT
 ESTABLISHED BY
 RESOLUTION RECORDED IN
 BK. 3663 O.R. 126

POINT OF BEGINNING LOCATION MAP



SURVEYOR'S STATEMENT

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYORS' ACT AT THE REQUEST OF KEVIN FELCH IN FEBRUARY 2011.

Kristina D. Comer
 KRISTINA D. COMERER ---P.L.S. 6766

DATE: July 18, 2011

CROSS LAND SURVEYING, INC.
 2210 MT. PLEASANT ROAD
 SAN JOSE, CA 95148
 (408) 274-7994
 PROJECT NO. 11-12

LAFCO Meeting: August 3, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: WORK PLAN FOR THE EL CAMINO HOSPITAL DISTRICT SERVICE REVIEW

RECOMMENDATIONS

1. Approve the proposed work plan for conducting a separate focused service review for the El Camino Hospital District.
2. Authorize staff to prepare a Draft Request for Proposals (RFP) for professional firms to conduct a service review including a forensic auditing of specific financial issues for the El Camino Hospital District and authorize staff to provide the Draft RFP to affected agencies and interested parties for their review and comment.
3. Direct staff to provide the Revised Draft RFP to LAFCO for consideration at the October 5, 2011 LAFCO meeting.
4. Appoint two LAFCO Commissioners to serve on the El Camino Hospital District Service Review Ad-Hoc Committee and Consultant Selection Committee.

BACKGROUND

Over the last few months, LAFCO staff has been researching several issues concerning the El Camino Hospital District (ECHD) and specifically trying to resolve the issue of whether the ECHD is providing services beyond its boundaries by funding the purchase of a hospital in Los Gatos. During the course of this research, other issues relating to the lack of transparency in the financial and operational relationship between the ECHD and the El Camino Hospital (Corporation) a 501(c)(3) corporation and questions regarding the purpose / functions of the ECHD and its use of property tax revenues also came to light.

In regard to the issue of services beyond its boundaries, LAFCO staff at the June 1st LAFCO Meeting, informed the Commission that they had reviewed various materials provided by ECHD and concluded, based on that information, that the District is not providing services outside of its boundaries. Additionally, staff reported that the remaining issues would be addressed as part of the next service review. LAFCO received the staff report, but rather than accepting staff's conclusion that the ECHD did not fund the purchase of the Los Gatos Hospital and was not providing services beyond its boundaries, the Commission directed staff to take a closer look at the ECHD as part

of the upcoming service review and to include a forensic accounting of the financing of the hospital purchase and to report back to the Commission on the issue after the service review is completed.

As part of a separate agenda item at the June LAFCO meeting, LAFCO staff also presented a report recommending that the remaining service reviews be conducted as a single countywide service review rather than two separate sub-regional service reviews. LAFCO approved this revision to the Service Review Work Plan, but indicated that the El Camino Hospital District Service Review should be prioritized in order to address the identified issues as soon as possible and directed staff to prepare an initial work plan (for LAFCO consideration at the August LAFCO meeting) for conducting the service review and forensic auditing.

CONDUCT A SEPARATE FOCUSED SERVICE REVIEW FOR ECHD

Given the complexity of the issues that have been identified concerning the El Camino Hospital District and the Commission's interest in addressing these issues as soon possible, LAFCO staff is recommending that the Commission authorize staff to conduct a separate focused service review for the El Camino Hospital District. Separating the ECHD service review from the planned single countywide service review is recommended because:

- The ECHD service review can be prioritized and LAFCO can build on the work that staff has completed regarding the ECHD.
- Very specific issues have been identified as needing to be addressed in the ECHD service review.
- The ECHD service review is likely to require a different expertise than other service reviews, particularly regarding forensic accounting of the use of ECHD's revenues.

WORK PLAN FOR CONDUCTING THE SERVICE REVIEW AND FORENSIC AUDIT FOR THE EL CAMINO HOSPITAL DISTRICT

Establish an Ad-Hoc Committee for the ECHD Service Review

Staff is also recommending that LAFCO establish an ad-hoc committee of two Commissioners to review and advise as needed on the project and to assist in selecting the consultant to conduct the service review and forensic audit.

Identification of Key Issues that will be Addressed in the Service Review and the Forensic Auditing

Staff has identified two key issues and a DRAFT working list of questions that must be resolved under each of the issues. As we continue working on this issue, it is expected that additional questions will be added.

Issue #1: Is the El Camino Hospital District providing services outside of the District's boundaries?

1. Did / does the ECHD fund the purchase, operation or maintenance of the Los Gatos Hospital or other facilities located outside the District's boundaries? (to be determined through a forensic audit)
2. Does ECHD contribute revenue to the El Camino Hospital Corporation which in turn purchased the hospital in Los Gatos or to other facilities located outside the District? If so, what is the purpose of the contributions and how are the funds accounted for? (to be determined through a forensic audit)
3. Does the ECHD provide any other services outside of its boundaries? What is the District's role in the various dialysis centers that it runs throughout the county?
4. Do the ECHD's current boundaries reflect the population it serves?
5. What measures should the ECHD take to establish transparency in the relationship between the ECHD and the El Camino Hospital Corporation?
6. What measures should the ECHD take to be more accountable to the public / community that it serves?

Issue #2: Should the ECHD continue to exist and/or continue to receive a share of the property tax revenue? That is, is an independent government agency necessary to perform the current functions of the ECHD or could another existing public agency such as the County or a non-profit agency provide those services more efficiently?

1. What services is the ECHD currently providing? Is El Camino Hospital District currently providing the services for which it was created? Is there a change in the ECHD's mission since its creation?
2. What are ECHD's current revenue sources and amounts including proceeds from various bonds and for what purpose are the revenues and bonds proceeds used? (to be determined through a forensic audit)
3. What is the extent of the ECHD's reserves and what is the purpose of the reserves? (to be determined through a forensic audit)
4. What is an appropriate/ adequate amount of reserves for the ECHD? Does the District have any policies on amount and use of reserves?
5. Does ECHD have a role in the governance/monitoring of hospital services provided by the El Camino Hospital Corporation?
6. What is the ECHD's role and responsibility at the end of the lease agreement between the ECHD and the El Camino Hospital Corporation and as it relates to assumption of assets and liabilities of the Corporation?

7. Would dissolution of the ECHD result in gains in service efficiencies / cost savings or losses in services or service levels?
8. What other entities in the community could become the successor agency for the ECHD in the event of its dissolution? Could / should property tax be reallocated to that successor agency?

Major Steps and Timeline for the El Camino Hospital District Service Review

The following is a general timeline for completing this service review:

1. Receive approval of work plan for the El Camino Hospital District service review and forensic audit of specific financial issues (August 3, 2011)
2. Receive authorization from LAFCO to draft a request for proposals (RFP) for consultants to prepare the service review and forensic audit of specific issues related to ECHD's use of revenues (August 3, 2011)
3. Draft RFP and provide it to affected agencies and interested parties for their review and comment, and revise as necessary (mid August 2011)
4. Provide Revised Draft RFP to LAFCO for review and comment and seek authorization to release RFP (October 5, 2011)
5. Issue RFP (mid October 2011)
6. Consultant proposals due (mid November 2011)
7. Interview and select consultant (early December 2011)
8. Firm starts review (early January 2012)
9. Complete service review (April/June 2012 LAFCO Meeting)

NEXT STEPS

If LAFCO approves the proposed work plan for completing the El Camino Hospital District Service Review, LAFCO staff will prepare a draft request for proposals (RFP), complete with a recommended budget, for a consultant to prepare a LAFCO service review for ECHD. Additionally, staff will provide the Draft RFP to affected agencies and interested parties, including ECHD for their review and comment. LAFCO staff will then revise the RFP as necessary and provide the RFP to LAFCO for their consideration and potential approval at LAFCO's October 5th Meeting. Staff will develop a more detailed work plan for conducting LAFCO's remaining service reviews after LAFCO provides direction to staff on how it would like staff to respond to issues raised by the 2010-2011 Grand Jury and taking into account any potential changes in legislation (e.g. AB 912) and LAFCO's current workload.

ATTACHMENT

Attachment A: Letter from Gregory Caligari, regarding El Camino Hospital District and Services Outside Its Boundary, June 1, 2011 LAFCO Meeting: Agenda Item No. 7 (dated June 9, 2011)



**AGENDA ITEM # 5
ATTACHMENT A**

Cox, Castle & Nicholson LLP
555 California Street, 10th Floor
San Francisco, California 94104-1513
P 415.392.4200 F 415.392.4250

Gregory B. Caligari
415.262.5111
gcaligari@coxcastle.com

June 9, 2011

File No. 62721

BY EMAIL (.PDF)

Santa Clara County Local Agency Formation Commission
70 West Hedding Street
11th Floor, East Wing
San Jose, CA 95110

Attention: Neelima Palacherla, Executive Officer
(Neelima.Palacherla@ceo.sccgov.org)

Re: El Camino Hospital District and Services Outside Its Boundary
June 1, 2011 LAFCO Meeting, Agenda Item No. 7

Dear Chairperson Kniss and Honorable Commissioners:

I am writing on behalf of the El Camino Hospital District (the "District") as a follow-up to the above-referenced agenda item from the June 1st LAFCO meeting.

The staff report for this agenda item concluded that, "[b]ased upon information provided by the District in its letter, it appears that District funds were not used by the Corporation for the acquisition/operation of the Los Gatos Hospital and the District did not contribute any monies directly for the purchase or operation of the Los Gatos Hospital. Therefore, staff concludes that the District is not providing services outside its boundaries." We appreciate your professional staff's efforts regarding this matter, and agree with their conclusion.

At the meeting, clarification was sought related to the relationship between the District and El Camino Hospital, a California nonprofit public benefit corporation (the "Nonprofit Corporation"). At least one Commissioner expressed a concern about LAFCO drawing conclusions based only upon information provided by the District without independent third party review of that information (in addition to the review already conducted by LAFCO staff and legal counsel).

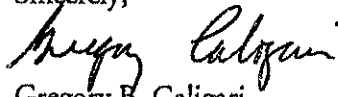
We appreciate that the relationship between the District and the Nonprofit Corporation, while entirely consistent with the Local Hospital District Law pursuant to which the District was formed (i.e., California Health and Safety Code §§32000 *et seq.*) and other applicable laws, may be somewhat unfamiliar, and we want to assure you that the District has been working with LAFCO staff in an open, collaborative and cooperative manner. District representatives have already attended several meetings with LAFCO staff regarding this matter. In addition, the District has responded to every document request received from LAFCO staff and has provided literally hundreds of pages of documents that were reviewed by staff and upon which they based their conclusion as stated above.

We would also like to point out that the financial statements for both the District and the Nonprofit Corporation undergo annual review by independent auditors. Specifically, the financial statements of both the District and the Nonprofit Corporation are audited annually by Moss-Adams, LLP, and those audited financial statements are published in the local newspapers of Los Altos, Mountain View, and Sunnyvale and are also available on the El Camino Hospital website (www.elcaminohospital.org, under the links for "About Us," then "District" and then "District Board Archive," or directly at the following internet address: http://www.elcaminohospital.org/About_El_Camino_Hospital/Board/District_Board_Archive). In addition, an audit of the use of the District's 2006 General Obligation Bonds that were issued to provide a portion of the financing for the new Mountain View hospital building and related facilities was prepared by Gallina, LLP Certified Public Accountants, and such audit was published July 11, 2007 (and was presented to District Board of Directors at their October 17, 2007 meeting).

If LAFCO decides to pursue further review of the District either as part of a county-wide service review or on stand-alone basis, we are confident that such review will confirm that your staff's conclusion as stated above is correct. To the extent LAFCO's review encompasses such matters, we are also confident that it will confirm that the District's activities and expenditure of funds are in full compliance with the Local Hospital District Law, the Bylaws of the District, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code §§ 56000 *et seq.*) and other applicable laws and requirements.

The District will continue to fully cooperate with LAFCO in conducting whatever further service review of the District LAFCO determines to undertake in accordance with applicable provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. As noted above, the LAFCO staff has already received a substantial amount of information that is available for further review by LAFCO and its staff and consultants. We would appreciate it if you would direct any requests for additional information regarding this matter to me and to Matt Harris (the LAFCO Clerk already has Mr. Harris' contact information), and we will be sure to provide a prompt response.

Sincerely,


Gregory B. Caligari

cc: (by email)
Chairperson Kniss (Liz.Kniss@bos.sccgov.org)
Vice-Chairperson Constant (Pete.Constant@sanjoseca.gov)
Commissioner Abe-Koga (Margaret.AbeKoga@mountainview.gov)
Commissioner Wasserman (Mike.Wasserman@bos.sccgov.org)
Commissioner Vicklund-Wilson (Susan@svwilsonlaw.com)
Emmanuel Abello, LAFCO Clerk (Emmanuel.Abello@ceo.sccgov.org)
Malathy Subramanian, LAFCO Counsel (Malathy.Subramanian@bbklaw.com)
Wesley F. Alles, Board of Directors, El Camino Hospital District (walles@stanford.edu)
Uwe R. Kladde, Board of Directors, El Camino Hospital District (kladdeu@yahoo.com)
David Reeder, Board of Directors, El Camino Hospital District (dwreeder@sbcglobal.net)
John L. Zoglin, Board of Directors, El Camino Hospital District (jzoglin@comcast.net)
Patricia A. Einarson, M.D., M.B.A., Board of Directors, El Camino Hospital District
(peinarson@stanfordalumni.org)
Ken Graham, President and Chief Executive Officer, El Camino Hospital Corporation
(Ken_Graham@elcaminohospital.org)
H.E. (Ned) Bergstrom, Jr., Interim Chief Financial Officer, El Camino Hospital
Corporation (Ned_Borgstrom@elcaminohospital.org)

LAFCO MEETING: August 3, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: Approval of Response to the 2010-2011 Civil Grand Jury Report
Entitled, "LAFCO's Responsibility for Special Districts: Overseen
or Overlooked?"

STAFF RECOMMENDATIONS

1. Consider and approve the attached staff response (Attachment A) to the 2010-2011 Santa Clara County Civil Grand Jury's Report of June 16, 2011 entitled "LAFCO's Responsibility for Special Districts: Overseen or Overlooked?"
2. Direct staff to forward the response to the Presiding Judge of the Santa Clara County Superior Court and the Foreperson of the 2010-2011 Civil Grand Jury.

BACKGROUND

On June 16, 2006, the Santa Clara County Civil Grand Jury released a report entitled "LAFCO's Responsibility for Special Districts: Overseen or Overlooked?" (Attachment B). The Grand Jury Report contains four findings and ten recommendations directed to LAFCO of Santa Clara County. LAFCO staff has prepared the attached response for the Commission's review and approval (see Attachment A). The response addresses these four findings and ten recommendations and also includes general comments concerning major projects completed by LAFCO, LAFCO's current workload and upcoming projects.

State law requires that no later than 90 days after submission of the report, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations of the Grand Jury. As the governing body of LAFCO, the Commission is required to submit their response no later than September 14, 2011. The response must state whether the Commission agrees with the Grand Jury's recommendation or if the Commission disagrees, and explain any disputed portions of the recommendation. In addition, the response must include a report on whether the recommendation has or will be implemented including a time-frame. An explanation should also be provided if any portion of the recommendation will not be implemented.

NEXT STEPS

Upon approval by the Commission, the response will be forwarded to the Honorable Richard J. Loftus, Jr., who is the Presiding Judge of the Santa Clara County Superior Court, and to the Foreperson of the 2010-2011 Civil Grand Jury. A copy will be kept on file with the LAFCO Clerk.

ATTACHMENTS

- Attachment A: Draft Response from LAFCO to the Santa Clara County Grand Jury regarding June 16, 2011 Grand Jury Report
- Attachment B: June 16, 2011 Santa Clara County Grand Jury Report Entitled "LAFCO's Responsibility for Special Districts: Overseen or Overlooked?"

August __, 2011

Honorable Richard J. Loftus, Jr.
Judge of the Superior Court
Hall of Justice
191 North First Street
San Jose, CA 95113

RE: 2010-2011 Santa Clara County Civil Grand Jury Report Entitled "LAFCO's Responsibility for Special Districts: Overseen or Overlooked?"

Dear Judge Loftus and Members of the 2010-2011 Civil Grand Jury:

The Local Agency Formation Commission of Santa Clara County (LAFCO) reviewed the 2010-2011 Santa Clara County Civil Grand Jury Report and at its meeting on August 3, 2011, approved this letter in response to the report and the findings and recommendations contained within it.

GENERAL COMMENTS

The state's mandate to LAFCOs to encourage orderly growth and development and logical boundaries, to prevent sprawl, to protect open space and agricultural lands and to promote efficient delivery of services along with the long standing urban development policies in Santa Clara County dictate and set the context for Santa Clara LAFCO's work. A substantial portion of LAFCO's work load involves processing applications for jurisdictional boundary changes and service extensions. Until recently, there was much interest from cities in Santa Clara County for expanding outwards. In the last ten years, LAFCO has processed a wide array of applications - including complex applications such as the San Martin incorporation proposal and has proactively provided comments on several large-scale and potentially precedent setting development proposals such as San Jose's Coyote Valley Specific Plan, Gilroy's 660 acre General Plan Amendment and four other major urban service area amendment proposals and Morgan Hill's South East Quadrant urban service area amendment proposal, among others. LAFCO also adopted critical policies such as the agricultural mitigation policies to provide guidance to applicants and to enable consistency in LAFCO's evaluation of proposals.

Apart from processing applications and performing other application related activities, during this time period, LAFCO started and successfully completed its first round of service reviews and sphere of influence updates for cities and special districts.

Additionally, LAFCO also adopted its island annexation policies and started its island annexation program - a model for LAFCOs statewide.

