



**LAFCO MEETING
AGENDA
Wednesday, December 12, 2012
1:15 PM**

**Board Meeting Chambers
70 West Hedding Street, First Floor, San Jose, CA 95110**

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

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 AUGUST 1, 2012 LAFCO MEETING**

ITEMS FOR ACTION / DISCUSSION

4. **AMENDMENT OF LAFCO'S CONFLICT OF INTEREST CODE**

Possible Action:

1. Adopt the proposed revisions to LAFCO's Conflict of Interest.
2. Direct staff to submit LAFCO's Amended Conflict of Interest Code to the Clerk of the County Board of Supervisors.

5. **INDEPENDENT SPECIAL DISTRICTS MEMBERSHIP ON LAFCO**

Possible Action:

1. Adopt a resolution of intention to seat independent special districts on LAFCO of Santa Clara County.
2. Direct the LAFCO Executive Officer to call and give notice of a meeting of the Independent Special District Selection Committee to select independent special district members to serve on the Commission.
3. Direct that the independent special districts' pro-rated costs for the current fiscal year be added to the districts' costs for the next fiscal year and the corresponding amount for the cities and the County be reduced from their payments in the next fiscal year.

6. **APPROVAL OF RESPONSE TO THE 2011-2012 CIVIL GRAND JURY REPORT ENTITLED, "THE SOUTH SANTA CLARA VALLEY MEMORIAL SPECIAL DISTRICT CONTINUES TO FALL SHORT OF GOOD GOVERNANCE"**

Possible Action:

1. Consider and approve, with revisions as necessary, the attached response to the 2011-2012 Santa Clara County Civil Grand Jury Report of June 20, 2012 entitled "The South Santa Clara Valley Memorial Special District Continues to Fall Short of Good Governance."
2. Direct staff to forward the response to the Presiding Judge of the Santa Clara County Superior Court and the Foreperson of the Civil Grand Jury.

- 7. EXECUTIVE OFFICER'S REPORT**
 - 7.1 UPDATE ON EL CAMINO HOSPITAL DISTRICT'S IMPLEMENTATION OF REFORMS TO IMPROVE GOVERNANCE, TRANSPARENCY, AND PUBLIC ACCOUNTABILITY**

For Information Only.
 - 7.2 UPDATE ON SPECIAL DISTRICTS SERVICE REVIEW**

For Information Only.
 - 7.3 UPDATE ON IMPLEMENTATION OF THE RECOMMENDATIONS FROM THE 2011 COUNTYWIDE WATER SERVICE REVIEW**

For Information Only.
 - 7.4 UPDATE ON ISLAND ANNEXATIONS**

For Information Only.
 - 7.5 REPORT ON THE 2012 CALAFCO ANNUAL CONFERENCE**

For Information Only.
 - 7.6 UPDATE ON PLANS TO CELEBRATE LAFCO'S 50th ANNIVERSARY**

For Information Only.
- 8. ADOPTION AND PRESENTATION OF RESOLUTION COMMENDING COMMISSIONER LIZ KNISS FOR HER SERVICES TO LAFCO**
- 9. 2013 SCHEDULE OF LAFCO MEETINGS**

Possible Action: Adopt the schedule of LAFCO meetings and application filing deadlines for 2013.
- 10. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2013**

Possible Action: Appoint the Chairperson and Vice-Chairperson for 2013.
- 11. PENDING APPLICATIONS / UPCOMING PROJECTS**
 - 11.1 West Bay Sanitary District SOI Amendment and Annexation**
 - 11.2 Morgan Hill USA Amendment 2012 (Monterey-South of Watsonville)**
 - 11.3 Saratoga USA Amendment 2013**
- 12. COMMISSIONER REPORTS**
- 13. NEWSPAPER ARTICLES / NEWSLETTERS**
 - 13.3 CALAFCO Newsletter: The Sphere**

14. WRITTEN CORRESPONDENCE

15. ADJOURN

Adjourn to regular LAFCO meeting on Wednesday, February 6, 2013, at 1:15 PM in the Board Meeting Chambers, 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.

**MINUTES
WEDNESDAY, AUGUST 1, 2012**

SPECIAL MEETING (CLOSED SESSION)

CALL TO ORDER

Chairperson Pete Constant called the meeting to order at 1:00 p.m.

1. ROLL CALL

The following Commissioners were present:

- **Chairperson Pete Constant** (left at 2:50 p.m.)
- **Commissioner Margaret Abe-Koga**
- **Commissioner Susan Vicklund Wilson**
- **Alternate Commissioner Terry Trumbull**

The following were absent:

- **Commissioner Liz Kniss** (arrived at 1:03 p.m.)
- **Commissioner Mike Wasserman** (arrived at 1:02 p.m.)
- **Alternate Commissioner Cat Tucker**
- **Alternate Commissioner Sam Liccardo**
- **Alternate Commissioner George Shirakawa**

The following staff members were present:

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

2. CONFERENCE WITH LEGAL COUNSEL

The Commission adjourned to Closed Session at 1:02 p.m.

3. ADJOURNMENT

The Commission adjourned to a brief recess at 1:22 p.m. to the time certain regular meeting at 1:30 p.m.

REGULAR MEETING

CALL TO ORDER

Chairperson Constant called the meeting to order at 1:30 p.m. and announced that there was no report from the Closed Session.

1. ROLL CALL

The attendance roll was updated to include Commissioners Kniss and Wasserman.

2. PUBLIC COMMENT

There was no public comment.

3. APPROVE MINUTES OF MAY 30, 2012 LAFCO MEETING

The Commission approved the minutes of May 30, 2012 LAFCO meeting.

Motion: Margaret Abe-Koga

Second: Susan Vicklund Wilson

MOTION PASSED

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

NOES: None

ABSTAIN: None

ABSENT: None

4. WEST VALLEY SANITATION DISTRICT 2012-02 (MIREVAL ROAD)

The Commission adopted **Resolution No. 2012-04**, approving the annexation to West Valley Sanitation District of approximately 3.335 acres (APNs 532-25-023 and 532-25-025) located at 17560 Mireval Road outside of the Town of Los Gatos (West Valley Sanitation District 2012-02). Said Resolution, by reference hereto, is made part of these minutes.

Motion: Margaret Abe-Koga

Second: Susan Vicklund Wilson

MOTION PASSED

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

NOES: None

ABSTAIN: None

ABSENT: None

5. EL CAMINO HOSPITAL DISTRICT AUDIT AND SERVICE REVIEW

Ms. Palacherla presented the staff report and informed that prior to the meeting, the commissioners were provided with copies of ECHD's comment letter dated July 30, 2012. She stated that in the letter, ECHD requested that the recommendations in the Revised Draft Report (prepared by the LAFCO consultant) be revised to mirror the recommendations made by LAFCO staff in the staff report. Ms Palacherla explained that the requested changes are not intended to correct factual errors and that the recommendations in the Revised Draft Report were prepared by LAFCO's consultant who was hired by LAFCO to prepare an independent audit of the district. She advised against revising the consultant's Revised Draft Report. She noted that LAFCO in making its decision would have the ability to consider all of the information presented including the consultant's Revised Draft Report, the ECHD's comments, public comments and LAFCO staff recommendations. She informed that LAFCO's consultant, Steve Foti with Harvey Rose Associates is available to answer questions.

This being the time and place for the public hearing, **Chairperson Constant** declared the public hearing open.

Wes Alles, ECHD Board member, stated that he was pleased with the positive outcome of the audit which found that district funds were not used in the purchase or operation of the Los Gatos hospital. He assured LAFCO of the ECHD's commitment to implement the Revised Draft Report's recommendations regarding improving transparency and

accountability. He stated that the ECHD hired KPMG to perform an independent analysis. He indicated that the KPMG report found that the ECHD provides more community benefit compared to other districts, that the Los Gatos hospital benefits the ECHD residents and that the ECHD is transparent in its Board activities and community benefit funds allocation process. He requested that the Commission make changes to the Revised Draft Report as suggested in Exhibit 1 of the ECHD's letter dated July 30, 2012 and that the Commission approve staff recommendations 1 through 9.

David Reeder, ECHD Board member, indicated that until recently there had not been much public interest in the ECHD Board meetings or in reviewing its funding details and that the district is open to change given the current interest. He explained that the ECHD dedicates \$5 million in tax money to provide community benefits and the Corporation provides \$45 million in uncompensated care each year. He added that as a member of the ECHD Board, he voted for the acquisition of the Los Gatos hospital campus as he was convinced that ECHD funds would not be used and because it would benefit the district residents. He described how the Los Gatos hospital would generate higher volume and result in higher quality at the Mountain View hospital.

Bill James, a resident of the district and an ECHD Board candidate, thanked the commission for the service review and audit. He suggested that the Commission apply the transparency recommendations to the Corporation and request the Corporation to make the same changes as the ECHD. He explained that while the Corporation has a separate legal existence, it is not a separate entity and exists only because of the district. He recommended that the Corporation should be required to delineate its expenditures in a detailed manner and explain its intentions so that members of the community can participate in decisions such as the acquisition of the Los Gatos Hospital. He noted that he is opposed to the dissolution of the district and urged the Commission to not consider the dissolution option as it would be contrary to the transparency requirements in the report.

Kevin Mann, Regional Political Organizer for SEIU-United Health Care Workers West, expressed his support for the recommendations in the service review and audit report and his opposition to dissolving the district. He noted that the ECHD does not operate transparently, as a public entity should. He added that it does not make its budget available well in advance of meetings and does not allow adequate time for public comments at the meeting. He urged the Commission to support the recommendations in the audit and request improvements in the district's governance, transparency and public accountability.

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

Commissioner Wasserman reported that he met with the ECHD Board members and staff after the May 30, 2012 LAFCO meeting; **Commissioner Kniss** likewise reported that she had met with the ECHD Board members and staff, and SEUI representatives; **Commissioner Abe-Koga** announced that she had met with the ECHD Board members and staff, and representatives from SEIU and various non-profits funded by the District.

In response to the an inquiry by **Commissioner Wasserman**, Ms. Subramanian advised that action items “a” through “i” of the agenda correspond to items #1 through #9 of the staff report.

Commissioner Wasserman explained that the service review has helped resolve the issues surrounding the acquisition of the hospital in Los Gatos but has raised other issues regarding transparency and public accountability. He complimented the ECHD for updating its website. He added that ECHD is not being singled out and that other special districts are scheduled to be reviewed soon. **Commissioner Kniss** stated that she appreciates that the audit resolves the original issue regarding the Los Gatos hospital. She noted that while attending the CALAFCO University class on health care districts, she observed that the ECHD is in a better position when compared to others.

Commissioner Abe-Koga thanked staff and Harvey Rose Associates for their work on the service review report. As a LAFCO member living in the district, she noted her appreciation for the high quality service that the hospital provides. She stated that early on she found it difficult to find information on the ECHD’s website and that she appreciates the progress made. She explained that she does not have a concern that the staff recommendation is different from the recommendation in the Harvey Rose report and stated that the Harvey Rose report should not be revised as it is the expert opinion. She added that she was satisfied with the process and that she is trying to find ways for the district to continue to improve on transparency and ensure that the residents of the district are the top priority for the district and the corporation. **Commissioner Wilson** concurred with Commissioner Abe-Koga regarding the Harvey Rose report and stated that she viewed the Harvey Rose report as a stand-alone document that would serve as a tool in the decision making process. She noted that while El Camino is a great hospital, questions regarding whether the district is governed correctly, whether it is serving the purpose and whether the taxpayer dollars are being used to provide services outside the district are addressed in the service review. She expressed appreciation for the changes that ECHD has made and stated that she would support the staff report but was unwilling to make changes to the Harvey Rose report.

In response to an inquiry by **Commissioner Kniss**, Mr. Alles described how the ECHD community benefit grants are planned and distributed and the requirement for grantees to provide measurement tools to assess the program’s effectiveness.

Commissioner Constant informed that he also attended the CALAFCO University class on health care districts. He expressed appreciation that the ECHD has made improvements to their website to make a distinction between the district and the corporation without waiting for LAFCO action and requested that they continue implementing needed changes. He noted that LAFCO’s role in the oversight of special districts is crucial.

The Commission determined that the Revised Draft Report which includes a sphere of influence update, and the recommendations of the staff report are exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to the following sections of the State CEQA Guidelines: §15306 Class 6; §15061(b)(3) General Rule; and §15378(b)(5).

Motion: Liz Kniss

Second: Mike Wasserman

MOTION PASSED

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

NOES: None ABSTAIN: None ABSENT: None

Commissioner Wilson suggested that the Commission act on staff recommendations #2 and #3. She stated that the Revised Draft Report is an independent report and in order to maintain its integrity, the Commission should receive and file it without any further revisions. At the request of **Commissioner Kniss**, **Commissioner Wilson** restated the motion to act only on recommendation #2.