LAFCO has been able to complete all of this with a very modest level of staffing and limited budget by balancing its resources and by taking advantage of certain unique opportunities. Santa Clara LAFCO has had to be strategic in terms of the issues that it decides to work on. Santa Clara LAFCO has received awards from CALAFCO for its work, including the "2007 Most Effective Commission," "2009 Outstanding CALAFCO Member (Commissioner Susan Vicklund-Wilson)," and "2009 Outstanding LAFCO Clerk."

With the original passage and subsequent extension of the law streamlining the island annexation process, LAFCO made a conscious decision to work with interested cities and the County in order to facilitate the annexation of urban unincorporated islands. For decades these islands have created inefficiencies for both the city that substantially surrounds them and the County. LAFCO's efforts have led to the annexation of over 80 unincorporated islands across the County and the dissolution of the Sunol Sanitary District, a district that served several small urban unincorporated islands in San Jose. LAFCO staff worked very closely with the Sunol Sanitary District's staff in order to help the District initiate the dissolution process and to facilitate a smooth transition between the District and the City of San Jose. Annexation of the islands provides opportunities for the dissolution of special districts and without LAFCO's focus on this issue, these islands and the inefficiencies they bring (including the need for special districts) would have continued for another 50 years or longer.

Due to the current economic downturn, the level of interest for major city expansions has diminished somewhat and has allowed LAFCO to begin to turn its attention more fully to its next round of service reviews, including considering the various potential issues that were identified at a cursory level in the initial service reviews. Issues, such as those pertaining to El Camino Hospital District, have also emerged and must be addressed. Also, LAFCO has completed its Countywide Fire Service Review and is now conducting further research and analysis on potential changes in the governance structure of two fire districts that could achieve greater efficiencies in fire service. LAFCO is completing a Countywide Water Service Review which will address many subjects including transparency, effective service delivery, and the need to maintain any given district. LAFCO, through CALAFCO, has been working to support the passage of AB 912 (Gordon) which would significantly streamline the dissolution process for special districts. AB 912, much like the streamlined island annexation law, would provide a unique opportunity for LAFCO to strategically focus, where appropriate, on analyzing and initiating changes in governance of special districts to achieve greater efficiencies.

Whether it is working with cities on facilitating island annexations or working with special districts on changes in governance, each issue requires special planning, preparation, coordination and interaction with affected parties. With modest resources

LAFCO of Santa Clara County will continue to fulfill its statutory responsibilities while being strategic about the issues it chooses to focus on at any particular time.

COMMENTS REGARDING THE FINDINGS AND RECOMMENDATIONS

FINDING 1

The recommendations SCC LAFCO makes through its mandatory service review reports are intended to improve agency performance and may recommend special district dissolution when the services those districts were intended to provide are no longer provided or needed; however, SCC LAFCO stops short of enforcing the implementation of its recommendations either because they do not think this is within their purview or because they are afraid of potential litigation.

Response:

The respondent disagrees wholly with the finding.

LAFCO of Santa Clara County clearly understands that it has the authority to initiate the dissolution of a special district (please see Attachment A: page 11 of the LAFCO Staff Report dated December 15, 2010 which identifies that LAFCO may initiate the dissolution of a special district). While potential litigation is a serious concern for LAFCO and while LAFCO may evaluate and consider the various risks from potential litigation, LAFCO of Santa Clara County has not made a decision on whether or not to initiate the dissolution of a special district solely based on this issue.

Service Reviews provide LAFCO with information and preliminary analysis on potential options for government structure changes that could result in increased service efficiencies. The dissolution of a special district may be identified in the service reviews as one such potential government structure option. State law allows LAFCOs to initiate the dissolution of a special district provided LAFCO is able to make certain findings (i.e. LAFCO must establish that the dissolution will lead to similar or lower public service costs and must establish that there will be no reduction of public access or accountability for the service and financial resources). LAFCO's service reviews are not designed to be dissolution studies and may not contain this level of analysis. Therefore, LAFCO (using consultants) must prepare additional, more detailed analysis to support the necessary findings prior to taking any action to dissolve a special district. Because the dissolution of a special district is a significant non-reversible action, LAFCO will proceed only after careful consideration and a deliberate process which will evaluate whether dissolution of an agency is the answer to the issues identified and whether it is achievable. This process takes time, effort, strategy and involves collaboration and consultation with affected parties.

Take for example, the recently completed Countywide Fire Service Review adopted by LAFCO in December 2010. Following the adoption of the Fire Service Review, staff prepared a report on implementation of the government structure options identified in the Fire Service Review Report (please see Attachment A). LAFCO directed staff to

pursue further research and report back to the Commission on the options including the dissolution of Saratoga Fire Protection District and Los Altos Hills County Fire District. Staff is in the process of preparing the additional information and consulting with the affected parties.

Special district dissolutions are complex lengthy processes that could potentially be controversial and expensive. Besides the completion of specific studies and analysis required in order to initiate the dissolution of a special district, a strategic and favorable alignment of outside factors such as the local political climate, community interest/involvement, economic conditions, legislative changes and so on, may be necessary for LAFCO to pursue such changes in a successful manner.

Staff is tracking the progress of AB 912 (Gordon) through the Legislature as it would significantly streamline the dissolution process for special districts. An update on the bill as well as the additional analysis will be presented to LAFCO in the upcoming meetings for further direction from the Commission.

RECOMMENDATION 1A

SCC LAFCO should develop and adopt policy directives that ensure, through its service reviews, that SCC LAFCO proactively examines, oversees, and makes recommendations regarding whether special districts should continue to exist.

Response:

The recommendation has not yet been implemented, but will be implemented by LAFCO in the next 6 months. While LAFCO does not have a specific policy concerning this, our practice has been to consider these issues through service reviews and in follow-up research and analysis (for example, the 2010 Countywide Fire Service Review). But in the interest of transparency, we would like to implement this recommendation and adopt specific written policies.

RECOMMENDATION 1B

SCC LAFCO should adopt policies that direct LAFCO staff to exercise its enforcement authority where appropriate.

Response:

The recommendation will not be implemented because it is not reasonable. LAFCO staff has no standalone enforcement authority. LAFCO staff brings issues /violations to the Commission's attention and provides recommendations concerning potential options for addressing these issues or violations. However, LAFCO must direct staff regarding any enforcement action.

RECOMMENDATION 1C

SCC LAFCO Commission should consider adopting a policy strongly encouraging Commissioners and staff who are active in CALAFCO's legislative committee to lobby the California legislature to strengthen protections against litigation based on LAFCO actions.

Response:

This recommendation will not be implemented because it is not warranted and is not reasonable. CALAFCO is well aware of this issue, and has testified on the subject of special district consolidations before a joint hearing held by the Assembly Local Government Committee and the Assembly Accountability and Administrative Review Committee in March 2011. CALAFCO identified five opportunities for solutions that may help encourage more consolidation efforts of local agencies including protection against the threat of litigation. The Committee as well as several legislators have expressed interest in CALAFCO's recommendations and may consider potential legislation in the future. Furthermore, CALAFCO has an adopted set of legislative policies for seeking legislative changes that affect LAFCOs across the state. The LAFCO Executive Officer and a LAFCO Commissioner are both active members of CALAFCO's Legislative Committee and will work on these issues within CALAFCO's established framework and policies. CALAFCO's current work on Assembly Bill 912 (Gordon), which would allow LAFCO to order dissolution of a special district without an election under certain circumstances, is an excellent example of CALAFCO's legislative advocacy process and LAFCO's involvement.

RECOMMENDATION 1D

SCC LAFCO staff should actively oversee that agencies address and implement recommendations made in LAFCO service review reports.

Response:

The recommendation has been implemented. Where appropriate and at the direction of LAFCO, LAFCO staff is doing this. See Attachment A for proposed steps for implementation of recommendations / options identified in the Countywide Fire Service Review Report. However, LAFCO may not have oversight over certain service review recommendations. For example, the recent Countywide Fire Protection Service Review Report identified several opportunities for fire service providers to achieve greater efficiencies and economies of scale, such as consolidating emergency communications systems, consolidating stations and apparatus, and sharing fire specialized staff. LAFCO has no authority over implementing these recommendations. But LAFCO staff tracks those recommendations and provides updates to LAFCO accordingly. An excellent example of this is LAFCO staff's June 1, 2011 update to LAFCO concerning recent efforts in the northern portion of the county with regard to regionalization of fire protection services.

FINDING 2

Previous SCC LAFCO service reviews fall short of addressing subjects of transparency, the examination of effective service delivery by special districts, or addressing the continuing need to maintain any given district, which, together with the topics the reports do cover, would constitute a performance audit.

Response:

The respondent disagrees partially with the finding.

Prior to LAFCO's first round of service reviews, there was little information available concerning special districts, especially the smaller, lesser known districts. At that time neither LAFCO nor most special districts had current maps of special district boundaries. LAFCO's first round of service reviews focused more heavily on data collection and developing an accurate map of a district's boundaries and less on conducting a detailed analysis. As a result, the degree to which detailed analysis regarding transparency, effective service delivery, and the need to maintain any given district, were included in LAFCO's first round of service reviews varies. In hindsight, LAFCO's 2007 review of the El Camino Hospital District is an example of where more analysis regarding these issues should have been included.

However, since then, we have become more familiar with these issues and are using the second round of service reviews to conduct a more in-depth examination of these issues. LAFCO recently completed its second round Countywide Fire Protection Service Review and is conducting further research and analysis on these issues in relation to potential changes in the governance structure of two fire districts. LAFCO is also currently conducting a Countywide Water Service Review which will also address these issues in relation to water districts and resource conservation districts and the remaining service reviews will also address these issues in much greater detail than the previous service reviews, starting with a separate focused service review for the El Camino Hospital District (please see Attachment B).

RECOMMENDATION 2A

SCC LAFCO should continue with the proposed plan to perform a service review of special districts (other than fire and water) separate from municipalities.

Response:

The recommendation has been implemented for the El Camino Hospital District (ECHD). LAFCO has directed staff to prioritize LAFCO's review of ECHD and LAFCO staff is recommending that LAFCO conduct a separate focused service review for El Camino Hospital District including a forensic accounting of the District's revenues (please see Attachment B). Regarding the remaining special districts and cities, the recommendation requires further analysis. Within the next 6 months, LAFCO staff will develop a work plan for completing the remaining service reviews taking into

consideration changes and events that have and are occurring at the state and local level.

RECOMMENDATION 2B

SCC LAFCO should handle the next service review for special districts as a performance audit, to include an examination of effective service delivery and an assessment of the continued need for the district, if any.

Response:

The recommendation has been implemented or will be implemented in the future. As noted in our response to Finding 2, the subjects of transparency, effective service delivery, and the need to maintain any given district, will be addressed in LAFCO's upcoming El Camino Hospital District service review which will begin by January 2012. Furthermore, LAFCO's 2010 Countywide Fire Protection Service Review addressed these issues and LAFCO's remaining service reviews will address these issues in detail.

RECOMMENDATION 2C

Particularly as there appears to be no urgency to its decision with respect to El Camino Hospital District (see minutes of the April 2011 meeting), SCC LAFCO should complete a thorough El Camino Hospital District service review prior to any further Commission action on the topic.

Response:

The recommendation has been implemented. LAFCO, at its June 1, 2011 meeting, directed staff to take a closer look at El Camino Hospital District as part of the upcoming service review and to include a forensic accounting of the financing of the purchase of Los Gatos Hospital and to report back to the Commission on this issue after the service review is completed. Furthermore, staff has developed a work plan (please see Attachment B) that also includes an examination of any financing of other facilities that are outside of the District (e.g. dialysis centers), examination of effective service delivery, and an assessment of the continued need for the district.

FINDING 3

SCC LAFCO has failed to initiate action to dissolve special districts that it has already determined are obsolete, such as the Saratoga Cemetery District.

Response:

The respondent disagrees wholly with the finding.

No such determination has been made by LAFCO or in LAFCO's service reviews regarding the Saratoga Cemetery District.

RECOMMENDATION 3

Facilitated by its service review recommendations, SCC LAFCO should proceed with action to dissolve those special districts that have outlived their usefulness or that can continue to provide the same level of service without property tax revenues.

Response:

The recommendation has not yet been implemented, but will be implemented by LAFCO where appropriate. LAFCO must conduct additional analysis before it can decide whether it is appropriate to dissolve a special district and before it can make the statutorily required findings to initiate the dissolution of a special district. LAFCO's Countywide Fire Service Review indentified potential changes in governance structure that could achieve greater efficiencies in fire service. LAFCO has directed staff to take a closer look at two fire districts (i.e. Saratoga Fire Protection District and Los Altos Hills County Fire District) that contract with another fire district for fire service, in order to see if there is an opportunity. LAFCO staff is currently working on this.

FINDING 4

SCC LAFCO Commissioners receive limited training about LAFCO and are not fully educated as to their broad responsibilities to oversee LAFCO or LAFCO's responsibilities regarding special districts.

Response:

The respondent disagrees wholly with the finding.

All LAFCO commissioners receive comprehensive orientation training on LAFCO upon receiving their appointment to LAFCO. Commissioners also have opportunities to attend CALAFCO Conferences that include sessions on various aspects of LAFCO, including special districts. Many commissioners will be attending CALAFCO's upcoming Conference. Also, some commissioners have attended CALAFCO University's daylong classes on specific LAFCO issues, such as fire district consolidations and agricultural mitigation. Additionally, LAFCO staff does provide training on a "just in time" basis when an item is placed on the agenda. An excellent example of this is the December 15, 2010 staff report (please see Attachment A) and presentation to LAFCO regarding the Countywide Fire Protection Service Review and the specific options identified in the service review report for achieving fire service efficiencies. Lastly, several Bay Area LAFCO Executive Officers, including Santa Clara LAFCO, are trying to organize a CALAFCO University class regarding Hospital/Healthcare Districts that commissioners would be encouraged to attend in order to gain greater knowledge. The materials from that class could also be provided to commissioners at a LAFCO meeting.

RECOMMENDATION 4A

SCC LAFCO Commissioners should initiate means to more completely understand the full range of their authority, through independent learning and more thorough staff briefings.

Response:

The recommendation has been implemented. Please see LAFCO's response to Finding 4 for further explanation.

RECOMMENDATION 4B

SCC LAFCO staff should use Commission information packets to provide "just in time" training. Examples: present a full range of options when presenting recommendations for Commission decisions, weigh the alternative options, include information on the full range of LAFCO authority, and include broader contextual information surrounding an issue on the agenda.

Response:

The recommendation has been implemented. Please see LAFCO's response to Finding 4 for further explanation.

We appreciate the Grand Jury's interest in LAFCO of Santa Clara County. Thank you for the opportunity to respond to the findings/recommendations presented in the report.

Sincerely,

Liz Kniss, Chairperson
LAFCO of Santa Clara County

ATTACHMENTS

1. December 15, 2010 LAFCO Staff Report: 2010 Countywide Fire Service Review Final Report and Sphere of Influence Updates for Fire Districts
2. August 3, 2011 LAFCO Staff Report: Proposed Work Plan for El Camino Hospital District Service Review (*see current Agenda Item No. 5*)



**AGENDA ITEM # 6
ATTACHMENT A-1**

LAFCO Meeting: December 15, 2010
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: **2010 COUNTYWIDE FIRE SERVICE REVIEW FINAL REPORT
AND SPHERE OF INFLUENCE UPDATES FOR FIRE DISTRICTS**
Agenda Item #5

STAFF RECOMMENDATIONS

SERVICE REVIEW REPORT AND SPHERE OF INFLUENCE UPDATES

1. Accept comments and consider any further revisions to the Revised Draft 2010 Countywide Fire Service Review Report.
2. Adopt the 2010 Countywide Fire Service Review Report (Service Review Report) with revisions as necessary.
3. Adopt service review determinations for each of the fire agencies as included in the Service Review Report.
4. Adopt sphere of influence (SOI) updates along with sphere of influence determinations for the four fire districts as included in the Service Review Report:
 - a. Retract the SOI for Santa Clara County Central Fire Protection District (CCFD) as recommended and depicted in the Service Review Report
 - b. Reaffirm the existing SOI for South Santa Clara County Fire Protection District (SCFD)
 - c. Establish a zero SOI for Saratoga Fire Protection District (SFD)
 - d. Retract the SOI for Los Altos Hills County Fire District (LAHFD) as recommended and depicted in the Service Review Report.
5. Direct staff to prepare the Final Report for the 2010 Countywide Fire Service Review and to distribute the Final Report to all the affected agencies.
6. Direct staff as necessary, to pursue further research / analysis of specific options identified in the Service Review Report and report back to the commission.

CEQA ACTION

1. Determine that the 2010 Countywide Fire Service Review Report and the updates to the sphere of influence of the four special districts are categorically exempt from CEQA under §15306 Class 6 and §15061(b)(3) General Rule of the CEQA Guidelines.

BACKGROUND

SERVICE REVIEW AND SPHERE OF INFLUENCE REQUIREMENTS

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code §56000 et seq.) requires that each LAFCO conduct service reviews prior to or in conjunction with the 5-year mandated sphere of influence (SOI) updates. A service review is a comprehensive review of municipal services in a designated geographic area in order to obtain information about services, evaluate provision of services, and recommend actions when necessary, to promote the efficient provision of those services. In Santa Clara County, service reviews are intended to serve as a tool to help LAFCO, the public and other agencies better understand the public service structure and to develop information to update the spheres of influence of the 29 special districts and 15 cities in the county.

As part of the service review, LAFCO must prepare an analysis and written statement of determinations regarding each of the following six categories:

- Growth and population projections for the affected area
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies
- Financial ability of agencies to provide services
- Status of, and opportunities for, shared facilities
- Accountability for community service needs, including governmental structure and operation efficiencies
- Any other matter related to effective or efficient service delivery, as required by commission policy.