The Commission accepted comments and considered requests for revisions to the Revised Draft Report.

Motion: Susan Vicklund Wilson

Second: Margaret Abe-Koga

MOTION PASSED

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

NOES: None ABSTAIN: None ABSENT: None

Commissioners Wasserman proposed that staff recommendations #3, #4, #5, and #6 be considered together and approved. **Commissioner Kniss** proposed to add the revisions requested in Exhibit 1 of the ECHD's July 30, 2012 letter to the motion. **Commissioner Abe-Koga** stated that ECHD's comment letter has been accepted in the prior item. A brief discussion ensued on the motion. **Commissioner Wasserman** clarified his motion at the request of the Chairperson. Ms. Subramanian advised that the Commission may explicitly accept the ECHD's July 30, 2012 comment letter and accept the Revised Draft Report without revisions. Following a discussion on whether or not to amend the Revised Draft Report as requested in the ECHD's comment letter, the Commission reached consensus to act only on staff recommendation #3 at this point, and proposed to accept the Revised Draft Report without any revision, and to accept the ECHD's comment letter.

The Commission accepted the Revised Draft Report, without revisions, and accepted Exhibit 1 in ECHD's July 30, 2012 letter.

Motion: Mike Wasserman

Second: Liz Kniss

MOTION PASSED

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

NOES: None ABSTAIN: None ABSENT: None

Commissioner Wasserman and **Kniss** proposed to approve staff recommendations #4 through #9 with Attachment B, and to include revisions to the Revised Draft Report proposed in Exhibit 1. Ms. Palacherla advised that Exhibit 1 includes revisions recommended by the ECHD to the Revised Draft Report and is not part of the staff

report. Ms. Subramanian advised that #1 in Exhibit 1 calls for revisions to the Revised Draft Report (to remove any references to dissolution) and #2 in Exhibit 1 simply reiterates staff recommendations. **Commissioner Abe-Koga** expressed opposition to the motion stating that the report would be revised if Exhibit 1 is included. **Commissioner Wilson** added that the revisions being proposed by the ECHD in Exhibit 1 are unnecessary since dissolution is not being recommended by staff and the Commission is not considering that option and that there is no need for the report to mirror the staff recommendation as it is a standalone report. Following considerable discussion amongst the commissioners and clarification from staff, Commissioner Wasserman withdrew his motion because he did not intend to modify the consultant's report and because the recommendations in Exhibit 1 are the same as staff recommendations. **Commissioner Wilson** proposed to approve Recommendations #4 through #9, as stated in the staff report. In response to an inquiry by **Commissioner Kniss**, Ms. Subramanian clarified that a resolution would be prepared reflecting the Commission's actions which are different from the recommendations in the Revised Draft Report and that the Revised Draft Report must be reviewed together with the resolution in order to obtain a complete picture of the Commission's actions.

The Commission:

- Adopted the service review determinations pursuant to Government Code §56430 as included in the Revised Draft Report.
- Retained the existing sphere of influence (SOI) for the ECHD. Adopt the SOI determinations pursuant to Government Code §56425 as included in the Revised Draft Report.
- Requested that the ECHD implement improvements in governance, transparency and public accountability as recommended in the Revised Draft Report and included in Attachment B to the staff report.
- Requested that the ECHD provide a report back to LAFCO within 12 months regarding implementation of the above improvements. At the end of the 12 month period, LAFCO shall reevaluate the ECHD and its SOI, and consider the need for any further changes or follow-up actions.
- Requested that the ECHD clearly demonstrate to LAFCO that no ECHD funds will be used if the El Camino Hospital Corporation plans to purchase property outside of the ECHD's boundary and provide an explanation for how the purchase will benefit the ECHD since the ECHD's contributions to the Corporation over the years have benefited the Corporation's reserves and financial standing.
- Directed staff to seek the State Attorney General's opinion on the applicability of the Gann Limit to Health Care Districts.

Motion: Susan Vicklund Wilson

Second: Mike Wasserman

MOTION PASSED

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

NOES: Liz Kniss

ABSTAIN: None

ABSENT: None

Commissioner Kniss explained that her opposition to the action is because of lack of clarity.

6. DRAFT MISSION STATEMENT AND PRIORITY GOALS

Dunia Noel, LAFCO Analyst, presented the staff report.

Douglas Muirhead, a resident of Morgan Hill, recommended that the LAFCO reports be made more accessible to the public, that LAFCO service review reports be made available in the public libraries, and that staff present LAFCO service reviews and other projects at city council meetings to encourage the cities' participation. **Commissioner Wilson** informed that staff would contact Mr. Muirhead for more information.

Julie Hutcheson, Committee for Green Foothills, stated that LAFCO decisions impact the quality of life in the County and expressed support for the draft mission statement and priority goals.

The Commission adopted the draft mission statement and priority goals for LAFCO.

Motion: Liz Kniss

Second: Margaret Abe-Koga

MOTION PASSED

AYES: Margaret Abe-Koga, Mike Wasserman, Liz Kniss, Susan Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: Pete Constant

7. ANNUAL REPORT

The Commission accepted the 2011-2012 Annual Report.

Motion: Liz Kniss

Second: Margaret Abe-Koga

MOTION PASSED

AYES: Margaret Abe-Koga, Mike Wasserman, Liz Kniss, Susan Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: Pete Constant

8. EXECUTIVE OFFICER'S REPORT

The Commission noted items 8.1 through 8.5.

8.6 NOMINATIONS TO THE CALAFCO BOARD OF DIRECTORS

The Commission directed staff to nominate Alternate Commissioner George Shirakawa to the CALAFCO Board of Directors if he is interested.

Motion: Susan Vicklund Wilson

Second: Mike Wasserman

MOTION PASSED

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

NOES: None

ABSTAIN: None

ABSENT: Pete Constant, Liz Kniss

8.7 DESIGNATE VOTING DELEGATE AND ALTERNATE FOR SANTA CLARA LAFCO

The Commission designated Commissioner Susan Vicklund Wilson as the voting delegate and Chairperson Pete Constant as the alternate voting delegate to the 2012 CALAFCO Board of Directors elections.

Motion: Mike Wasserman

Second: Liz Kniss

MOTION PASSED

AYES: Margaret Abe-Koga, Mike Wasserman, Liz Kniss, Susan Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: Pete Constant

9. PENDING APPLICATIONS / UPCOMING PROJECTS

There were none.