As part of the sphere of influence update, LAFCO must prepare an analysis and written statement of determinations for each agency regarding each of the following categories:

- The present and planned land uses in the area, including agricultural and open-space lands
- The present and probable need for public facilities and services in the area
- The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide
- The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency
- The nature, location, and extent of any functions or classes of services provided by existing district (applies to special districts only).

The 2010 Countywide Fire Service Review is a review of countywide fire services in Santa Clara County and includes service review determinations for each of the fire service provider agencies in the County as well as sphere of influence recommendations and determinations for the four fire districts.

SERVICE REVIEW PROCESS

In December 2009, a Technical Advisory Committee (TAC) was established to select the consultant, serve as a liaison between LAFCO and the various affected agencies, and to provide technical expertise and guidance throughout the service review process. In addition to LAFCO Commissioner Pete Constant, the members of the TAC for the 2010 Countywide Fire Protection Service Review include:

Representing the Santa Clara County/Cities Managers' Association:

- Thomas Haglund, City Administrator, City of Gilroy

Representing the Santa Clara County Fire Chiefs' Association:

- Dale Foster, Fire Chief, City of Gilroy
- Ken Waldvogel, Fire Chief, Santa Clara County Central Fire Protection District
- Steven Woodill, Fire Chief, South Santa Clara County Fire Protection District

In February 2010, LAFCO retained Management Partners Inc. to conduct the 2010 Countywide Fire Protection Service Review. Arne Croce of Management Partners is the Project Manager for this service review.

As a first step, information regarding various aspects of fire service was gathered from each of the fire service agencies/providers in the County. The consultant made available a web site for agencies to upload the requested information. This information was then tabulated and sent to the fire agencies for verification. Follow-up information and further clarification was obtained through interviews with each service provider. In order to better reflect the current financial situation of various service providers, updated budget information for the current fiscal year was obtained. Criteria that would be used in making the required service review determinations was developed and reviewed with the TAC. Information gathered was analyzed and preliminary findings/analyses were discussed with the TAC through a series of meetings. Throughout the process, the Fire Chiefs' Association, the City Managers' Association and LAFCO were provided updates on the issues and progress of the service review.

A Draft Fire Service Review Report was then prepared containing a comprehensive review of fire protection and emergency medical response services in Santa Clara County along with service review determinations for all the agencies, sphere of influence recommendations for the four fire districts and an analysis of specific fire service issues identified in the Scope of Services.

On September 7, 2010, LAFCO sent a Notice of Availability/Public Hearing Notice to all affected agencies, LAFCO Commissioners, and other interested parties announcing the release of the Draft Service Review Report for public review and comment.

LAFCO received comments from several agencies on the Draft Report. LAFCO held a public hearing on October 20, 2010, to accept and consider public comment.

The Draft Report was then revised to address the comments received and a Revised Draft Report was released on the LAFCO website on November 3, 2010. A Notice of Availability for the Revised Draft Report was provided to all affected agencies and interested parties. See Attachment A for the Notice of Availability.

LAFCO received comments on the November 3, 2010 Revised Draft Report from the following agencies and interested parties as of December 9, 2010:

- Santa Clara County Central Fire Protection District
- City of Morgan Hill
- Sunnyvale Department of Public Safety
- San Jose IAFF Local 2030
- Santa Clara County Communications

Attachment B includes the comment letters received. Attachment C includes tables listing the above comments (and those submitted previously by the Palo Alto Fire Department and the Saratoga Fire Protection District) along with a response to how these comments have been addressed in the Revised Draft Report dated December 8, 2010. A redline and clean version of the December 8, 2010 Revised Draft Report is available on the LAFCO website.

ENVIRONMENTAL ANALYSIS

The 2010 Countywide Fire Service Review Report is intended to serve as an information gathering tool to help LAFCO, the public and other agencies better understand the fire protection service structure in Santa Clara County and to develop information to update the spheres of influence of fire districts and cities in the county. The Service Review Report consists of the following items:

- Overview of fire and emergency medical services system in Santa Clara County
- Profiles of all agencies providing fire protection services in Santa Clara County
- Issues related to current fire protection services and identification of alternatives for addressing those issues including service efficiency opportunities
- Service review determinations for all fire service agencies
- Sphere of influence recommendations and determinations for the four fire districts

LAFCO is not required to initiate boundary changes based on this service review. LAFCO, local agencies or the public may subsequently use the service review together with additional research and analysis where necessary, to pursue changes in jurisdictional boundaries. Any future changes in jurisdictional boundaries will be subject to CEQA.

The Service Review Report recommends the retraction of the SOI for LAHFD and for CCFD. These recommended changes do not affect service provision as these changes

are either in response to prior annexations by cities which actions determined service provision or as a result of inability of the district to provide services to the area.

Therefore, the Service Review Report is categorically exempt from CEQA under §15306 Class 6 and §15061(b)(3) General Rule of the CEQA Guidelines, as described below:

Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities that do not result in serious or major disturbance to an environmental resource. According to the CEQA Guidelines, these may be strictly for information gathering purposes, or as part of a study leading to an action that a public agency has not yet approved, adopted, or funded.

Section 15061(b)(3) states that the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SPHERE OF INFLUENCE RECOMMENDATIONS

In 2006, the City of Los Altos annexed two unincorporated islands (i.e. Woodland Acres and Blue Oak Lane) to the City. As part of the annexations, the City also detached Woodland Acres from CCFD and detached Blue Oak Lane from LAHFD as the City took over responsibility for fire protection services in these two areas. However, these two islands remained within the SOI of each respective fire district. Given that the two islands are within the City of Los Altos and that fire protection service is now the responsibility of the City of Los Altos, it is appropriate to retract the SOI of the CCFD and LAHFD to remove the area from the districts' SOI.

Additionally, LAFCO in September 2010, completed an annexation of approximately 22,000 acres of land in the Santa Cruz Mountains to the CCFD. The vast majority of these lands were located in the District's SOI. However, lands located in the southeastern end of the District's SOI were not included in the annexation due to lack of convenient access for the District to serve those lands. The Service Review Report recommends the retraction of CCFD's SOI to exclude these lands as the District has never served these remote lands and is unable to serve these remote lands.

The Service Review Report also recommends the establishment of a zero SOI for SFD as the district is completely surrounded by CCFD and contracts with CCFD for all services. Lastly, the Service Review Report recommends that LAFCO reaffirm the current SOI for the SCFD.

IMPLEMENTATION STEPS FOR EXPLORING SERVICE EFFICIENCY OPPORTUNITIES INCLUDING CHANGES IN GOVERNANCE STRUCTURE IDENTIFIED IN THE SERVICE REVIEW REPORT

In addition to the service determinations and sphere of influence recommendations for the fire agencies, the Service Review Report also discusses four key fire service issues including:

1. Options for funding and providing service to underserved areas in the County and the status of and best practices for roles and oversight of volunteer fire companies to provide services in these areas
2. Regional fire and emergency medical service delivery for the South County Region
3. Analysis of issues and efficiencies of fire districts contracting for service with another fire district
4. Assessment of other opportunities to improve service effectiveness or efficiency for fire service providers in the County

Options and potential opportunities for addressing each of these issues are also briefly discussed in the Report. The Commission at the October 20, 2010 public hearing, directed staff to prepare information on implementation of the options identified in the Service Review Report.

ISSUE #1: SERVICE TO UNDERSERVED AREAS AND ROLE OF VOLUNTEER FIRE COMPANIES

Currently a portion of lands in the Santa Cruz Mountains and the majority of the Mount Diablo Range in Santa Clara County are located outside of the boundary of a formal fire protection service provider. For the most part, these areas are dependent on responses from SCFD, CCFD, the cities of San Jose and Milpitas, CAL FIRE and some volunteer fire companies that provide limited services to very small portions of the underserved areas. Given the travel distance from adjacent public fire departments, response times to these areas are generally very long (i.e. in excess of 20 or 30 minutes for fire \ emergency medical response). The response to calls by public fire departments to these areas has two negative impacts on these agencies. First, with extended call response times, apparatus that is relied upon for service delivery within the jurisdiction's boundaries is unavailable for deployment. Second, these agencies receive no compensation for the cost of response.

The Service Review Report identifies three options for addressing this issue: (1) create a new fire district and/or expand an existing fire district; (2) create a joint powers authority; and (3) create a county service area.

Table 1 summarizes the options and identifies the key steps or analysis necessary to implement the options and indicates whether LAFCO action is required to implement the option.

TABLE 1: SERVICE TO UNDERSERVED AREAS AND ROLE OF VOLUNTEER FIRE COMPANIES

Option	What are key steps / analysis required prior to initiating action?	Agencies involved in implementing key steps /analysis		Does the action require a LAFCO application and approval?	Who may initiate a LAFCO application?
		Key agency	Other agencies		
Create a new fire district or expand existing fire district	<ul style="list-style-type: none"> • Develop a work plan • Determine boundaries for new district • Establish type/ level of service required • Determine funds required for service level • Identify potential source of funds • Identify service provider and governing body • Identify and establish best practices and policies for volunteer firefighter operations 	County	CCFD SCFD Cal FIRE San Jose Milpitas	yes	County CCFD SCFD Petition of property owners or registered voters within the proposed boundary of the fire district
Create a Joint Powers Authority	<ul style="list-style-type: none"> • Develop a work plan • Determine boundaries for new district • Establish type/ level of service required • Determine funds required for service level • Identify potential source of funds • Identify service provider and governing body • Identify and establish best practices and policies for volunteer firefighter operations 	County	CCFD SCFD CalFIRE San Jose Milpitas	no	NA
Create a County Service Area (CSA)	<ul style="list-style-type: none"> • Develop a work plan • Determine boundaries for new district • Establish type/ level of service required • Determine funds required for service level • Identify potential source of funds • Identify service provider and governing body • Identify and establish best practices and policies for volunteer firefighter operations 	County	CCFD SCFD CalFIRE San Jose Milpitas	yes	County Petition of property owners or registered voters within the proposed boundary of the fire district

There are many issues that must be considered and resolved before a preferred option can be identified. The following provides a brief overview of some of the many questions and issues that must be considered fully before moving forward.

1. Develop a Work Plan

- a. What is the scope and timeline for the study? Who would lead / manage the study?
- b. Should an advisory committee be formed to provide direction? What should be the composition of the committee? Should it be composed of staff from various departments and agencies or of members of governing bodies?

2. Determine Types and Levels of Service

- a. How should a needs assessment for fire service within the underserved areas be prepared? What type and level of services are required in the different parts of the underserved areas?
- b. Should a full array of fire protection services (structural & wild-land) and emergency medical response be provided to the entire underserved area or some variation in type of services for specific areas served, given some of the lands are designated state responsibility areas?
- c. What level of service and response times are feasible / acceptable and to what parts of the underserved area?

3. Determine Boundaries

- a. Should the underserved area be included in one district or in two / more districts given the geography of the area (i.e. underserved area includes lands in the Santa Cruz Mountains and lands in the Mount Diablo Range), and given the amount and type of existing development in the area, the potential for additional development to occur in the area, and the area's adjacency to different existing service providers?

4. Determine Funds Required for the Identified Level of Service

- a. How much will it cost to provide the preferred level of service to the underserved area and what is the costs breakdown by service type and service area?

5. Determine Potential Funding Sources

- a. What is the likelihood of agencies diverting existing funds to provide fire protection and emergency medical services to the underserved area? How much existing funds could be diverted?
- b. Can a sufficient amount of revenues (in the form of taxes or fees or assessments) be generated from the area to cover the cost of providing the preferred level of service to the area, given the number of properties involved, amount and type of development that currently exists in the area and given the potential for development that is likely to occur in the area based on the countywide growth management policies?

- c. What is the likelihood of voters approving a special tax, assessment, or supporting the establishment of fees to pay for some or all of the new services?
 - d. What portion of property tax revenues would be transferred to fire agencies upon annexation of underserved areas?
- 6. Determine Service Provider(s) and Governing Body**
- a. What agency or agencies are the logical service provider(s) given the current array of service providers and their adjacency to the underserved area?
 - b. What kind of a governance structure should be established?
 - c. What type of process is required to establish the governance structure?
- 7. Establish Policies and Best Practices for Volunteer Fire Company Operations**
- a. What is the role of volunteer firefighter companies in the underserved area?
 - b. Are more volunteer firefighter companies needed and if so in what area(s)?
 - c. Who would provide training, equipment and workers compensation coverage for the volunteer fire companies and how would they be funded? Would there be a liability to the agencies for the actions of the volunteer fire companies?
 - d. Who would provide any oversight for the volunteer fire companies?

This issue has now been a subject of two service review reports and repeatedly comes up as a major concern for fire service providers in this County. Pursuit of solutions to this long standing issue will require support and direction from the County of Santa Clara as it is the key agency with jurisdiction over these underserved lands. As the very first step, it is therefore necessary to seek the County's position on this issue.

ISSUE #2: REGIONAL FIRE AND EMERGENCY MEDICAL SERVICE DELIVERY OPTIONS FOR THE SOUTH COUNTY REGION

The cities of Morgan Hill and Gilroy and adjacent unincorporated areas constitute the "South County." Three fire/emergency services departments currently serve different parts of this area:

- Santa Clara County Central Fire Protection District serves the City of Morgan Hill by contract.
- The Gilroy Fire Department serves the City of Gilroy.
- South Santa Clara County Fire Protection District, through a contract with CAL FIRE, serves some unincorporated areas in South County.

The service agencies have different staff practices, response standards and apparatus deployment policies. There is a high degree of interdependence between the agencies due to the large geographic area and range of suburban and rural deployment. This interdependence is evident in the high degree of mutual/automatic aid that occurs between the agencies. These agencies have established a multi-agency group and have been working together since May 2009 to explore the potential benefits of regionalization to achieve an improved system with lower costs. Over the past year, the

group has developed a general consensus on the current state of fire protection services in the South County region and a forecast for the region.

On November 10, 2010 the multi-agency group discussed a range of options to achieve regionalization of fire/EMS: from opportunities for interagency collaboration within the existing framework to options for consolidating fire and EMS services in South County. The group also prepared a report that includes a preliminary analysis of the options by addressing the issues of governance, management, and financing.

The multi-agency group agreed that the individual governing bodies should independently discuss the conditions in which each agency is interested in pursuing regionalization. The goal is for each agency to provide its conditions by early February 2011 so that the group can meet again in February or March to review the information and determine the study's next steps. LAFCO staff will continue to follow the group's efforts as they move forward and provide updates to the Commission.

ISSUE #3: ISSUES AND EFFICIENCIES OF FIRE DISTRICTS CONTRACTING FOR SERVICE WITH ANOTHER FIRE DISTRICT

The SFD is an independent special district governed by a three-member elected board. The District covers a portion of the City of Saratoga and the adjacent unincorporated area. With CCFD's recent annexation of unincorporated lands in the area surrounding SFD, CCFD now completely surrounds the SFD. In 2008, following the success of a management agreement between CCFD and SFD, the two agencies entered into a full-service contract, whereby SFD employees were transferred to CCFD. Although almost all of SFD's budget is for the service contract with CCFD, the District remains an independent district with its board. Both the 2004 Countywide Fire Service Review and the current Service Review Report have indicated that other governance options may be more efficient given the status of the SFD.

The LAHFD was created as a dependent district of Santa Clara County and the County Board of Supervisors appointed a seven-member commission that is responsible for the oversight of fire protection activities within the District. Up until 1996, the LAHFD contracted with the City of Los Altos for fire services. At which time, the LAHFD and the City of Los Altos each separately began to contract with CCFD for fire and emergency services. LAHFD provides services outside of the CCFD contract including brush clearance and hydrant maintenance and contracts for a fire consultant and for clerical support. Both the 2004 Countywide Fire Service Review and the current Service Review Report have indicated that other governance options may be more efficient for the LAHFD.

Options	What are key steps / analysis required prior to initiating action?	Agencies involved in implementing key steps /analysis		Does the action require a LAFCO application and approval?	Who may initiate a LAFCO application?
		Key agency	Other agencies		
Dissolve SFD and annex lands to CCFD	<ul style="list-style-type: none"> • Determine the appropriate LAFCO process/processes for such proceedings • Conduct more detailed analysis to determine cost savings and any potential fiscal impacts • Determine any potential impacts to current service levels in the community 	LAFCO	SFD CCFD	yes	LAFCO SFD Petition of property owners or registered voters within the area
Dissolve LAHFD and annex lands to CCFD	<ul style="list-style-type: none"> • Determine the appropriate LAFCO process/processes for such proceedings • Conduct more detailed analysis to determine cost savings and any potential fiscal impacts • Determine any potential impacts to current service levels in the community 	LAFCO	LAHFD CCFD	yes	LAFCO LAHPD Petition of property owners or registered voters within the area

The following provides an overview of the type of issues that must be considered prior to initiating action for the above listed options:

1. Determine Appropriate LAFCO Process

- a. What is the appropriate LAFCO process for achieving the change in governance – is it simply a dissolution of the fire district with CCFD as successor agency, or does the area have to be annexed into CCFD following the dissolution?
- b. What is the process or method for transfer of property tax following a change in organization?

2. Determine Cost Savings and any Fiscal Impacts

- a. How much savings can be achieved through a change in governance?
- b. Would change in governance impact the total amount of revenues available for fire protection in the community?
- c. What are the fiscal impacts to the CCFD as a result of the governance change?
- d. How would the vast amount of reserves held by LAHFD be addressed?

3. Determine any Impacts to Current Service Levels

- a. In the case of SFD, how would the Early Warning Alert System (EWAS) be implemented and funded?
- b. Would the special services such as hydrant maintenance and brush clearance currently provided by LAHFD be maintained / continued?
- c. How would a change in governance impact the local community with regard to participation and accountability?

Staff recommends that the Commission direct staff to work with the involved agencies in order to answer these questions and report back to the Commission.

ISSUE #4: ASSESSMENT OF OTHER OPPORTUNITIES TO IMPROVE SERVICE EFFECTIVENESS OR EFFICIENCY FOR FIRE SERVICE PROVIDERS IN THE COUNTY

The Service Review Report discusses additional potential opportunities for economies and efficiencies in the fire and emergency service delivery system including in the areas of:

- Consolidation of Communications
- Consolidation of Stations and Apparatus
- Competitive Service Contracting
- Strategic Paramedic Placement
- Training for Fire Personnel
- Fire Prevention Services
- Apparatus Maintenance
- Apparatus Purchasing
- Other Service Delivery Changes

Further evaluation of these areas and specific options is required to assess service and financial impacts. For the most part, these opportunities involve changes to the operations or administration of the fire service delivery system and do not require changes in jurisdictional boundaries or governance and therefore will not require a LAFCO application /action. Any of the involved agencies may initiate discussion and further pursue these options.

NEXT STEPS

Upon adoption of the Final Service Review Report by the Commission, staff will make any necessary or directed changes to the Report. The Final Service Review Report will be distributed to all the affected agencies and posted on the LAFCO website. If directed, staff will pursue research / further analysis of the identified issues and report back to the commission.

ATTACHMENTS

- Attachment A: Notice of Availability for the Revised Draft Report dated November 3, 2010 and public hearing notice of the December 15, 2010 LAFCO Public Hearing
- Attachment B: Comment letters received prior to December 8, 2010 on the Revised Draft Service Review dated November 3, 2010. Note:
- Attachment C: Tables listing each of the comments received prior to December 8, 2010 and proposed responses to the comments. The tables also include comments from SFD and the City of Palo Alto since they were not addressed prior to the October LAFCO hearing.

Note: The redlined and clean version of the Revised Draft Countywide Fire Service Review Report dated December 8, 2010 is available on the LAFCO website. www.santaclara.lafco.ca.gov



COPY

June 16, 2011

Honorable Liz Kniss
Chairperson
LAFCO of Santa Clara County
70 West Hedding Street
11th Floor, East Wing
San Jose, CA 95110

Dear Chairperson Kniss and LAFCO Commissioners:

The 2010-2011 Santa Clara County Civil Grand Jury is transmitting to you its Final Report, **LAFCO's Responsibility for Special Districts: Overseen or Overlooked?**

California Penal Code § 933(c) requires that a governing body of the particular public agency or department which has been the subject of a Grand Jury final report shall respond within 90 days to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. California Penal Code § 933.05 contains guidelines for responses to Grand Jury findings and recommendations and is attached to this letter.

PLEASE NOTE:

1. As stated in Penal Code § 933.05(a), attached, you are required to "Agree" or "Disagree" with each APPLICABLE Finding(s) 1, 2, 3 & 4. *If you disagree, in whole or part, you must include an explanation of the reasons you disagree.*
2. As stated in Penal Code § 933.05(b), attached, you are required to respond to each APPLICABLE Recommendation(s) 1A, 1B, 1C, 1D, 2A, 2B, 2C, 3, 4A & 4B, *with one of four possible actions.*

Your comments are due in the office of the Honorable Richard J. Loftus, Jr., Presiding Judge, Santa Clara County Superior Court, 191 North First Street, San Jose, CA 95113, no later than **Monday, September 19, 2011.**

Copies of all responses shall be placed on file with the Clerk of the Court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Helene I. Popenhager', written in a cursive style.

HELENE I. POPENHAGER
Foreperson
2010-2011 Civil Grand Jury

HIP:dsa
Enclosures (2)

cc: Ms. Neelima Palacherla, Executive Officer, LAFCO of Santa Clara County

California Penal Code Section 933.05, in relevant part:

933.05. (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.



**2010-2011 SANTA CLARA COUNTY
CIVIL GRAND JURY REPORT**

(ENDORSED)
FILED

JUN 16 2011

DAVID H. YAMASAKI
Chief Executive Officer/Clerk,
Superior Court of CA County of Santa Clara
BY D. ALDYCKI DEPUTY

**LAFCO'S RESPONSIBILITY FOR SPECIAL DISTRICTS:
OVERSEEN OR OVERLOOKED?**

Summary

The state-mandated Local Agency Formation Commission (LAFCO) is a little-known agency with important oversight function for cities and special districts. The California law creating LAFCO describes its purpose as "the discouragement of urban sprawl" and "the orderly formation and development of local agencies."¹ Santa Clara County (SCC) LAFCO deals with land use issues, primarily defining the "sphere of influence" SCC cities hold beyond their borders. But LAFCO is also responsible for overseeing special districts, and SCC's LAFCO has purview over 28 special districts. In this role, LAFCO is responsible in part for conducting mandatory reviews to ensure services provided by special districts, such as water supply and fire protection, are effectively delivered to the public. LAFCO is also responsible for ensuring that districts do not over-step their boundaries without prior approval, and for recommending dissolution of any district that no longer serves its intended purpose.

The Grand Jury found that SCC LAFCO takes a passive approach in its oversight of special districts. Further, SCC LAFCO Commissioners are not fulfilling their oversight duties to taxpayers by adopting a broader view of their policy-making authority. Both SCC LAFCO and the SCC LAFCO Commission should take the initiative in analyzing whether special districts warrant continued taxpayer funding or have fulfilled their initial purpose such that tax monies may be better spent elsewhere.

Background

LAFCO is a state-mandated local agency created by California law to oversee the boundaries of cities and special districts and to evaluate delivery of the services that special districts provide. Most special districts were formed decades ago, when SCC was growing in population faster than services could be established to support the public. The purpose of these special districts is to deliver a specific service, paid for by taxpayer monies. Special districts receive funding from property tax, and some augment these monies with revenue from fees for services delivered.

¹ California Government Code Section 56301. Additional state law relating to LAFCOs may be found in California Government Code Section 56000 et. seq..

First established by California in 1963, LAFCOs currently operate in every county in California under The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This Act replaced a similar 1985 law, and strengthened LAFCO's role and powers to prevent urban sprawl and protect open space, made LAFCO more independent in representation and operation, and more accountable and visible to the public. The full text of the Act can be found on the LAFCO website: http://www.santaclara.lafco.ca.gov/pdf-files/2010_CKH_Guide.pdf.

Each county LAFCO operates independently. However, CALAFCO, a nonprofit association of LAFCOs in the state, provides a structure for sharing information among various LAFCOs. CALAFCO coordinates state-wide LAFCO activities, and represents LAFCOs before the State Legislature and other governmental entities, lobbying for changes to California law which may strengthen LAFCOs further, for example by shielding local LAFCOs from litigation. For more information about CALAFCO, see its website: <http://www.calafco.org/>.

SCC LAFCO is a modest operation, with a staff consisting of an Executive Officer, an Analyst, and a Clerk. SCC LAFCO contracts out for assistance in preparing its mandatory service area reviews and also contracts with outside counsel and a county surveyor as necessary.

Commissioners are appointed to oversee and direct the work of the SCC LAFCO staff. The SCC LAFCO Commission is comprised of five Commissioners, each serving a four-year term:

- Two County Supervisors appointed by the Board of Supervisors
- One Council Member from the City of San Jose appointed by the City Council
- One Council Member from any of the other cities appointed by the Cities Selection Committee
- One Public Member appointed by the other four members of the Commission.

Methodology

The Grand Jury interviewed SCC LAFCO staff and all sitting SCC LAFCO Commissioners. It also reviewed documents and websites as listed throughout this report and in Appendix A, and attended an SCC LAFCO public meeting in April 2011. As a case study to better understand SCC LAFCO's interaction with special districts, the Grand Jury looked more closely at the El Camino Hospital District, the only hospital special district within the County, and its purchase of Community Hospital of Los Gatos (CHLG).

Discussion

SCC LAFCO is responsible for overseeing the boundaries of cities and unincorporated areas within the County, as well as 28 special districts in the County that were established to provide a specific service to a boundary-defined population. Every special district and incorporated municipality has an established boundary, and receives a portion of property tax revenues from landowners within that boundary. Extending beyond city and district boundaries is an Urban Service Area, and beyond that, an identified Sphere of Influence (SOI). Tax revenues are based on property taxes collected within the approved boundary. If a district or municipality wants to expand its boundaries, it must first petition SCC LAFCO for an expanded SOI. Once the new SOI is approved, there is a defined process for annexing the SOI into the district or municipality's boundaries. Once annexed, a portion of property tax from the landowners in the newly annexed area is redirected from County coffers to the special district. Because Proposition 13 placed a 1% cap on base property tax rates, an expanded boundary will result in the redistribution of property tax monies. This tax consequence is one of the reasons SCC LAFCO is rigorous in determining whether any request for expansion is warranted.

For the most part, SCC LAFCO acts as a reactive rather than proactive agency. Items are put on the agenda only when a district or municipality (or, rarely, an individual) files an application for a specific activity, such as annexation, reorganization, or boundary change. Costs incurred by SCC LAFCO in processing the request, such as surveying and filing paperwork, are recovered through application fees. Most SCC LAFCO activities relate to city boundaries and requests for annexation or changes to an agency's SOI. Indeed, when discussing the purpose of SCC LAFCO, all Commissioners emphasized land use policies and annexation of urban islands; none mentioned their responsibilities for supervision of special districts.

In addition to responding to the fee-based application process, each county LAFCO develops its own land use policies, such as Santa Clara County's 2007 Agricultural Mitigation Policy. Each county LAFCO is also required by law to conduct mandatory service reviews of the cities and special districts within its jurisdiction.

Mandatory Service Reviews

State law requires each LAFCO to perform a service review of all agencies within its purview once every five years. County LAFCOs accomplish service reviews by adopting a master schedule to complete some reviews each year, ensuring all agencies are reviewed at least once every five years. SCC LAFCO has started its second round of service reviews, with its latest *Countywide Fire Service Review* report adopted in December 2010. The Water service review is now underway. Service reviews of remaining special districts and municipalities will follow.

SCC LAFCO staff hires consultants to perform the required service reviews. Draft reports are presented to the public for review and subsequently modified as warranted. Staff then places these service reviews on the SCC LAFCO Commission agenda with a recommendation that the final report be adopted. The SCC LAFCO Commission then votes on that recommendation. Adopted reports are published on the LAFCO website. In its first round of Service Reviews, SCC LAFCO lumped municipalities and special districts other than Fire and Water, into two service reviews: *South Central Santa Clara County Service Review and Sphere of Influence Recommendations*, completed August 2006, and *Northwest Santa Clara County Service Review and Sphere of Influence Recommendations*, completed October 2007. The Grand Jury was told that in the remaining second-round reviews, SCC LAFCO staff is considering grouping municipalities into one service review and special districts into another. This would be a positive change in approach, as the issues surrounding special districts are somewhat different than those for municipalities.

Service reviews must meet the criteria outlined in Section 56430 of the California Government Code. SCC LAFCO's past service reviews appear to be rather formulaic: data rich and including recommendations on changes to the SOI boundaries, opportunities for sharing facilities, and cost savings. However, the code also requires that evaluations include "Accountability for community service needs, including governmental structure and operational efficiencies" and also "Any other matter related to effective or efficient service delivery, as required by commission policy." Clearly, there is some latitude for more in-depth service reviews. SCC LAFCO staff states that they do not do "performance audits," which study how effectively an agency delivers its service, both from a management and financial standpoint. Although the statute may not specifically state a "performance audit" is required, the statute does require some analysis of the community service needs, operational efficiencies, and potentially the effective or efficient service delivery, which essentially constitutes a performance audit.

Special Districts

The SCC LAFCO website, <http://www.santaclara.lafco.ca.gov/specialdistricts.html>, lists the 28 special districts in Santa Clara County under SCC LAFCO purview and provides basic information on each. The list of special districts is also reproduced in Appendix B.

Special districts are "agencies of the state for the local performance of governmental or proprietary functions within limited boundaries" (Government Code Section 16271 et. seq.). Special districts have a combination of characteristics:

- Single function (e.g., sewer service) or multi-function (e.g., water sales and creek management)
- Enterprise (i.e., fee supported) or non-enterprise (i.e., tax supported).

All special districts are governed by boards. A dependent special district's board is the city council or County Board of Supervisors (BOS). Independent boards are elected by the public residing within a district, or are appointed by the BOS depending on the board's purpose or the geographic area the district serves. These boards are of interest to the Grand Jury because independent special district boards are just that: self governed. While they are subject to public scrutiny, that may be very minimal. Taxpayers may have very little knowledge and understanding of special districts, the district's service obligations to the taxpayers, and little awareness of how their tax monies are spent. Special district boards, which receive and disburse property tax monies, are accountable to taxpayers; they are also accountable to LAFCO.

Property Tax Apportionment to Special Districts

SCC, as well as the municipalities and special districts within SCC, divide the property tax collected from landowners. In 1978, California passed Proposition 13, which reduced the existing property tax to a combined 1% of assessed values, and one year later the State passed AB 8, which defined how that 1% property tax revenue was to be divided among existing agencies: county, cities, county libraries, schools, and special districts. A complicated formula determines the apportionment factor (to ten decimal places) that each entitled entity will receive of the property tax income. Each county determines the apportionment factors, and is subject to audits by the State Controller's Office.

Special districts that were established before 1978 continue to receive their share of the property tax under a single line item listed as "1% MAXIMUM TAX LEVY" on the property owner's tax bill. There is no notation identifying which agencies receive the money. And most taxpayers probably have no idea that their tax dollars fund special districts and will fund them *in perpetuity* unless the district is dissolved. For this reason, LAFCO's oversight role is critical to ensuring special districts continue to serve their intended purpose. See Appendix C for the apportionment factors and estimated 2011 allocations for SCC special districts.

Dissolution of Districts

Surely if LAFCO oversees the formation of agencies, without the companion responsibility for dissolving them when the need for a given agency no longer exists, then they are performing only half of their job. So the Grand Jury asks, "When does a special district plant the flag of victory and call it a success?" If a special district has met the need for which it was established, or if it is now self sustainable without tax revenue, then continuing to send tax monies to special districts is wasteful at best, particularly at a time when agency budgets are being drastically cut.

Dissolution of a district is done through a well-defined LAFCO process and may be initiated by the district itself, by petition of voters in the district, by another district or by LAFCO. Sunol Sanitary District initiated its own dissolution after its service areas were annexed into San Jose and there were no longer any customers within its boundaries. That dissolution was final in 2010. However, Sunol was an exception. The fact is districts are not motivated to request dissolution even if the need for service no longer exists. Because they can continue to collect tax monies and use them or hold them in reserve, largely unrestricted, districts can always find something to spend money on. Since many special districts “fly under the radar,” public initiation of dissolution is unlikely simply because the public may not know the district exists. One district initiating dissolution of another is politically unlikely. Therefore, it falls to LAFCO to be proactive in initiating dissolution when warranted.

Some special districts actually contract out to other special districts to deliver the service they were created to provide. This is the case in both Saratoga and Los Altos Hills. For example, special districts in those cities (Saratoga Fire Protection District and Los Altos Hills County Fire District) receive approximately the same amount of tax revenue to provide fire services to their community but each district contracts out to Santa Clara County Central Fire District (CCFD), also a special district. The amounts paid to CCFD under the contracts are less than the taxes received, so Saratoga Fire Protection District and Los Altos Hills County Fire District bank the remainder in reserve accounts. Los Altos Hills County Fire District receives in tax monies nearly two times what they pay to CCFD. The balance is banked in a reserve account that is now close to \$18M. Los Altos Hills County Fire District will continue to receive tax monies unabated, in perpetuity. Unless, that is, LAFCO puts more teeth into its recommendations to consolidate special fire districts (see LAFCO’s December 2010 report titled *Countywide Fire Service Review*, available at LAFCO’s website).

As explained above, special districts in existence before 1978 continue to collect tax monies *in perpetuity*. But some districts may not need the additional monies or may no longer provide the service for which it was originally formed. If a special district is financially stable, well run, and has sufficient income from sources other than taxes, such as in the case of El Camino Hospital District as discussed below, then it stands to reason the service can continue to be provided equally well without the tax revenue on a nonprofit or for profit basis.

Dissolution of special districts is not an easy or speedy process. The state legislature has recognized this and is currently pursuing an effort to make dissolution less onerous. Notwithstanding the difficulties in district dissolution, the Grand Jury believes that, in the current economic climate, certain special districts may warrant dissolution, enabling the former district’s 1% property tax allotment to be reallocated to other more critical needs within the county. The Grand Jury found no evidence that SCC LAFCO has taken action to dissolve districts no longer needed—even those it has identified as a candidate for dissolution, such as the Saratoga Cemetery District.

LAFCO Enforcement Powers

The Grand Jury was struck by SCC LAFCO's apparent belief that the principal purpose of generating mandatory service area reviews is to comply with state mandates, and nothing more. But according to interviewees knowledgeable in LAFCO law, local LAFCOs can do far more. For example, SCC LAFCO has the authority to ensure that recommendations made in its mandatory service reviews are implemented. They may do this, for instance, by widely publicizing its findings, following up with agencies and districts, and placing recommendations on its agendas to monitor progress. The Grand Jury could see no evidence that SCC LAFCO has required responses to its service review recommendations, or that it has gone back to the special districts to follow-up on implementation efforts. In fact one interviewee said SCC LAFCO "wouldn't go there" for fear of being sued, and "LAFCO doesn't have the resources to go into litigation." But, if SCC LAFCO chooses to not look at these issues, then who will?