10. COMMISSIONER REPORTS

There were none.

11. NEWSPAPER ARTICLES / NEWSLETTERS

There were none.

12. WRITTEN CORRESPONDENCE: LETTER FROM THE PUBLIC INTEGRITY UNIT OF THE SANTA CLARA COUNTY DISTRICT ATTORNEY'S OFFICE, REGARDING THE SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT'S GOVERNANCE PROBLEMS

In response to an inquiry by **Commissioner Wilson**, Ms. Palacherla informed that the South Santa Clara Valley Memorial District is included in the first phase of the special districts service review. **Acting Chairperson Wasserman** noted that LAFCO's service reviews will help special districts to be more transparent and document that they have bylaws and that they are following the bylaws and the Brown Act.

13. ADJOURN

The meeting was adjourned at 3:02 p.m. to the next meeting on Wednesday, October 10, 2012 in the Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Pete Constant, Chairperson

Local Agency Formation Commission of Santa Clara County

By: _____

Emmanuel Abello, LAFCO Clerk

LAFCO MEETING: December 12, 2012
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Mala Subramanian, LAFCO Counsel
SUBJECT: AMENDMENT of LAFCO'S CONFLICT OF INTEREST CODE

RECOMMENDATIONS

1. Adopt the proposed revisions to LAFCO's Conflict of Interest Code (Attachment A).
2. Direct staff to submit LAFCO's Amended Conflict of Interest Code to the Clerk of the County Board of Supervisors.

BACKGROUND

LAFCO Counsel conducted the biennial review of LAFCO's Conflict of Interest Code as required under Government Code §87306.5 and as directed by the County Board of Supervisors - LAFCO's code-reviewing body. LAFCO is required to file a statement of review with the County no later than October 1, 2012 reflecting the results of the review. Based on such review, if any amendments are necessitated, LAFCO is required to submit the revisions to the County Board of Supervisors for approval in accordance with Government Code § 87303.

LAFCO Counsel recommended minor revisions to LAFCO's Conflict of Interest Code in order to include language and formatting as provided by the Fair Political Practices Commission and to help clarify certain requirements. The revisions do not include any substantive changes. County Counsel's Office, as counsel for LAFCO's code reviewing body recently directed that LAFCO formally adopt the revised Conflict of Interest Code before submitting the amended Code to the County Board of Supervisors.

A conflict of interest code designates those employees, members, officers and consultants who make or participate in the making of decisions which may affect financial interests and who must disclose those interests in financial disclosure statements.

ATTACHMENT

- Attachment A: Proposed Revisions to LAFCO's Conflict of Interest Code
Attachment B: Legislative version (redlined version showing changes) of the Proposed Revisions to LAFCO's Conflict of Interest Code

**CONFLICT OF INTEREST CODE OF THE
LOCAL AGENCY FORMATION COMMISSION
OF SANTA CLARA COUNTY**

The Political Reform Act, California Government Code sections 81000, et seq. (the "Act"), requires each state and local government agency to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations section 18730), that contains the terms of a standard conflict of interest code, which can be incorporated by reference into an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments to the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, Regulation 18730, and the attached Appendix designating positions and establishing disclosure categories, shall collectively constitute the Conflict of Interest Code (the "Code") of the Local Agency Formation Commission of Santa Clara County ("LAFCO").

All officials and designated positions shall file their statements of economic interests with the LAFCO Clerk, as LAFCO's Filing Official. The LAFCO Clerk shall make and retain a copy of all statements and forward the originals to the Clerk of the Board of Supervisors of the County of Santa Clara. The LAFCO Clerk will make all retained statements available for public inspection and reproduction during regular business hours. (Government Code section 81008)

Amended by LAFCO Resolution #: 2012- ____ Date: December 12, 2012.

Approved by the County of Santa Clara Board of Supervisors Date: _____

Effective: _____

APPENDIX

CONFLICT OF INTEREST CODE OF THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY

EXHIBIT 'A'

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

LAFCO Officials who manage public investments, as defined by 2 California Code of Regulations section 18701(b), are NOT subject to LAFCO's Code, but must file disclosure statements under Government Code section 87200, et seq. (2 California Code Regulations. §18730(b)(3).) These positions are listed here for informational purposes only.

It has been determined that LAFCO currently has no officials who manage public investments.

DESIGNATED POSITIONS GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORY</u> <u>ASSIGNED</u>
Commissioner	1
Alternate Commissioner	1
Executive Officer	1
Assistant Executive Officer/ Analyst	1
General Counsel	1
Consultant	2
Newly Created Position	2

EXHIBIT 'B'

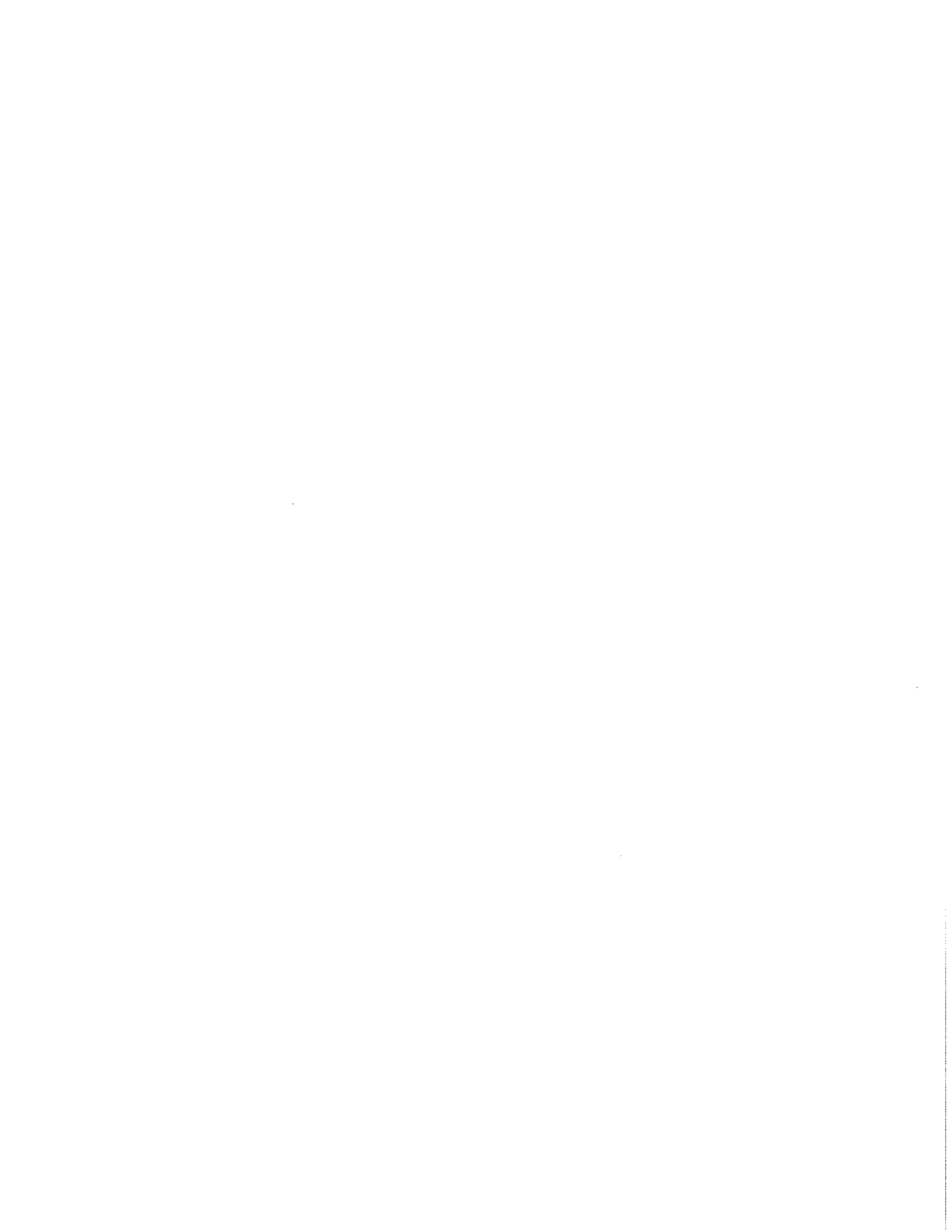
DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.

Disclosure Category 1: (a) All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, that do business in, or own real property within the jurisdiction of LAFCO; and (b) All interests in real property which is located in whole or in part within, or not more than two miles outside, the jurisdiction of LAFCO.

Disclosure Category 2: Individuals serving as a consultant as defined in FPPC Reg 18701 or in a newly created position must file under the broadest disclosure set forth in this Code subject to the following limitation:

The Executive Officer may determine that, due to the range of duties or contractual obligations, it is more appropriate to designate a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.



LEGISLATIVE VERSION
(SHOWS CHANGES MADE)

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**CONFLICT OF INTEREST CODE OF THE
LOCAL AGENCY FORMATION COMMISSION
OF SANTA CLARA COUNTY**

The Political Reform Act, California Government Code Sections ~~sections~~ 81000, et seq. (the "Act"), requires each state and local government agency to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission has adopted a regulation, set forth in 2 California Code of Regulations Section ~~section~~ 18730, that contains the terms of a standard conflict of interest code, which state and local government agencies can incorporate can be incorporated by reference into their an agency's code conflict of interest codes. After public notice and hearing ~~it~~ Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments to the Political Reform Act.

Therefore, the terms of 2 California Code of Regulations Section ~~section~~ 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference into the Local Agency Formation Commission of Santa Clara's ("LAFCO") Conflict of Interest Code. This incorporation page, Regulation 18730, and the attached Appendix designating officials and employees positions and establishing disclosure categories, shall collectively constitute LAFCO's the Conflict of Interest Code (the "Code") of the Local Agency Formation Commission of Santa Clara County ("LAFCO"). The requirements of the Code are in addition to other requirements of the Act and to other state or local laws pertaining to conflicts of interest, (Government Code §81002(c); 2 California Code of Regulations §18730(a).)

All Officials ~~officials~~ and Designated Employees ~~designated positions~~ required to submit a statement of economic interests pursuant to this Conflict of Interest Code shall file their statements of economic interests with the LAFCO Clerk, as LAFCO's Filing Official. The Filing Official ~~LAFCO Clerk~~ shall make and retain a copy of all statements and forward the originals to the County of Santa Clara Clerk of the Board of Supervisors of the County of Santa Clara. The Filing Official ~~LAFCO Clerk~~ will make all retained statements available for public inspection and reproduction during regular business hours, pursuant to California Government (Government Code Section ~~section~~ 81008.)

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Adopted ~~Amended~~ by LAFCO Resolution #: 2010-03 ~~2012-~~ Date: April 21, 2010 ~~December 12, 2012~~

Approved by the County of Santa Clara Board of Supervisors Date: _____

Effective: _____

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LEGISLATIVE VERSION
(SHOWS CHANGES MADE)

APPENDIX

**CONFLICT OF INTEREST CODE
OF THE
LOCAL AGENCY FORMATION COMMISSION
OF SANTA CLARA COUNTY**

EXHIBIT 'A'

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

LAFCO Officials who manage public investments, as defined by 2 California Code of Regulations Section ~~section~~ 18701(b), are NOT subject to LAFCO's Code, but are subject to the disclosure requirements of the Political Reform Act. ~~(must file disclosure statements under Government Code §section 87200, et seq.; (2 California Code Regulations. §18730(b)(3).)~~ These positions are listed here for informational purposes only.

It has been determined that LAFCO currently has no officials who manage public investments.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED POSITIONS'

DISCLOSURE CATEGORY

<u>TITLE OR FUNCTION</u>	<u>ASSIGNED</u>
Commissioner	1
Alternate Commissioner	1
Executive Officer	1
Assistant Executive Officer/ Analyst	1
General Counsel	1
Consultant	2
Newly Created Position	<u>2</u>

LEGISLATIVE VERSION
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EXHIBIT 'B'

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DISCLOSURE CATEGORIES

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The disclosure categories listed below identify the types of investments, business positions, sources of income, including gifts, loans or travel payments, or real property which economic interests that the Designated Employee designated position must disclose for each disclosure category to which he or she is assigned.

Disclosure Category 1: (a) All investments and business positions in business entities, and sources of income, including gifts, loans or and travel payments, that are located in, that do business in, or own real property within plan to do business in or have done business within the previous two years in the jurisdiction of LAFCO; and (b) All interests in real property which is located in whole or in part within, or not more than two miles outside, the jurisdiction of LAFCO.