If the threat of a lawsuit hampers SCC LAFCO's willingness to press an issue with a public agency, then SCC LAFCO is effectively choosing to forego the tougher end of its responsibilities of oversight and monitoring. This is particularly troubling when, in some circumstances, litigation may serve to resolve controversial issues, such that they need not be revisited time and again. It would seem a policy directive from the SCC LAFCO Commission to require such active follow-up would be in order. Yet the Commission's self-defined, narrow focus on land use may mean Commissioners are not aware of or are untrained as to LAFCO's oversight power and its responsibility with respect to special districts.

The Grand Jury found that the Commissioners do receive training from SCC LAFCO staff when newly appointed to the Commission. However, the training appears to focus on what LAFCO is, and not necessarily on the larger picture of what LAFCO can do. To truly drive SCC LAFCO policies, Commissioners need to understand the powers expressly given or expressly denied to LAFCO, as well as the range of actions that Commissioners could direct SCC LAFCO to undertake for the betterment of the County. Additional training may occur on a "just in time" basis when an item is placed on the agenda, whereby staff fully informs the Commission of the issue, LAFCO's full range of options to proceed, and the broader context surrounding the issue.

Until Commissioners are better trained, it is unlikely they will make any policy decisions to pursue proactive oversight and monitoring of special districts or to aggressively bring about implementation of SCC LAFCO recommendations. This is unfortunate because SCC LAFCO is the only agency that has jurisdiction over special districts. In fact, those special districts that do not publicly elect board members are often not even known to the public as tax revenue agencies. It is within the purview of LAFCO to treat mandatory service reviews as performance audits, and to hold public agencies accountable to implement recommendations they contain.

Case Study: El Camino Hospital's Purchase of CHLG

In California, there are 85 Healthcare Districts that operate as special districts under the Hospital District Act (Section 32000 et seq., Health and Safety Code). El Camino Hospital District (District) is the only such district within the County. Hospital Districts are enterprise districts, and income generated by payments for services rendered is in addition to income from property tax. By the nature of their services, hospital districts are more likely than other enterprise districts to serve people outside their boundaries or even outside their SOI.

The District established the El Camino Hospital non-profit corporation (Corporation), and the District is the Corporation's sole member. In 2009, the Corporation purchased Community Hospital Los Gatos (CHLG) and now operates hospitals on two campuses: Mountain View and Los Gatos. The CHLG facility is clearly outside the district's boundaries and SOI. The Corporation purchased CHLG without consulting LAFCO, taking the position that LAFCO does not have authority over this expansion because the Corporation—not the District—made the purchase. However, bypassing LAFCO without even a courtesy memo looks to the Grand Jury as though the District was intent on avoiding rather than engaging LAFCO.

The Grand Jury makes no comment on whether the District was right or wrong, let alone legal or illegal, in purchasing CHLG. Rather, the Grand Jury focused on how SCC LAFCO handled the special district issues raised by the purchase, which SCC LAFCO is just now addressing, more than a year after it was completed.

Although SCC LAFCO was aware of the purchase in 2009, it was not until this year's Grand Jury investigation that SCC LAFCO considered taking action. It initially put the District's issue on the February LAFCO Commission agenda, recommending one course of action: to expand the SOI of the District to include areas served by CHLG, such as Los Gatos, Saratoga and Campbell. This recommendation appeared to the Grand Jury to be an attempt by SCC LAFCO staff to retroactively fix the situation by steering the Commission toward a single course of action, which appears to be the course of least resistance. But this approach clearly skirts SCC LAFCO responsibility to assess the need for expanded service in the Los Gatos area. Further, if the District was in the wrong, then expanding its SOI has the potential to unjustly enrich the District through the infusion of additional tax monies should the SOI expansion be followed by a request for annexation. Therefore, the Grand Jury does not find that retroactively increasing the District's SOI is appropriate as this would essentially reward the District for not seeking SCC LAFCO approval, which would set a poor precedent for other special districts.

There are many "ifs" in the above discussion. But certainly SCC LAFCO staff appeared ready to steer the Commission to a decision without the benefit of a full briefing on the alternatives. Surely the SCC LAFCO Commission, particularly as a relatively uninformed body with respect to its special district oversight powers, deserves the opportunity to be educated about its responsibilities while specifically focusing on the El Camino Hospital issue. This would mean considering the full range of alternatives at SCC LAFCO's disposal – which include denying the expanded SOI, dissolving the hospital district, or doing nothing.

The El Camino Hospital issue is quite complicated. Because there are so many factors to consider, because special laws govern Hospital Districts, and because there is no urgency to the issue, as confirmed by staff at the April Commission meeting, the Grand Jury strongly encourages SCC LAFCO to take the time to cover El Camino Hospital District in its next round of service area reviews, ensuring that a full analysis will inform any future decision by the SCC LAFCO Commission.

Conclusions

The Grand Jury found that SCC LAFCO, although one of the more active in the state, does not proactively engage in the oversight or evaluation of special districts, but rather seems to do only a part of what is specifically required by law, focusing primarily on annexation of unincorporated islands by municipalities. Little attention is devoted to special district performance audits, even though the statute requires some analysis of the community service needs, operational efficiencies, and potentially the effective or efficient service delivery, which essentially constitutes a performance audit. No efforts to see that SCC LAFCO recommendations are implemented appear to have been undertaken. The Grand Jury thinks that SCC LAFCO could more effectively fulfill its mandate by adopting policies directed to improve delivery of services or to dissolve special districts when they are no longer needed. Its planned service review of special districts, most likely to be completed in 2012, presents an opportunity for SCC LAFCO to treat the service review as a performance audit. This focus on analyzing whether taxpayer monies are effectively spent is a responsibility that Commission policy should direct SCC LAFCO, as a custodian of taxpayer dollars, to actively pursue. Furthermore, SCC LAFCO should aggressively follow up with special districts and agencies to see that recommendations made in service reviews are implemented. At the very least, it should request a written response from the agencies reviewed.

If the threat of a lawsuit impedes SCC LAFCO from fulfilling the full range of responsibilities it has to taxpayers, then lobbying for legislative change to strengthen SCC LAFCO authority should be pursued. County LAFCOs cannot serve as effective watchdogs if they have no teeth. SCC LAFCO staff and its Commissioners are very active in the CALAFCO association. This association offers an avenue for affecting legislative change. Such lobbying efforts can also be encouraged and sanctioned by SCC LAFCO Commission policy.

SCC LAFCO staff can better train Commissioners on the scope of their LAFCO responsibilities and powers, as by providing information on the full range of available options in packets accompanying meeting agendas. However, the Grand Jury feels that the Commissioners themselves need to take the initiative to learn more about what LAFCO can and cannot do under current law. The Commission also needs to exercise its full authority in representing the public through oversight of special districts subject to LAFCO purview. Further, while the SCC LAFCO Commissioners are fortunate to have a responsible and able staff to supply them with meeting topics and information packets, the Grand Jury concludes that the Commissioners have failed to establish any meaningful SCC LAFCO policy with regard to special districts. Backed by a policy requiring performance audits, SCC LAFCO can demonstrate leadership in demanding improved special district performance, thus helping to improve transparency around whether special districts spend taxpayer monies effectively.

Findings and Recommendations

Finding 1

The recommendations SCC LAFCO makes through its mandatory service review reports are intended to improve agency performance and may recommend special district dissolution when the services those districts were intended to provide are no longer provided or needed; however, SCC LAFCO stops short of enforcing the implementation of its recommendations either because they do not think this is within their purview or because they are afraid of potential litigation.

Recommendation 1A

SCC LAFCO should develop and adopt policy directives that ensure, through its service reviews, that SCC LAFCO proactively examines, oversees, and makes recommendations regarding whether special districts should continue to exist.

Recommendation 1B

SCC LAFCO should adopt policies that direct LAFCO staff to exercise its enforcement authority where appropriate.

Recommendation 1C

SCC LAFCO Commission should consider adopting a policy strongly encouraging Commissioners and staff who are active in CALAFCO's legislative committee to lobby the California legislature to strengthen protections against litigation based on LAFCO actions.

Recommendation 1D

SCC LAFCO staff should actively oversee that agencies address and implement recommendations made in LAFCO service review reports.

Finding 2

Previous SCC LAFCO service reviews fall short of addressing subjects of transparency, the examination of effective service delivery by special districts, or addressing the continuing need to maintain any given district, which, together with the topics the reports do cover, would constitute a performance audit.

Recommendation 2A

SCC LAFCO should continue with the proposed plan to perform a service review of special districts (other than fire and water) separate from municipalities.

Recommendation 2B

SCC LAFCO should handle the next service review for special districts as a performance audit, to include an examination of effective service delivery and an assessment of the continued need for the district, if any.

Recommendation 2C

Particularly as there appears to be no urgency to its decision with respect to El Camino Hospital District (see minutes of the April 2011 meeting), SCC LAFCO should complete a thorough El Camino Hospital District service review prior to any further Commission action on the topic.

Finding 3

SCC LAFCO has failed to initiate action to dissolve special districts that it has already determined are obsolete, such as the Saratoga Cemetery District.

Recommendation 3

Facilitated by its service review recommendations, SCC LAFCO should proceed with action to dissolve those special districts that have outlived their usefulness or that can continue to provide the same level of service without property tax revenues.

Finding 4

SCC LAFCO Commissioners receive limited training about LAFCO and are not fully educated as to their broad responsibilities to oversee LAFCO or LAFCO's responsibilities regarding special districts.

Recommendation 4A

SCC LAFCO Commissioners should initiate means to more completely understand the full range of their authority, through independent learning and more thorough staff briefings.

Recommendation 4B

SCC LAFCO staff should use Commission information packets to provide "just in time" training. Examples: present a full range of options when presenting recommendations for Commission decisions, weigh the alternative options, include information on the full range of LAFCO authority, and include broader contextual information surrounding an issue on the agenda.

Appendix A

CALAFCO website: <http://www.calafco.org/>

California Government Code Section 56430, Spheres of Influence.

<https://www.nolo.com/law/CA-GOV56430.20072447.html>

California's Health Care Districts, a paper by Margaret Taylor. Prepared for California HealthCare Foundation. April 2006

<http://www.chcf.org/~media/Files/PDF/C/PDF%20CaliforniasHealthCareDistricts.pdf>

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

http://www.santaclara.lafco.ca.gov/pdf-files/2010_CKH_Guide.pdf

Demystifying the California Property Tax Apportionment System, A Step-by-Step Guide Through the AB8 Process. Prepared by David G. Elledge, Treasurer-Controller of Santa Clara County. March 2006.

http://www.sccgov.org/SCC/docs%2FFinance%20Agency%20%28AGY%29%2Fattachments%2FDemystifying%20the%20CA%20PT%20Appt%20System_41706.pdf

LAFCO website: <http://www.santaclara.lafco.ca.gov/index.html>

LAFCO meeting agenda and information packet for April 20, 2011. Available on LAFCO website.

http://www.santaclara.lafco.ca.gov/agenda/Full_Packets/2011Packets/2011Apr20/April%202011%20Agenda.pdf

Property Tax Apportionment and Allocation System. Audit report. Santa Clara County. July 1, 2003 through June 30, 2007.

http://www.sco.ca.gov/Files-AUD/12_2009ptxsantaclara.pdf

Special District in Santa Clara County. List provided on LAFCO website.

http://www.santaclara.lafco.ca.gov/specialdistricts/list_SpecialDistricts.pdf

Appendix B

December 2010

SPECIAL DISTRICTS IN SANTA CLARA COUNTY (under LAFCO jurisdiction)

Independent Special Districts	Principal Acts
1. Aldercroft Heights County Water District	Water Code §30000 et seq.
2. Burbank Sanitary District	Health and Safety Code §6400, et seq.
3. Cupertino Sanitary District	Health and Safety Code §6400, et seq.
4. El Camino Hospital District	Health and Safety Code §32000 et seq.
5. Guadalupe Coyote Resource Conservation District	Public Resources Code §9151- §9155, et seq.
6. Lake Canyon Community Services District	Government Code Section §61100
7. Lion's Gate Community Services District	Government Code Section §61100
8. Loma Prieta Resource Conservation District	Public Resources Code §9151- §9155, et seq.
9. Midpeninsula Regional Open Space District *	Public Resources Code §5500, et seq.
10. Pacheco Pass Water District **	Water Code §34000 to §38501
11. Purissima Hills County Water District	Water Code §30000, et seq.
12. Rancho Rinconada Recreation and Park District	Public Resources Code §5780, et seq.
13. San Martin County Water District	Water Code §30000, et seq.
14. Santa Clara County Open Space Authority	Public Resources Code §35100, et seq. (Santa Clara County Open Space Authority Act)
15. Santa Clara Valley Water District	Santa Clara Valley Water District Act (Water Code Appendix Chapter 60)
16. Saratoga Cemetery District	Health and Safety Code §8890, et seq.
17. Saratoga Fire Protection District	Health and Safety Code §13800, et seq.
18. South Santa Clara Valley Memorial District	Military and Veterans Code §1170 to §1291
19. West Bay Sanitary District ***	Health and Safety Code §6400, et seq.
Dependent Special Districts	Principal Acts
1. County Sanitation District No. 2-3	Health and Safety Code §4700-§4858
2. County Library Service Area	Government Code §25210, et seq.
3. County Lighting Service Area	Government Code §25210, et seq.
4. Los Altos Hills County Fire Protection District	Health and Safety Code §13800, et seq.
5. Santa Clara County Central Fire Protection District	Health and Safety Code §13800, et seq.
6. Santa Clara County Vector Control District	Health and Safety Code §2200
7. South Santa Clara County Fire Protection District	Health and Safety Code §13800, et seq.
8. Santa Clara Valley Transportation Authority	Santa Clara Transit District Act and Public Utilities Code §100,000-§100,500
9. West Valley Sanitation District	Health and Safety Code §4700, et seq.

* This district lies principally in Santa Clara County, but also has territory in San Mateo and Santa Cruz counties.

** This district lies principally in San Benito County, but also has territory in Santa Clara County.

*** This district lies principally in San Mateo County, but also has territory in Santa Clara County.


Note: Independent Special Districts are those that meet the criteria defined by the California Government Code §56044, while Dependent Special Districts are those that do not meet the criteria in the said code section.

Appendix C

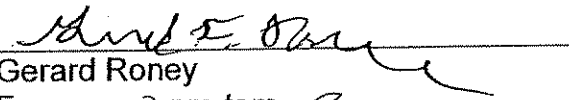
Independent Special Districts	1% Prop.Tax ?	Additional Notes re Funding (also see footnote regarding AB8)
1 Aldercroft Heights County Water District	YES	AB8 Apportionment Factor:0.0000024714 Est. 2011 Allocation: \$7,322
2 Burbank Sanitary District	NO	Sewer Sani/Storm Assessment
3 Cupertino Sanitary District	NO	Sewer Sani/Storm Assessment
4 El Camino Hospital District	YES	AB8 Apportionment Factor:0.0033705834 Est. 2011 Allocation: \$9,986,235
5 Guadalupe Coyote Resource Conservation District	YES	AB8 Apportionment Factor:0.0000581133 Est. 2011 Allocation: \$172,176
6 Lake Canyon Community Services District	NO	Estab. 1993. Special Assessment
7 Lion's Gate Community Services District	NO	Estab. 1998; Sanitation Assessment
8 Loma Prieta Resource Conservation District	YES	AB8 Apportionment Factor:0.0000226291 Est. 2011 Allocation: \$67,045
9 Midpeninsula Regional Open Space District	YES	AB8 Apportionment Factor:0.0064285006 Est. 2011 Allocation: \$19,046,114
10 Pacheco Pass Water District	YES	AB8 Apportionment Factor:0.0000060572 Est. 2011 Allocation: \$17,946
11 Purissima Hills County Water District	YES	AB8 Apportionment Factor:0.0001849873 Est. 2011 Allocation: \$548,073
12 Rancho Rinconada Recreation and Park District	YES	AB8 Apportionment Factor:0.0001051943 Est. 2011 Allocation: \$311,666
13 San Martin County Water District	NO	Assessment separate from 1%
14 Santa Clara County Open Space Authority	NO	Estab. 1993; http://www.openspaceauthority.org/
15 Santa Clara Valley Water District	YES	Multiple Assessment zones within AB8 Apportionment
16 Saratoga Cemetery District	YES	AB8 Apportionment Factor:0.0002141425 Est. 2011 Allocation: \$634,453
17 Saratoga Fire Protection District	YES	AB8 Apportionment Factor:0.0016956201 Est. 2011 Allocation: \$5,023,71
18 South Santa Clara Valley Memorial District	YES	AB8 Apportionment Factor:0.0000334612 Est. 2011 Allocation: \$99,138
19 West Bay Sanitary District	NO	Sewer Sani/Storm Assessment
Dependent Special Districts		
1 County Sanitation District No. 2-3	NO	Sewer Sani/Storm Assessment
2 County Library Service Area	YES + other	AB8 Apportionment Factor:0.0072391530 Est. 2011 Allocation: \$21,447,884 http://www.santaclaracountylib.org/about/financial.html
3 County Lighting Service Area	NO	13 Special Assessment Zones
4 Los Altos Hills County Fire Protection District	YES	AB8 Apportionment Factor:0.0023589834 Est. 2011 Allocation: \$6,989,105
5 Santa Clara County Central Fire Protection District	YES	Multiple Assessment zones within AB8 Apportionment
6 Santa Clara County Vector Control District	NO	Vector Control Assessment
7 South Santa Clara County Fire Protection District	YES	AB8 Apportionment Factor:0.0012819446 Est. 2011 Allocation: \$3,798,096
8 Santa Clara Valley Transportation Authority	NO	sales tax, measure A, fares, other: http://www.vta.org/brochures_publications/pdf/progress_report.pdf
9 West Valley Sanitation District	NO	Sewer Sani/Storm Assessment

The AB8 Apportionment Factor is determined by the County in accordance, and audited by the State Controller. The estimated 2011 allocation is based on valuation as of Jan 1, 2011. Actual dollars allocated will vary with tax roll corrections. Information obtained from SCC Treasurer.

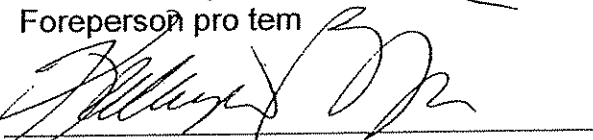
This report was **PASSED** and **ADOPTED** with a concurrence of at least 12 grand jurors on this 19th day of May, 2011.



Helene I. Popenhager
Foreperson



Gerard Roney
Foreperson pro tem



Kathryn Janoff
Secretary

LAFCO MEETING: August 3, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: LEGISLATIVE UPDATE AND CALAFCO'S PROPOSED REVISIONS TO
GOVERNMENT CODE SECTION 56133

STAFF RECOMMENDATION

1. Accept Legislative Update.
2. Authorize support for CALAFCO's proposed revisions to Government Code Section 56133.

CURRENT BILLS OF PARTICULAR INTEREST TO SANTA CLARA LAFCO

The CALAFCO July 28, 2011 Legislative Update (Attachment A) which contains a complete list and status of the bills under review by CALAFCO is attached for your information. The Legislature is currently on their summer recess and will return on August 15th. Detailed information on each of the bills is available at www.leginfo.ca.gov. The following is a brief summary and status of the bills that are of most interest to LAFCO of Santa Clara County:

SB 89 Budget Bill – City Vehicle License Fee (VLF) is Chaptered

This budget bill was signed by the Governor at the end of June and became effective July 1, 2011. It transfers most of the city VLF to statewide public safety programs. This will have a profound financial impact on all cities incorporated after 2006 and on all inhabited annexations since 2006. It will eliminate a significant portion of funding (in some cases as much as 40%) that the city was relying on for a financially feasible incorporation or inhabited annexation. In addition it removes a major financial incentive for future inhabited annexations and will make most future incorporations financially unfeasible. This was a 'dark of night' gut and amend that received no review prior to a rushed vote and signature by the Governor. For information on the specific fiscal impacts of signing SB 89, please see Michael Coleman's website at: <http://www.californiacityfinance.com/#CITY-STATE>. CALAFCO is working with the League of Cities on a potential legislative fix. However, any fix will require another funding source for the \$500 million in public safety funds that the VLF is now funding.

AB 912 (Gordon) Special District Dissolution is Chaptered

This bill was signed by the Governor at the end of July and will be effective January 1, 2012. It expedites the special district dissolution process under certain circumstances. It

allows LAFCO to order dissolution of a special district without an election after notice, hearing and protest proceeding, if it is consistent with LAFCO's action from a prior service review or sphere of influence update or another special study. The dissolution may be initiated by an affected local agency, by petition or by LAFCO and could only be terminated if there is a majority protest. In instances where the dissolution is initiated by the District board, the bill allows LAFCO to order the dissolution without protest proceedings or election.

AB 54 (Solorio) "Mutual Water Companies" was amended and re-referred to Senate Committee on Appropriations and **SB 244 (Wolk) "Disadvantaged Unincorporated Communities"** was amended and re-referred to the Assembly Committee on Appropriations. **AB 1430 (Committee on Local Government), "the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 Omnibus Bill"** was ordered to the inactive file, as both **AB 54** and **SB 244** affect some of the same language. Once the fate of these two bills is known, they will be amended to be double-joined with **AB1430** and proceed with floor votes on the bill.

CONSIDERATION AND SUPPORT FOR CALAFCO BOARD-APPROVED AMENDMENTS TO GOVERNMENT CODE SECTION 56133

On April 29, 2011, the CALAFCO Board unanimously approved a proposal from the Legislative Committee (which includes Executive Officer Palacherla and Commissioner Vicklund-Wilson) to amend Government Code Section 56133 and its provisions governing the LAFCO approval process for cities and special districts to provide new or extended services outside their boundaries. Three substantive changes underlie the Board-approved amendments: 1) expands LAFCO's existing authority in approving new and extended services beyond agencies' spheres of influence irrespective of health and safety threats; 2) clarifies LAFCO's sole authority in determining the application of the statutes; and 3) deemphasizes the approval of contracts or agreements in favor of emphasizing the approval of service extensions.

In general, the Board-approved amendments would, if passed into law, significantly expand LAFCOs' individual discretion in administering Government Code Section 56133. The proposed amendments also include language to help uniformly guide LAFCOs in exercising their expanded discretion consistent with their collective responsibilities to facilitate orderly and efficient growth and development. Under the revised law, LAFCOs may approve new or extended services outside an agency's sphere of influence without making a public health and safety finding, provided that LAFCO determines at a noticed public hearing that the service extension is: 1) evaluated in a municipal service review; 2) will not result in adverse impacts to open space or agricultural lands or in adverse growth inducing impacts; and 3) that a later change of organization is not feasible or desirable based on local policies. It should be noted that LAFCO of Santa Clara County has adopted specific policies for "out-of-agency contract for services" proposals. In Santa Clara County, such requests are few and far between as LAFCO, the County and the 15 Cities have adopted joint policies that state that urban

development should occur within cities, that the County will not allow urban development in the unincorporated area, and that cities should adopt urban service areas to indicate lands that they are willing and able to provide urban services and facilities to within the next five years.

CALAFCO would like to seek legislation in 2012 to make the changes. However, prior to working with the Legislature and stakeholders, the Board wants to be sure that every member LAFCO has an opportunity to review the approved language proposal and to have any questions or concerns addressed. Please see Attachment B for the memo from CALAFCO's Legislative Committee on the Board approved amendments to Government Code 56133.

CALAFCO's goal is to have the unanimous support of all members for the proposed amendments by fall so that they can begin working on the legislation. LAFCO staff, who participates on CALAFCO's Legislative Committee and participated on the working group that developed the amendments, is recommending that LAFCO consider the amendments and authorize staff to inform CALAFCO of LAFCO's support for the amendments.

ATTACHMENTS

- Attachment A: CALAFCO Legislative Report (July 28, 2011)
- Attachment B: CALAFCO Memo on Board-Approved Amendments to Government Code Section 56133 and draft text of revisions

AGENDA ITEM # 7 ATTACHMENT A

CALAFCO Daily Legislative Report
as of 7/28/2011

1

AB 54 (Solorio D) Drinking water.**Current Text:** Amended: 7/11/2011 [pdf](#) [html](#)**Introduced:** 12/6/2010**Last Amended:** 7/11/2011**Status:** 7/11/2011-Read second time and amended. Re-referred to Com. on APPR.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar:

8/15/2011 10 a.m. - John L. Burton Hearing Room (4203)

SENATE APPROPRIATIONS, KEHOE, Chair

Summary:

Would specify that any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for irrigation purposes, and any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for domestic use that provides in its articles or bylaws that the water shall be sold, distributed, supplied, or delivered only to owners of its shares and that those shares are appurtenant to certain lands shall be known as a mutual water company. This bill contains other related provisions and other current laws.

Attachments:[CALAFCO Support Letter](#)**Position:** Support**Subject:** Water

CALAFCO Comments: Requires mutual water companies to respond to LAFCo requests for information, requires Mutuals to provide a map of boundaries to LAFCo, adds authority for LAFCo to request MSR data from mutuals and include compliance with safe drinking water standards in MSRs.

AB 912 (Gordon D) Local government: organization.**Current Text:** Chaptered: 7/25/2011 [pdf](#) [html](#)**Introduced:** 2/17/2011**Last Amended:** 5/27/2011**Status:** 7/25/2011-Chaptered by the Secretary of State, Chapter Number 109, Statutes of 2011

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a local agency formation commission, where the commission is considering a change of organization that consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, to either order a change of organization subject to confirmation of the voters, as specified, or order the change of organization without an election if the change of organization meets certain requirements. This bill would authorize the commission, where the commission is considering a change of organization that consists of the dissolution of a district that is consistent with a prior action of the commission, to immediately order the dissolution if the dissolution was initiated by the district board, or if the dissolution was initiated by an affected local agency, by the commission, or by petition, hold at least one noticed public hearing on the proposal, and order the dissolution without an election, unless a majority protest exists, as specified.

Attachments:[CALAFCO Support Letter](#)[CALAFCO Request for Governor's Signature](#)**Position:** Support**Subject:** Special District Consolidations, Special District Powers

CALAFCO Comments: Allows a commission to dissolve a special district - under specific circumstances - without a vote unless there is a majority protest.

AB 1430 (Committee on Local Government) The Cortese-Knox-Hertzberg Local Government

Reorganization Act of 2000 omnibus bill.**Current Text:** Amended: 6/22/2011 [pdf](#) [html](#)**Introduced:** 4/5/2011**Last Amended:** 6/22/2011**Status:** 7/1/2011-From consent calendar. Ordered to third reading. Ordered to inactive file at the request of Senator Simitian.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

Current law defines various terms for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This bill would revise various definitions within that act, and would make other conforming and technical changes. This bill contains other related provisions and other current laws.

Attachments:[CALAFCO Letter of Support](#)**Position:** Sponsor**Subject:** CKH General Procedures**CALAFCO Comments:** CALAFCO Sponsored bill. Makes technical, non-substantive changes to Cortese-Knox-Hertzberg. Includes major definitions update.**ABX1 36 (Solorio D) Vehicle license fees.****Current Text:** Introduced: 7/1/2011 [pdf](#) [html](#)**Introduced:** 7/1/2011**Status:** 7/5/2011-From printer.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

Current law, as proposed to be amended by SB 89 of the 2011-12 Regular Session, would require that a specified amount of motor vehicle license fees deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund be allocated by the Controller, as specified, according to a specified order, with moneys allocated on or after July 1, 2004, but before July 1, 2011, first to the County of Orange, next to each city and county meeting specified criteria, and on or after July 1, 2011, to the Local Law Enforcement Services Account in the Local Revenue Fund 2011, for allocation to cities, counties, and cities and counties. This bill would instead require for all of those times that a specified portion of those revenues be distributed first to the County of Orange. By authorizing within the Motor Vehicle License Fee Account in the Transportation Tax Fund, a continuously appropriated fund, to be used for a new purpose, the bill would make an appropriation. This bill would become operative only if SB 89 is chaptered, as provided. This bill contains other related provisions and other current laws.

Position: Watch**Subject:** Tax Allocation**CALAFCO Comments:** This bill is under consideration as a fix to the SB 89 shift of VLF from cities to law enforcement programs. It would unwind the SB 89 transfer of VLF funds that dramatically affect incorporations and inhabited annexations. Currently only affects Orange county.**SB 89 (Committee on Budget and Fiscal Review) Vehicles: vehicle license fee and registration fee.****Current Text:** Chaptered: 7/1/2011 [pdf](#) [html](#)**Introduced:** 1/10/2011**Last Amended:** 6/27/2011**Status:** 6/30/2011-Chaptered by Secretary of State - Chapter 35, Statutes of 2011.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			Chaptered

Summary:

Would require the Legislature to determine and appropriate annually an amount for the use of the DMV and the FTB for the enforcement of the Vehicle License Fee Law. The bill would deem, for the 2011-12 fiscal year, \$25,000,000 as the cost to the DMV for the collection of the motor vehicle license fee. This bill contains other related provisions and other current laws.

Attachments:[CALAFCO Veto Request](#)

Position: Oppose

Subject: Annexation Proceedings, Incorporation Proceedings

CALAFCO Comments: This budget-related bill redirects VLF from cities to statewide public safety programs. Most impacted are cities formed after 2006 and inhabited annexations after 2006. Will likely result in disincorporations. Significantly this will also make most all future incorporations and inhabited annexations financially impossible. This language was added at the last minutes and voted on by the Members with little knowledge of the content of the bill. No one outside of the Capital was aware of the language until after the bill passed.

SB 244 (Wolk D) Land use: general plan: disadvantaged unincorporated communities.

Current Text: Amended: 7/1/2011 [pdf](#) [html](#)

Introduced: 2/10/2011

Last Amended: 7/1/2011

Status: 7/1/2011-Read second time and amended. Re-referred to Com. on APPR.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar:

8/17/2011 9 a.m. - State Capitol, Room 4202 ASSEMBLY APPROPRIATIONS, FUENTES, Chair

Summary:

Would require, on or before the next adoption of its housing element, a city or county to review and update the land use element of its general plan to include an analysis of the presence of island, fringe, or legacy unincorporated communities, as defined, and would require the updated general plan to include specified information. This bill would also require the city or county planning agency, after the initial revision and update of the general plan, to review, and if necessary amend, the general plan to update the information, goals, and program of action relating to these communities therein. By adding to the duties of city and county officials, this bill would impose a state-mandated local program. This bill contains other related provisions and other current laws.

Attachments:

[CALAFCO Letter of Concern - 29 March 2011](#)

Position: None at this time

Subject: Disadvantaged Communities

CALAFCO Comments: Amended to require LAFCo review of disadvantaged unincorporated communities. It adds a definition for disadvantaged unincorporated communities, requires LAFCo to review water, sewer and fore services to the communities in the next SOI update, places more emphasis on LAFCo recommendations on reorganizations for efficient and effective services, requires LAFCo to identify service deficiencies to these communities in MSR, and specifically requires LAFCo to assess alternatives for efficient and affordable infrastructure and services, including consolidations, in MSR. Bill requires LAFCo to look at communities "in or adjacent to the sphere of influence."

2

AB 46 (John A. Pérez D) Local government: cities.

Current Text: Amended: 6/28/2011 [pdf](#) [html](#)

Introduced: 12/6/2010

Last Amended: 6/28/2011

Status: 6/28/2011-Read second time and amended. Ordered to third reading.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

Would provide that every city with a population of less than 150 people as of January 1, 2010, would be disincorporated into that city's respective county as of 91 days after the effective date of the bill, unless a county board of supervisors determines, by majority vote within the 90-day period following enactment of these provisions, that continuing such a city within that county's boundaries would serve a public purpose if the board of supervisors determines that the city is in an isolated rural location that makes it impractical for the residents of the community to organize in another form of local governance. The bill would also require the local agency formation commission within the county to oversee the terms and conditions of the disincorporation of the city, as specified. This bill contains other related provisions.

Position: None at this time

Subject: Disincorporation/dissolution

CALAFCO Comments: As written this bill applies only to Vernon, California. It bypasses much of the C-K-H disincorporation process, leaving LAFCo only the responsibility of assigning assets and liabilities following disincorporation.

AB 119 (Committee on Budget) State government.

Current Text: Chaptered: 6/29/2011 [pdf](#) [html](#)

Introduced: 1/10/2011

Last Amended: 6/8/2011

Status: 6/29/2011-Chaptered by the Secretary of State, Chapter Number 31, Statutes of 2011

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:

Would delete the requirement that the California Victim Compensation and Government Claims Board provide notice to the chairpersons of the committees in each house of the Legislature that consider appropriations and the annual budget act, and the chairperson of the Joint Legislative Budget Committee, prior to allowing either the use of a current year appropriation to pay claims for prior year costs of \$500,000 or more, or claims from a single provider of goods or services with respect to a single department that exceed \$500,000 within one year. This bill contains other related provisions and other current laws.

Position: None at this time

Subject: Service Reviews/Spheres, Special District Principle Acts

CALAFCO Comments: Language has been added to this budget bill which changes the requirement for special districts to respond to SOI requests for information from a state mandate to a local requirement. This change would eliminate the state requirement to reimburse special districts for the costs of responding to a LAFCo request. It is not anticipated to have any actual change in process.

AB 187 (Lara D) State Auditor: audits: high-risk local government agency audit program.

Current Text: Amended: 6/22/2011 [pdf](#) [html](#)

Introduced: 1/25/2011

Last Amended: 6/22/2011

Status: 7/11/2011-In committee: Placed on APPR. suspense file.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:

Would authorize the State Auditor to establish a high-risk local government agency audit program to identify, audit, and issue reports on any local government agency, including any city, county, or special district, or any publicly created entity that the State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness. The bill would also authorize the State Auditor to consult with the Controller, Attorney General, and other state agencies in identifying local government agencies that are at high risk.

Position: None at this time

Subject: Financial Viability of Agencies, Service Reviews/Spheres

CALAFCO Comments: Would allow the State Auditor to audit and issue reports on any local agency it identifies at being at high risk for waste, fraud, abuse or mismanagement.

AB 307 (Nestande R) Joint powers agreements: public agency: federally recognized Indian tribe.

Current Text: Amended: 6/22/2011 [pdf](#) [html](#)

Introduced: 2/9/2011

Last Amended: 6/22/2011

Status: 7/14/2011-In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 12 pursuant to Assembly Rule 77.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:

Current law authorizes 2 or more public agencies, as defined, to enter into an agreement to exercise common powers. Current law also permits certain federally recognized Indian tribes to enter into joint powers agreements with particular parties and for limited purposes. This bill

would include a federally recognized Indian tribe as a public agency that may enter into a joint powers agreement. This bill would also make conforming changes by conforming related code sections. This bill contains other related provisions.

Position: Watch

Subject: Municipal Services

CALAFCO Comments: Would allow any federally recognized Indian tribe to act as a public agency to participate in any Joint Powers Authority. Significantly expands current law on Indian tribe participation in a JPA. NOTE: There is a LAFCo question on whether this would allow a tribe to enter into a JPA with a city and district and circumvent the LAFCo process for delivery of municipal services. Counsel is currently evaluating this potential and the options for LAFCo.

AB 781 (John A. Pérez D) Local government: counties: unincorporated areas.