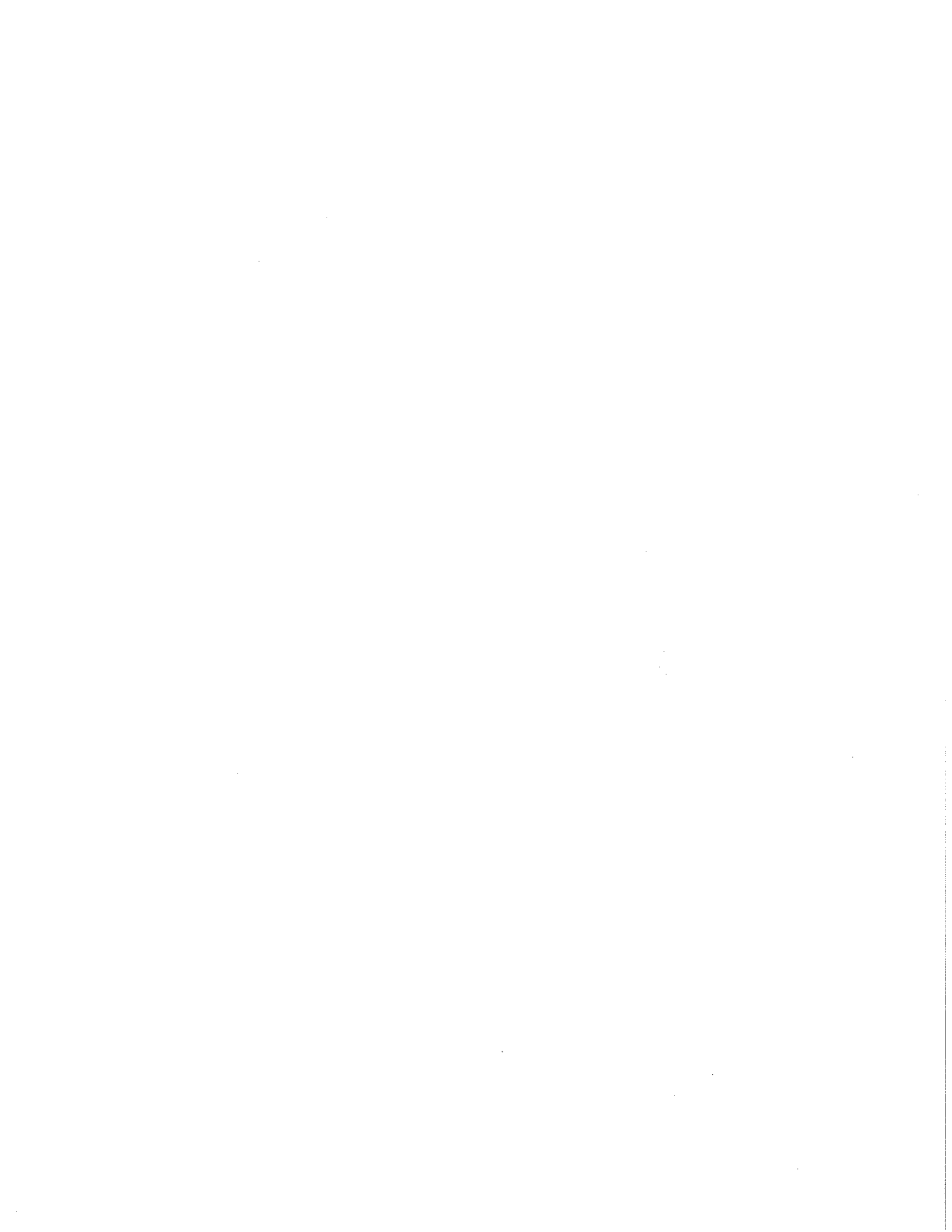
Disclosure Category 2: Consultants shall disclose pursuant to the broadest disclosure category: (a) All investments and business positions in business entities, and sources of income, including gifts, loans or travel payments, located in, that do business in, plan to do business in or have done business within the previous two years in the jurisdiction of LAFCO; and (b) All interests in real property which is located in whole or in part within, or not more than two miles outside, the jurisdiction of LAFCO. Notwithstanding the foregoing, the Executive Officer may determine in writing that a consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Category. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. Individuals serving as a consultant as defined in FPPC Reg 18701 or in a newly created position must file under the broadest disclosure set forth in this Code subject to the following limitation:

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The Executive Officer may determine that, due to the range of duties or contractual obligations, it is more appropriate to designate a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

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LAFCO MEETING: December 12, 2012

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, LAFCO Analyst
Mala Subramanian, LAFCO Counsel

SUBJECT: INDEPENDENT SPECIAL DISTRICTS MEMBERSHIP ON LAFCO

STAFF RECOMMENDATION

1. Adopt a resolution of intention to seat independent special districts on LAFCO of Santa Clara County.
2. Direct the LAFCO Executive Officer to call and give notice of a meeting of the Independent Special District Selection Committee to select independent special district members to serve on the Commission.
3. Direct that the independent special districts' pro-rated costs for the current fiscal year be added to the districts' costs for the next fiscal year and the corresponding amount for the cities and the County be reduced from their payments in the next fiscal year.

BACKGROUND

On November 29, 2012, LAFCO received nine (9) resolutions from independent special districts in the county requesting membership on LAFCO. The districts that have adopted and forwarded their resolutions to LAFCO include:

- Santa Clara County Open Space Authority (August 23, 2012)
- Guadalupe Coyote Resource Conservation District (August 29, 2012)
- Rancho Rinconada Recreation and Park District (September 4, 2012)
- Midpeninsula Regional Open Space District (September 12, 2012)
- El Camino Hospital District (September 18, 2012)
- San Martin County Water District (September 18, 2012)
- Loma Prieta Resource Conservation District (September 19, 2012)
- Santa Clara Valley Water District (October 13, 2012)
- Saratoga Fire Protection District (October 15, 2012)

See *Attachment A* for copies of the nine resolutions. These resolutions constitute a majority since there are a total of 17 eligible independent special districts in Santa Clara County (Two other districts that are partially within Santa Clara County lie principally within adjacent counties – West Bay Sanitary District in San Mateo County and Pacheco Pass Water District in San Benito County. These two districts are not eligible to participate as members in the selection process). In addition, LAFCO received a resolution from the Special Districts Association of Santa Clara County (SDA) indicating that it adopted an alternative formula for distributing LAFCO costs among independent districts and indicating that it adopted an alternative process for appointing independent special members to LAFCO. See *Attachment B* for the SDA resolution dated August 13, 2012.