Current Text: Amended: 7/12/2011 [pdf](#) [html](#)

Introduced: 2/17/2011

Last Amended: 7/12/2011

Status: 7/15/2011-Measure version as amended on July 12 corrected.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar:

8/15/2011 10 a.m. - John L. Burton Hearing Room (4203)

SENATE APPROPRIATIONS, KEHOE, Chair

Summary:

Would create a community services district in the unincorporated area of a county if that unincorporated area of the county was previously a city that was disincorporated by statute and had, immediately prior to disincorporation, provided fire protection, water, telecommunications, gas, or electric utility services, or maintained streets or roads. The district would continue to provide those services within the territory in which the disincorporated city provided those services, and would be a successor in interest as to any contract entered into by the disincorporated city with respect to the provision of those services. The bill would, for a one-year period, limit the authority of the community services district to increase gas or electric utility rates within that territory. This bill contains other related provisions and other current laws.

Position: Watch

Subject: Disincorporation/dissolution, Special District Principle Acts

CALAFCO Comments: This bill was gutted and amended on 20 June to create a CSD in any unincorporated area that was previously a city and was disincorporated by the legislature. It is specifically targeted at Vernon. It also contains language directing LAFCo on the terms and conditions of the disincorporation.

AB 1265 (Nielsen R) Local government: Williamson Act.

Current Text: Chaptered: 7/15/2011 [pdf](#) [html](#)

Introduced: 2/18/2011

Last Amended: 6/30/2011

Status: 7/15/2011-Chaptered by the Secretary of State, Chapter Number 90, Statutes of 2011

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary:

Current law, the Williamson Act, authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Current law sets forth procedures for reimbursing cities and counties for property tax revenues not received as a result of these contracts. This bill would, beginning January 1, 2011, and until January 1, 2016, authorize a county, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue are less than 1/2 of the participating county's actual foregone general fund property tax revenue, to revise the term for newly renewed and new contracts and require the assessor to value the property, as specified, based on the revised contract term. The bill would provide that a landowner may choose to nonrenew and begin the cancellation process. The bill would also provide that any increased revenues generated by properties under a new contract shall be paid to the county. This bill contains other related provisions.

Attachments:

[CALAFCO Support Letter](#)
[CALAFCO Letter of Support - Senate](#)
[CALAFCO Request for Governor's Signature](#)

Position: Support

Subject: Ag Preservation - Williamson

CALAFCO Comments: Creates an interim solution to the loss of state subventions for Williamson Act lands by giving counties and alternative landowner-funding approach.

ACA 17 (Logue R) State-mandated local programs.

Current Text: Introduced: 2/15/2011 [pdf](#) [html](#)

Introduced: 2/15/2011

Status: 4/14/2011-Referred to Com. on L. GOV.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, the state is required to provide a subvention of funds to reimburse the local government. With regard to certain mandates imposed on a city, county, city and county, or special district that have been determine to be payable, the Legislature is required either to appropriate, in the annual Budget Act, the full payable amount of the mandate, determined as specified, or to suspend the operation of the mandate for the fiscal year. The California Constitution provides that the Legislature is not required to appropriate funds for specified mandates.

Position: None at this time

Subject: LAFCo Administration

CALAFCO Comments: Changes state mandate law in a proposed constitutional amendment. Included is specific language that releases mandate responsibility if the local agency can change an individual or applicant for the cost of providing the mandated service. Would likely exempt some mandates to LAFCo from state funding.

SB 46 (Correa D) Public officials: compensation disclosure.

Current Text: Amended: 6/2/2011 [pdf](#) [html](#)

Introduced: 12/9/2010

Last Amended: 6/2/2011

Status: 6/6/2011-Read second time. Ordered to third reading.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

Would, commencing on January 1, 2013, and continuing until January 1, 2019, require every designated employee and other person, except a candidate for public office, who is required to file a statement of economic interests to include, as a part of that filing, a compensation disclosure form that provides compensation information for the preceding calendar year, as specified. This bill contains other related provisions and other current laws.

Position: Oppose

Subject: LAFCo Administration

CALAFCO Comments: Similar to a 2010 bill, this would require all those who file a Form 700 to also file an extensive compensation and reimbursement disclosure report. Would require all local agencies, including LAFCo, to annually post the forms on their website.

SB 191 (Committee on Governance and Finance) Validations.

Current Text: Amended: 5/16/2011 [pdf](#) [html](#)

Introduced: 2/8/2011

Last Amended: 5/16/2011

Status: 6/6/2011-Ordered to inactive file on request of Senator Wolk.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

This bill would enact the First Validating Act of 2011, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

Attachments:[CALAFCO Support Letter](#)**Position:** Support**Subject:** LAFCo Administration**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.**SB 192 (Committee on Governance and Finance) Validations.****Current Text:** Amended: 5/16/2011 [pdf](#) [html](#)**Introduced:** 2/8/2011**Last Amended:** 5/16/2011**Status:** 5/19/2011-Ordered to inactive file on request of Assembly Member Charles Calderon.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

This bill would enact the Second Validating Act of 2011, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

Attachments:[CALAFCO Support Letter](#)**Position:** Support**Subject:** LAFCo Administration**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.**SB 193 (Committee on Governance and Finance) Validations.****Current Text:** Amended: 5/16/2011 [pdf](#) [html](#)**Introduced:** 2/8/2011**Last Amended:** 5/16/2011**Status:** 5/19/2011-Ordered to inactive file on request of Assembly Member Charles Calderon.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

This bill would enact the Third Validating Act of 2011, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Attachments:[CALAFCO Support Letter](#)**Position:** Support**Subject:** LAFCo Administration**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.**SB 436 (Kehoe D) Land use: mitigation lands: nonprofit organizations.****Current Text:** Amended: 7/13/2011 [pdf](#) [html](#)**Introduced:** 2/16/2011**Last Amended:** 7/13/2011**Status:** 7/13/2011-Read second time and amended. Re-referred to Com. on APPR.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar:

8/17/2011 9 a.m. - State Capitol, Room 4202 ASSEMBLY APPROPRIATIONS, FUENTES, Chair

Summary:

The Planning and Zoning Law authorizes a state or local public agency, if the agency requires a property owner to transfer to the agency an interest in real property to mitigate an adverse impact upon natural resources caused by permitting the development of a project or facility, to authorize a nonprofit organization to hold title to and manage that interest in real

property, provided that the nonprofit organization meets specified requirements. This bill would revise these provisions and would, until January 1, 2022, authorize a state or local public agency to provide funds to a nonprofit organization to acquire land or easements that satisfy the agency's mitigation obligations, including funds that have been set aside for the long-term management of any lands or easements conveyed to a nonprofit organization, as specified. This bill would require a nonprofit organization that holds funds on behalf of the Department of Fish and Game for the long-term management of land to comply with certain requirements, including certification by the department, and oversight by the Controller under specified circumstances. The bill would also state the findings and declarations of the Legislature with respect to the preservation of natural resources through mitigation, and would state that it is in the best interest of the public to allow state and local public agencies and nonprofit organizations to utilize the tools and strategies they need for improving the effectiveness, cost efficiency, and durability of mitigation for California's natural resources.

Attachments:

[CALAFCO Support Letter](#)

Position: Support

Subject: Ag/Open Space Protection

CALAFCO Comments: Would allow a local agency to provide funds to a non profit to acquire land or easements to satisfy an agency's mitigation requirements. May be an important tool for LAFCo in agricultural and open space preservation.

SB 668 (Evans D) Local government: Williamson Act.

Current Text: Amended: 6/22/2011 [pdf](#) [html](#)

Introduced: 2/18/2011

Last Amended: 6/22/2011

Status: 7/7/2011-In Senate. Concurrence in Assembly amendments pending.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

Would, until January 1, 2016, authorize a nonprofit land-trust organization, a nonprofit entity, or a public agency to enter into a contract with a landowner who has also entered into a Williamson Act contract, upon approval of the city or county that holds the Williamson Act contract, to keep that landowner's land in contract under the Williamson Act, for a period of up to 10 years in exchange for the open-space district's, land-trust organization's, or nonprofit entity's payment of all or a portion of the foregone property tax revenue to the county, where the state has failed to reimburse, or reduced the subvention to, the city or county for property tax revenues not received as a result of Williamson Act contracts.

Position: None at this time

Subject: Ag Preservation - Williamson

CALAFCO Comments: Would allow an open space district, land trust or non profit to contract with a Williamson Act landowner to keep land in Williamson Act in exchange for paying all or a portion of the foregone property tax to the county if the state has failed to provide subventions.

3

AB 506 (Wieckowski D) Local government: bankruptcy: neutral evaluation.

Current Text: Amended: 7/12/2011 [pdf](#) [html](#)

Introduced: 2/15/2011

Last Amended: 7/12/2011

Status: 7/12/2011-Read second time and amended. Re-referred to Com. on RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

Under current law, any taxing agency or instrumentality of the state may file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States. This bill would express the intent of the Legislature to enact legislation that would provide an alternative dispute resolution procedures that cities, counties, and special districts may use before they seek financial relief through the provisions of Chapter 9 of the federal Bankruptcy Code.

Position: Watch

Subject: Financial Viability of Agencies

CALAFCO Comments: This bill creates a complex "neutral evaluator" process which a local agency must follow prior to being able to file Chapter 9 bankruptcy.

AB 1266 (Nielsen R) Local government: Williamson Act: agricultural preserves: advisory board.

Current Text: Introduced: 2/18/2011 [pdf](#) [html](#)

Introduced: 2/18/2011

Status: 7/14/2011-From consent calendar. Ordered to third reading. Ordered to inactive file at the request of Senator La Malfa.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary:

Current law, the Williamson Act, authorizes a city or county to enter into contracts to establish agricultural preserves. Current law also authorizes the legislative body of a city or county to appoint an advisory board to advise the legislative body on agricultural preserve matters. This bill would specify matters on which the advisory board may advise the legislative body of a county or city. This bill would also state that the advisory board is not the exclusive mechanism through which the legislative body can receive advice on or address matters regarding agricultural preserves.

Position: None at this time

Subject: Ag Preservation - Williamson

CALAFCO Comments: Specifies additional responsibilities for the county or city Williamson Act advisory board. May also be a placeholder for more significant modifications to the Williamson Act.

SB 27 (Simitjan D) Public retirement: final compensation: computation: retirees.

Current Text: Amended: 7/7/2011 [pdf](#) [html](#)

Introduced: 12/6/2010

Last Amended: 7/7/2011

Status: 7/7/2011-Read second time and amended. Re-referred to Com. on APPR.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar:

8/17/2011 9 a.m. - State Capitol, Room 4202 ASSEMBLY APPROPRIATIONS, FUENTES, Chair

Summary:

The State Teachers' Retirement Law (STRL) establishes the Defined Benefit Program of the State Teachers' Retirement System, which provides a defined benefit to members of the system based on final compensation, credited service, and age at retirement, subject to certain variations. STRL also establishes the Defined Benefit Supplement Program, which provides supplemental retirement, disability, and other benefits, payable either in a lump-sum payment, an annuity, or both to members of the State Teachers' Retirement Plan. STRL defines creditable compensation for these purposes as remuneration that is payable in cash to all persons in the same class of employees, as specified, for performing creditable service. This bill would revise the definition of creditable compensation for these purposes and would identify certain payments, reimbursements, and compensation that are creditable compensation to be applied to the Defined Benefit Supplement Program. The bill would prohibit one employee from being considered a class. The bill would revise the definition of compensation with respect to the Defined Benefit Supplement Program to include remuneration earnable within a 5-year period, which includes the last year in which the member's final compensation is determined, when it is in excess of 125% of that member's compensation earnable in the year prior to that 5-year period, as specified. The bill would prohibit a member who retires on or after January 1, 2013, who elects to receive his or her retirement benefit under the Defined Benefit Supplement Program as a lump-sum payment from receiving that sum until 180 days have elapsed following the effective date of the member's retirement. This bill contains other related provisions and other current laws.

Position: None at this time

Subject: LAFCo Administration

CALAFCO Comments:

SB 235 (Negrete McLeod D) Water conservation districts: reduction in number of directors.

Current Text: Chaptered: 7/25/2011 [pdf](#) [html](#)

Introduced: 2/9/2011

Last Amended: 6/9/2011

Status: 7/25/2011-Chaptered by the Secretary of State, Chapter Number 122, Statutes of 2011

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead									Conc.			
	1st House				2nd House							

Summary:

The Water Conservation District Law of 1931 generally governs the formation of water conservation districts and specifies the powers and purposes of those districts. This bill would authorize a water conservation district with a board of directors consisting of 7 directors, to reduce the number of directors to 5, consistent with specified requirements. The bill would not apply to districts within the County of Ventura.

Position: None at this time

Subject: Special District Principle Acts

CALAFCO Comments: Allows specified water districts to reorganize their board of directors to reduce the number of directors, by action of the Board.

SB 288 (Negrete McLeod D) Local government: independent special districts.

Current Text: Chaptered: 7/8/2011 [pdf](#) [html](#)

Introduced: 2/14/2011

Last Amended: 3/29/2011

Status: 7/8/2011-Chaptered by Secretary of State - Chapter 66, Statutes of 2011.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead									Conc.			
	1st House				2nd House							

Summary:

Current law authorizes the governing board of a special district, by resolution, to provide for the establishment of a revolving fund, in an amount not to exceed \$1,000, to be used to make change and pay small bills directly, and requires the resolution establishing the fund to make specified designations relating to the purposes for which the fund may be expended, the district officer with authority and responsibility over the fund, the necessity for the fund, and the maximum amount of the fund. This bill would additionally authorize the governing board of an independent special district, as defined, to provide, by resolution, for the establishment of a revolving fund in an amount not to exceed 110% of 1/12 of the independent special district's adopted budget for that fiscal year, and would require the resolution establishing the fund to make specified designations relating to the purposes for which the fund may be expended, the district officer with authority and responsibility over the fund, the necessity for the fund, and the maximum amount of the fund. This bill contains other current laws.

Position: None at this time

Subject: Special District Powers, Special District Principle Acts

CALAFCO Comments: Allows special districts as defined by C-K-H to set up special revolving funds.

SB 618 (Wolk D) Local government: solar-use easement.

Current Text: Amended: 7/6/2011 [pdf](#) [html](#)

Introduced: 2/18/2011

Last Amended: 7/6/2011

Status: 7/6/2011-Read second time and amended. Re-referred to Com. on APPR.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead									Conc.			
	1st House				2nd House							

Calendar:

8/17/2011 9 a.m. - State Capitol, Room 4202 ASSEMBLY APPROPRIATIONS, FUENTES, Chair

Summary:

Would authorize the parties to a Williamson Act contract to mutually agree to rescind the contract in order to simultaneously enter into a solar-use easement that would require that the land be used for solar photovoltaic facilities for a term no less than 10 years. This bill would require a county or city to include certain, and authorizes a county or city to include other, restrictions, conditions, or covenants in the deed or instrument granting a solar-use easement. This bill would provide that a solar-use easement would be automatically renewed annually, unless either party filed a notice of nonrenewal. This bill would provide that a solar-use easement may only be extinguished on all or a portion of the parcel by nonrenewal, termination, or by returning the land to its previous contract under the Williamson Act. This bill would require that if the landowner extinguishes the contract either by filing a notice of

nonrenewal or by terminating the solar-use easement, the landowner shall restore the property to the conditions that existed before the easement by the time the easement terminates. This bill would authorize a landowner to terminate a solar-use easement by complying with certain procedures, and paying a termination fee based upon the termination value of the property, as determined by the county assessor. This bill would provide that specified parties may bring an action to enforce the easement if it is violated. This bill contains other related provisions and other current laws.

Position: None at this time

Subject: Ag Preservation - Williamson

CALAFCO Comments: Allows renewable energy generation (wind, solar farms) as an acceptable use for Williamson Act lands.

SB 878 (DeSaulnier D) Regional planning: Bay Area.

Current Text: Amended: 6/9/2011 [pdf](#) [html](#)

Introduced: 2/18/2011

Last Amended: 6/9/2011

Status: 6/9/2011-From committee with author's amendments. Read second time and amended. Re-referred to Com. on T. & H.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chapters
Dead	1st House				2nd House				Conc.			

Summary:

Would require the joint policy committee to submit a report to the Legislature by January 31, 2013, on, among other things, methods and strategies for developing and implementing a multiagency set of policies and guidelines relative to the Bay Area region's sustainable communities strategy, including recommendations on organizational reforms for the regional agencies. The bill would require preparation of a work plan for a regional economic development strategy to be submitted to the Legislature on that date. The bill would also require the member agencies to report on public outreach efforts that they individually or jointly perform. The bill would require public meetings in each of the region's 9 counties and creation of advisory committees, as specified. By imposing new duties on local agencies, the bill would impose a state-mandated local program. This bill contains other related provisions and other current laws.

Position: None at this time

Subject: Sustainable Community Plans

CALAFCO Comments: Provides legislative direction to the Bay Area counties on development of their sustainable communities strategy and requires the "joint committee" to report back to the Legislature by 1 January 2013.

Total Measures: 26
Total Tracking Forms: 26

7/28/2011 10:22:00 AM



2011 June 21, 2011

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TO: LAFCo Executive Officers
FROM: CALAFCO Legislative Committee
REPORT BY: Keene Simonds, Napa LAFCo
SUBJECT: Board-Approved Amendments to Government Code Section 56133

On April 29, 2011, the CALAFCO Board unanimously approved a proposal from the Legislative Committee to amend Government Code (G.C.) Section 56133 and its provisions governing the LAFCo approval process for cities and special districts to provide new and extended outside services. Three substantive changes underlie the Board-approved amendments. The first change expands LAFCos' existing authority in approving new and extended services beyond agencies' spheres of influence irrespective of public health and safety threats. The second change clarifies LAFCos' sole authority in determining the application of the statute. The third change deemphasizes the approval of contracts or agreements in favor of emphasizing the approval of service extensions.

The Board-approved amendments would – if passed into law – significantly expand LAFCos' individual discretion in administering G.C. Section 56133. Markedly, enhancing discretion highlights the Legislative Committee's principal motive in proposing the amendments given the current statute limits LAFCos' ability to accommodate new and extended services beyond spheres of influence that are otherwise logical given local conditions unless addressing public health or safety threats. The Legislative Committee, nevertheless, recognizes the importance of establishing specific safeguards to help uniformly guide LAFCos in exercising their expanded discretion consistent with our collective responsibilities to facilitate orderly and efficient municipal growth and development. Most notably, this includes explicitly tying the expanded discretion with the municipal service review process.

Additional materials are attached to this communication further detailing the Board-approved amendments to G.C. Section 56133. This includes a one-page informational flyer summarizing the key changes with implementing examples as well as addressing frequently asked questions that have been raised in the two plus years the Legislative Committee has expended on this important rewrite. The Legislative Committee welcomes your questions and comments. Towards this end, to help expedite follow up, these regional coordinators are available to discuss the Board-approved amendments as well as make presentations to individual LAFCos if interested:

Northern: Scott Browne, Nevada
Steve Lucas, Butte

Coastal: Neelima Palacherla, Santa Clara
Keene Simonds, Napa

Central: Marjorie Blum, Stanislaus
Ted Novelli, Amador

Southern: Kathy McDonald, San Bernardino
George Spiliotis, Riverside

Thank you again for your attention to this matter and the Legislative Committee looks forward to working with you on any questions or comments.

1215 K Street, Suite 1650
Sacramento, CA 95814

Voice 916-442-6536
Fax 916-442-6535

www.calafco.org

Attachments: 1) Informational Flyer on the Board-Approved Amendments to G.C. Section 56133
2) Board Approved Amendments to G.C. Section 56133 (Track-Changes)
3) Legislative History of G.C. Section 56133

June 2011

The Proposal: Three Changes ...

The CALAFCO Board has unanimously approved a proposal from the Legislative Committee to amend Government Code (G.C.) Section 56133 and its provisions governing the LAFCo approval process for cities and districts to provide new and extended outside services. Three key changes underlie the Board-approved amendments. The **first** and most significant change expands LAFCo's existing authority in approving new and extended services beyond agencies' spheres of influence irrespective of public health and safety threats so long as LAFCo make three findings at noticed public hearings. These findings involve determining the extension 1) was contemplated in a municipal service review and 2) will not result in adverse impacts on open-space and agricultural lands or growth nor is a 3) later change of organization expected or desired based on local policies. The **second** change clarifies LAFCo's sole authority in determining the application of the statute. The **third** change deemphasizes the approval of contracts and emphasizes the approval of service extensions.

Why the Changes ...

The CALAFCO Board and Legislative Committee believes the three changes proposed for G.C. Section 56133 will measurably strengthen a LAFCo's ability to effectively regulate outside service extensions in concert with our evolving role in regional growth management. Specifically, if passed into law, the changes will provide LAFCo more flexibility in accommodating service extensions lying beyond spheres of influence that are otherwise sensible given local conditions while clarifying the determination of when the statute and its exemptions apply rests solely with LAFCo. The changes would also strike unnecessary references to "contract or agreement approval" given these documents are generally prepared only after the proposed service extensions have been considered and approved by LAFCo. Examples showing how these changes could be implemented follow.

- LAFCo would have the authority, subject to making certain findings, to approve new or extended outside services beyond spheres of influence for public facilities, such as fire stations and schools, where the connection to the affected agency's infrastructure is a potential option.
- LAFCo would have the authority, subject to making certain findings, to approve new or extended outside services beyond spheres of influence for private uses supporting permitted intensity increases, such as residential construction or commercial additions.
- LAFCo would avoid delays and other transaction costs tied to disagreements with agencies regarding the constitution of "new" and "extended" services as well as determining when exemptions apply. Notably, this includes determining when a contract service proposed between two public agencies qualifies for exemption if it is "consistent with the level of service contemplated by the existing provider."

FAQs

Does providing LAFCo with more flexibility to approve services beyond spheres of influence undermine LAFCo's ability to curb sprawl?

No. The proposed changes include measured safeguards to protect against inappropriate urban development by requiring LAFCo to make three specific findings (consistency with a municipal service review, no adverse agricultural or growth inducing impacts, and no expectation of future annexation) at noticed hearings before approving new or extended services beyond spheres.

Will these changes create new pressures on LAFCo to accommodate development beyond agencies' spheres they would otherwise reject?

The proposed changes do not effect LAFCo's existing right and duty to deny outside service requests deemed illogical and inconsistent with their policies.

How long has CALAFCO been discussing the proposal?

The Legislative Committee has spent two plus years working on the proposal before Board approval in April 2011.

Questions or Comments

The following regional coordinators are available for questions or comments on the proposed changes to G.C. Section 56133. The regional coordinators are also available to make presentations to interested LAFCos.

- Scott Browne, Nevada
- Steve Lucas, Butte
- Marjorie Blom, Stanislaus
- Ted Novelli, Amador
- Neelima Palacherla, Santa Clara
- Keene Simonds, Napa
- Kathy McDonald, San Bernardino
- George Spiliotis, Riverside

Contact: William Chiat, Exec. Dir.
(916) 442-6536
wchiat@calafco.org

**Proposed Amendments to G.C. Section 56133
(Approved by the CALAFCO Board on April 29, 2011)**

(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional ~~boundaries~~boundary only if it first requests and receives written approval from the commission ~~in the affected county~~. The commission may delegate approval of requests made pursuant to subdivisions (b) and (c)(1) below to the Executive Officer.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional ~~boundaries~~boundary but within its sphere of influence in anticipation of a later change of organization.

(c) If consistent with adopted policy, ~~The~~ commission may authorize a city or district to provide new or extended services outside its jurisdictional ~~boundaries~~boundary and outside its sphere of influence under any of the following circumstances:

(1) ~~to~~ To respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

(1A) The entity applying for the ~~contract~~ approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2B) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(2) To support existing or planned uses involving public or private properties subject to approval at a noticed public hearing that includes all of the following determinations:

(A) The extension of service or service deficiency was identified and evaluated in a municipal service review prepared by the commission pursuant to section 56430.

(B) The effect of the extension of service would not result in adverse impacts on open space or agricultural lands or result in adverse growth inducing impacts.

(C) A later change of organization involving the subject property and the affected agency is not feasible or desirable based on the adopted policies of the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district ~~of a contract~~ to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of ~~those requests made under this section~~ to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the ~~contract for~~ extended services. If the ~~extended services are~~ ~~contract is~~ disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to ~~contracts or agreements solely involving two or more public agencies where the commission determines~~ the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

(f) This section does not apply to ~~contracts for~~ the transfer of nonpotable or nontreated water.

(g) This section does not apply to ~~contracts or agreements solely involving~~ the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

(h) This section does not apply to an extended service that a city or district was providing on or before January 1, 2001.

(i) This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

(j) The application of this section rests solely within the jurisdiction of the commission in the county in which the extension of service is proposed.

LAFCO MEETING: August 3, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: EXECUTIVE OFFICER'S REPORT

8.1 UPDATE ON LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW

For Information Only

The Technical Advisory Committee (TAC) for the Countywide Water Service Review, which includes Commissioner Wilson, met on June 20th in order to review and discuss the draft methodology for evaluating the availability of adequate water supply for LAFCO proposals and to discuss the Consultant's preliminary analysis and findings. The consultant team has prepared a profile of each water service provider and each provider has had an opportunity to verify their profile information. The team is now in the process of finalizing an administrative draft of the service review report that will be reviewed by LAFCO staff in August. The consultant team will present the findings of the service review report to the TAC at their August 22nd meeting. The Draft Water Service Review Report is scheduled to be released in early September for public review and comment. The Report will be posted on the LAFCO website at that time and a Notice of Availability will be sent to affected agencies, companies, organizations, and interested parties. At LAFCO's October 5th meeting, a public hearing will be held on the draft report in order to consider the report and accept comments on the Draft. A public hearing on the final report will be held on December 7th.

8.2 UPDATE ON IMPLEMENTATION OF LAFCO'S FIRE SERVICE REVIEW REPORT

For Information Only

On June 16th, LAFCO staff met with the Chair of the Board of Fire Commissioners for the Saratoga Fire Protection District in order to discuss LAFCO's implementation of the Fire Service Review Report as it relates to the District. Specifically, we discussed the subject of consolidation/dissolution of districts and annexation to adjacent districts to achieve fire service efficiencies and the status of the AB 912 (Gordon Bill) which would streamline the dissolution process. Joe Long, Chair of the District's Board of Commissioners, updated us on the history of the Saratoga Fire District, the District's relationship with the Central Fire District, and how the Saratoga Fire District serves the community. Also, LAFCO staff recently learned that AB 912 was signed by the Governor and will be effective January 1, 2012. The law expedites the special district dissolution process under certain circumstances. State law allows LAFCOs to initiate

the dissolution of a special district provided that LAFCO is able to make certain findings (i.e. LAFCO must establish that the dissolution will lead to similar or lower public service costs and must establish that there will be no reduction of public access or accountability for the service and financial resources). LAFCO would need to hire a consultant to independently perform the necessary analysis to determine if such findings can be reached.

8.3 UPDATE ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY

For Information Only

In early May, LAFCO staff provided each city (except Campbell and Palo which do not have unincorporated islands) with a customized letter concerning the status of unincorporated islands within the city's Urban Service Area and requesting information on their island annexation plans. To date, LAFCO staff has received responses or inquiries from the Cities of Milpitas, Mountain View, Cupertino, Monte Sereno, Santa Clara, and Sunnyvale. Staff will be contacting the Cities of Gilroy, Los Altos Hills, Los Gatos, Morgan Hill, San Jose, and Saratoga to encourage a response. At this time, LAFCO staff is working with Milpitas, Santa Clara, and Sunnyvale on potential island annexations. LAFCO staff has also advised Campbell and San Jose concerning the key steps/time-line necessary for Campbell to annex Cambrian No. 36 and it appears that the two cities are close to reaching an agreement that would allow consideration of this alternative.

Noel, Dunia

From: jrusteen@comcast.net
Sent: Tuesday, July 12, 2011 10:29 PM
To: Noel, Dunia
Subject: Fwd: 2010 Grand Jury report on Fire Departments
Attachments: FDResponse.pdf

From: jrusteen@comcast.net
To: "Neelima Palacherla" <Neelima.Palacherla@ceo.sccgov.org>
Sent: Tuesday, July 12, 2011 10:27:13 PM
Subject: 2010 Grand Jury report on Fire Departments

Please forward to whom ever this concerns.
Attached as PDF file

Thank you

Jeff Rusteen
425-310-1038



2010-2011 SANTA CLARA COUNTY
CIVIL GRAND JURY REPORT

FIGHTING FIRE OR FIGHTING CHANGE?
RETHINKING FIRE DEPARTMENT RESPONSE PROTOCOL
AND CONSOLIDATION OPPORTUNITIES

Firstly, I understand that the Grand Jury are citizens doing their best and are not subject matter experts. The following is meant to assist in your understanding as there are many errors, some misinterpretation and missing data, and some factual error. While some of the conclusions are correct, some conclusions can lead to policy based on incomplete or incorrect understanding. I have not attempted to address every part of your report, but some of the more important for purposes of assisting in policy development.

I would be more than happy to provide further explanation, in fact I encourage your contact.

A CORE GOVERNMENTAL FUNCTION

While I agree with the general statement that police and fire protection consumes a large portion of local government revenues, it is also true that smaller cities pay a much larger portion than larger cities (see your own chart 4). I suggest it is past time to begin shedding "localism" in favor of regionalism, something you seem to hint at. In the same breath, I moved from small local Fire Department to largest. Large is definitely not always better. Ladies and gentlemen, it always comes down to details and execution. The performance you seek arrives directly those points.

Having said that, I believe that government has a "core" set of responsibilities. You must agree on, to successfully proceed to a successful result. Consider the following, core government functions are all about public safety, but not just police and fire. We can all agree that reasonably safe roads, water, sewer and refuse systems, and a method to deliver and monitor public health are certainly all included in core functions. I also happen to believe that good public schools belong here too.

I would like to point out in your introduction, that the ability of the general public to complain about "it is common to see fire departments over-deploy multiple firefighting

apparatus in response to non-life-threatening medical emergencies” is well beyond the technical capability of any citizen to decipher, let alone complain about.

This is not an endorsement of the cost of fire or police protection, however, the responsibilities and performance expectations of fire departments in general has expanded in the last thirty years many fold. I suggest to you right now that almost all elected public officials cannot name all the various response capabilities of local fire. If you disagree, I offer to assist in an inventory of local officials . That is a reasonable expectation and request.

Current resource allocation is indeed a result of history and geography. As you point out, current fire department operations are based on the models long past. I would like to suggest that administrative overhead, which happens to be the highest paid may be a place to begin consolidation. What is the cost of 15 Fire Chiefs and the associate support structure?

Under your heading, ***History and Evolution***, you insinuate that fire departments “broadened” their response to be “all hazard”. In fact, these changes were either mandated by, or presented to local elected officials who directed staff to implement all the changes you outline. You also allege, the reason for these changes were to “increase business”. Ladies and gentlemen, we respond to the calls that come in the door. There is no such thing as “creating business”.

I would like to point out that a League of Women Voters poll a number of years ago in Alameda County, documented the fact that citizens in general held that Paramedics in the Fire Department the single most important local government function offered.

Historically, the Fire Service has always been closer to any given call than ambulance providers. Ambulance service has been primarily a private venture regulated by the counties. Current configurations everywhere are based on a “just in time” model as a cost saving venture.

Table 2:

While a number of your reported statistics don’t agree with some of the quoted departments on line statistics, I would point out the following.

House fires can threaten many people at once, apartment fires many more. Once a fire reaches the free burning state, they tend to double in size every minute. One only needs to review the Santa Row fire for verification.

Interview question:

I would agree with the validity of your second point. I would like you to consider this answer for your first. It is not clear why the experts you asked did not answer this question for you.

Fire response protocol: “Why do fire departments use a “one-size fits all” approach, deploying a full-blown firefighting contingent to every emergency, given that the majority of calls are medical in nature?”

The answer is, most citizens who call 9-1-1 do not know exactly what is wrong and even when they think they do, often the severity conveyed to the dispatched is grossly incorrect. For the 3 to 4% of calls that end up as “high level” ALS calls, 2 or 3 Firefighters and one Firefighter/Paramedic is barely enough manpower to handle the situation. Remember, most of the ambulances has one Paramedic and one EMT-1 on board. The second answer is each ambulance handles the same geographic area as many Firehouses. Firefighters are always closer, and I’m sure you already know, in cases of cardiac arrest, the first shock must occur in the first few minutes to work. The EMS volume is highly volatile, predicting how far away an ALS Ambulance might be from any given call is almost impossible.

Discussion:

Perhaps this is just semantics, but your reference to “gearing up” does not happen for EMS calls. It does lead those unfamiliar to conclude with a negative tone and focuses on something immaterial to what you attempt to achieve. What real difference does it make what someone wears to an emergency? As far as “calling in—or calling off—”. If the closest unit is not ALS then a BLS suppression crew would be sent and if the incident turns out to be minor in nature, the ALS engine would be cancelled. Perhaps that is what you meant to convey.

Under your bullet points. Some of these answers make sense and some are non-sense. I would suggest that the answers received were paraphrased or taken out of context. Whatever the answer is, these are “details” that will make things work or not work, you need to make an effort to fully vet these issues. This has not been done, and again results in potentially misleading interpretations by non experts who may be in a policy position.

Firefighting Personnel and Equipment Response is Mismatched to Need

It is entirely untrue that only 33% of the engine crew is trained for medical emergencies. This is factually incorrect.

Ambulance Paramedic Response versus Firefighters Trained as Paramedics

“Why have fire departments remained fire-biased as opposed to evolving into emergency response departments?”

Folks, All Hazard is an “emergency response department”

Solution

I have pointed out some errors and inconsistencies in the first few pages of your report. Here I offer some information that may help craft a solution.

Since the advent of 9-1-1 EMS System, the user base has dramatically broadened. Many in our communities have no personal physician, medical insurance, some don't even know where the closest emergency room is. In fact, we have a “one size fits all” offering and every one by-and-large dials 9-1-1 for just about anything. I believe that this may now be in our “culture”. One size fits all is the very opposite of what the fire service now offers as an “All Hazard” responder. In Santa Clara County, One Paramedic and one EMT respond to ALL calls for help, this is essentially the same in every corner of the state.

Dispatch in the first point of contact for all callers, and as such, must determine the nature and severity of the call. One potential solution is a higher level of medical capability to better screen calls in the first place. This has a number of difficult aspects to it, but it is not impossible. Two, as you suggest, a multi-tiered response system. Sending the correct level of response has always been the holy grail and no one has figured it out yet. A sprained ankle does not need a police and fire response.

In any case, any version of your current plan requires more EMS resources. An innovative approach such as Seattles Medic One Program is a good example.

If you would like the rest of this analysis, please contact me. I hope you understand that You have so many important details incorrect that using the report in its current condition risks the publics safety.

Conclusion

You can consolidate for a variety of reasons, some are obviously better than others. A controlled methodology not driven by funding disasters should be the goal. So, I agree with consolidation in general. My opinion and view of San Francisco Fire Department before working there are vastly different now. So if experience is still the best teacher, let me assist in avoiding the many trouble that can come with BIG. It's all about the details.

Conclusion

Although I did not respond to every point in this report, I hope I have laid the groundwork for further study. It's not what you know that is ever the problem, it's what you think you know, that just ain't so.

Sincerely,

Jeff Rusteen
S.F.F.D.
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