Pursuant to Government Code §56332.5, if a commission receives resolutions from a majority of independent special districts in the county, the commission must adopt a resolution of intention and direct the LAFCO Executive Officer to call and notice a meeting of the Independent Special District Selection Committee (ISDSC) for the purpose of selecting special district members to the commission. The ISDSC must appoint two regular special district members and one alternate member from the legislative bodies of independent special districts to the commission. LAFCO of Santa Clara County will as a result, be expanded to 7 regular members. The alternate member may serve and vote in place of a regular district member, if a regular special district member is absent or disqualifies himself or herself from participating in a meeting.

SELECTION OF SPECIAL DISTRICT REPRESENTATIVES TO LAFCO

On August 13, 2012, the Special Districts Association of Santa Clara County (SDA) adopted an alternate process for appointing independent special district members to Santa Clara LAFCO. The SDA decided that one of the special district members will be appointed from the Santa Clara Valley Water District (SCVWD) as a result of SCVWD's consent to pay a greater share of LAFCO costs. Furthermore, the SDA agreed that the second special district member as well as the alternate special district member will be appointed by the ISDSC via the standard process pursuant to Government Code §56332. Because of the agreement to appoint one member from the SCVWD, the ISDSC will elect only one regular and one alternate member to serve on Santa Clara LAFCO. The special district members appointed to LAFCO must be elected or appointed special district officers residing within the county but must not be members of the legislative body of a city or county.

The ISDSC consists of presiding officers of independent special districts in Santa Clara County. If the presiding officer of an independent special district is unable to attend the ISDSC meeting, the legislative body of the district may appoint one of its members to attend and vote in the presiding officer's place. A quorum consisting of presiding officers from a majority of independent special districts is required to conduct a meeting of the ISDSC. Each member of the ISDSC is entitled to one vote.

Length of Terms

The length of term of a LAFCO commissioner is 4 years. Pursuant to Government Code §56334 and in order to stagger the term expiration for special district members, one of the two original terms for special district members will be 2 years in length and the other will be 4 years. The ISDSC, at its first meeting, will determine the length of terms for the two members. The alternate member's term will be 4 years. All future terms will be for four years.

Disqualification on Proposals Affecting the District

Pursuant to Government Code §56332(d), a special district member is not automatically disqualified from acting on a proposal affecting the member's special district. However, the statute allows that the ISDSC may, at the time of appointment of a member or alternate, specify that the member is disqualified from voting on proposals affecting the member's district.

ALLOCATION OF LAFCO COSTS TO INDEPENDENT SPECIAL DISTRICTS

Government Code §56381(b)(1)(A) provides that when independent special districts are seated on LAFCO, the county, cities and districts must each provide a one-third share of LAFCO's operational budget. The statute further provides that the independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county.

The SDA, at its August 13, 2012 meeting, adopted an alternative formula for distributing the independent special districts' share to individual districts. The SDA's agreement requires each district's cost to be based on a fixed percentage (as allocated in Table 1) of the total independent special districts' share. The agreement allows any district by adopting a resolution declaring hardship, to request the SDA to review and revise the allocation percentages. Additionally, the agreement requires the SDA to review the percentages every five years (starting in July 1, 2018) and determine if there is a desire by the majority of the independent special districts to revise the allocation percentages for each district.

Table 1 depicts the annual cost to independent special districts based on LAFCO's budgeted operating expenses (\$563,560) for the current fiscal year 2013. The 17 independent special districts will be charged a pro-rated amount of the annual cost for the current fiscal year. In order to allow the districts to budget for and in order to avoid the administrative cost of billing the districts for partial payments this year, it may be preferable to add the pro-rated costs to the districts' costs in the next fiscal year. Similarly, the cities' and the County's corresponding reduction in costs for the current fiscal year could be reflected in their costs for the next fiscal year.

Table 1: Annual Cost Allocation to Independent Special Districts

	Independent Special Districts	Fixed Percentage as Established by SDA Resolution Dated (08/13/2012)	Annual Cost Based on FY 2013 LAFCO Operating Expenses
1	Aldercroft Heights County Water District	0.06233%	\$117.09
2	Burbank Sanitary District	0.15593%	\$292.92
3	Cupertino Sanitary District	2.64110%	\$4,961.39
4	El Camino Hospital District	4.90738%	\$9,218.68
5	Guadalupe Coyote Resource Conservation District	0.04860%	\$91.30
6	Lake Canyon Community Services District	0.02206%	\$41.44
7	Lion's Gate Community Services District	0.22053%	\$414.27
8	Loma Prieta Resource Conservation District	0.02020%	\$37.95
9	Midpeninsula Regional Open Space District	5.76378%	\$10,827.45
10	Purissima Hills County Water District	1.35427%	\$2,544.04
11	Rancho Rinconada Recreation and Park District	0.15988%	\$300.34
12	San Martin County Water District	0.04431%	\$83.24
13	Santa Clara Open Space District	1.27051%	\$2,386.7
14	Santa Clara Valley Water District	81.44124%	\$152,990.08
15	Saratoga Cemetery District	0.32078%	\$602.60
16	Saratoga Fire Protection District	1.52956%	\$2,873.33
17	South Santa Clara Valley Memorial District	0.03752%	\$70.48
	Total	100%	\$187,853.33

LAFCO's budgeted operating expenses for FY 2013 = \$563,560

Independent Special Districts' share for FY 2013= 1/3 of \$563,560 = \$187,853.33

NEXT STEPS AND TIMELINE

The LAFCO Executive Officer will call and give notice of the ISDSC meeting. Due to the upcoming holiday season, the meeting of the ISDSC will be scheduled for early January. At the ISDSC meeting, the independent special districts will:

1. Appoint one regular member and one alternate member to LAFCO
2. Decide on the length of original terms for the two special district regular members
3. Decide if the district member should be disqualified from voting on proposals affecting the member's district

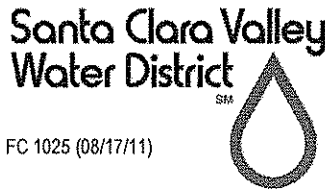
The SCVWD will appoint its member to LAFCO at its first meeting in January.

It is expected that the independent special district members will be seated at the next LAFCO meeting scheduled to be held in February 2013.

The pro-rated costs for each individual special district (for the remainder of the fiscal year) will be calculated and will be added to each district's FY 2014 share of LAFCO cost. The County and the cities will receive a corresponding credit which will also be reflected in their FY 2014 share of LAFCO cost.

ATTACHMENTS

- Attachment A: Resolutions Received by LAFCO from Nine Independent Special Districts
- Attachment B: Resolution Adopted by the Santa Clara County Special Districts Association dated August 13, 2012.



FC 1025 (08/17/11)

A duly executed copy of this document has been received and placed on file.

Date: 10/23/12

Meeting Date: 10/23/12
Agenda Item: 9.1
Unclassified Manager: R. Callender
Extension: 2017
Director(s): All

**CONFORMED COPY
BOARD AGENDA MEMO**

SUBJECT: Resolution Requesting Independent Special District Membership on the Santa Clara County Local Agency Formation Commission

RECOMMENDATION:

Adopt the Resolution requesting independent special district membership on the Santa Clara County Local Agency Formation Commission (LAFCO).

SUMMARY:

On May 15, 2012, the District Board of Directors (Board) discussed and approved having the District pursue independent special district representation on LAFCO. On July 10, 2012, the Board provided additional guidance on cost parameters as well the District's intent on securing a seat on the commission.

The Santa Clara County Special Districts Association (SCCSDA) convened special meetings in July and August to discuss and deliberate implications of participation on LAFCO. At its August 13, 2012, special meeting, the association passed a resolution requesting that the Santa Clara County LAFCO initiate proceedings for representation (Attachment 2) and it recommends that all independent Santa Clara County special districts consider and adopt a resolution supporting placing the special districts on LAFCO (Attachment 1). The resolution details the agreement of SCCSDA's deliberations and calls on independent special districts to support the matter. The resolution includes appointment of Santa Clara Valley Water District to LAFCO as one of the two special district representatives.

After the SCCSDA confirms that a majority of independent special districts have passed the board resolutions, it will notify LAFCO and request that it proceed with the next steps legally required to place the independent special districts representatives on LAFCO.

FINANCIAL IMPACT:

Should a majority of independent special districts within Santa Clara County vote to support placing independent special districts on LAFCO, the District will pay a fixed percentage of 81.44124% of the annual cost appropriated to special districts. The fixed percentage will be reviewed every five years, beginning July 1, 2018. The current annual cost to the District is approximately \$162,000.

ADOPTED

OCT 23 2012

SUBJECT: Resolution Requesting Independent Special District Membership on the Santa Clara County Local Agency Formation Commission

(10/23/12)

Should inclusion of special districts in LAFCO occur in the current fiscal year, a budget adjustment will be sought from the Board for a prorated amount of the annual cost.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Board Resolution requesting independent special district membership on the Santa Clara County Local Agency Formation Commission (LAFCO)

Attachment 2: Resolution of the Santa Clara County Special Districts Association (SCCSDA) to initiate proceedings for representation

Attachment 3: Exhibit A – Percent Allocated Per District to be Used as a Fixed Percentage of LAFCO Operating Costs to Determine Annual Cost Allocation

RESOLUTION NO. 12-75

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE SANTA CLARA VALLEY WATER DISTRICT
REQUESTING INDEPENDENT SPECIAL DISTRICT MEMBERSHIP
ON THE SANTA CLARA COUNTY LOCAL AGENCY FORMATION COMMISSION

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code provides for the creation and composition of local agency formation commissions; and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, Santa Clara Valley Water District believes independent special district (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is city and ISD representation on a LAFCO, one-third of the operating costs of the LAFCO are to be borne by the ISDs; and

WHEREAS, the ISDs share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISDs; and

WHEREAS, Santa Clara Valley Water District supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the ISDs share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED BY THE Santa Clara Valley Water District,

1. The Santa Clara Valley Water District supports the Resolution of the Santa Clara County Special District Association requesting that the Santa Clara County Local Agency Formation Commission initiate proceedings for representation of independent special districts upon the commission, adopting an alternative formula for distributing local agency formation commission operating costs and adopting an alternative process for appointing independent special district members to the commission.
2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part hereof.

A Resolution of the Board of Directors of the Santa Clara Valley Water District Requesting Independent Special District Membership on the Santa Clara County Local Agency Formation Commission

3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. Annually, the Santa Clara Valley Water District will be responsible for its allocation of ISD's share of LAFCO operating costs as identified by SCCLAFCO, based on multiplying the fixed percentage column for the Santa Clara Valley Water District detailed in Exhibit A and the one-third share of the total LAFCO cost in determining the total cost and amount to be allocated to the Santa Clara Valley Water District; provided, however, that Santa Clara Valley Water District may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
6. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the ISD's share of LAFCO costs; and the second representative and alternate shall be appointed via the standard selection process.
7. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on October 23, 2012.

AYES: Directors T. Estremera, D. Gage, R. Santos, B. Schmidt, P. Kwok

NOES: Directors None

ABSENT: Directors J. Judge, L. LeZotte

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By: 
LINDA J. LEZOTTE
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk/Board of Directors

RESOLUTION OF THE SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION
REQUESTING THAT THE SANTA CLARA COUNTY LOCAL AGENCY FORMATION
COMMISSION INITIATE PROCEEDINGS FOR REPRESENTATION OF INDEPENDENT
SPECIAL DISTRICT UPON THE COMMISSION,

AND

ADOPTING AN ALTERNATIVE FORMULA FOR DISTRIBUTING
LOCAL AGENCY FORMATION COMMISSION OPERATING COSTS

AND

ADOPTING AN ALTERNATIVE PROCESS FOR APPOINTING INDEPENDENT SPECIAL
DISTRICT MEMBERS TO THE SANTA CLARA COUNTY LOCAL AGENCY FORMATION
COMMISSION

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code) provides for the creation and composition of local agency formation commissions (LAFCO); and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, the Santa Clara County Special District Association (SCCSDA) believes independent special districts (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is a city and ISD representation on a LAFCO, one third of the operating costs of the LAFCO are to be borne by the ISD; and

WHEREAS, the ISD's share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISD's; and

WHEREAS, the SCCSDA supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the SCCSDA's share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED by the Santa Clara County Special District Association as follows:

1. The SCCSDA believes it is important that independent special districts have a voice in LAFCO matters and SCCLAFCO is requested to initiate proceedings for representation of independent special districts upon the commission.
2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part thereof; provided, however, that any district may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the LAFCO costs; and the second representative and alternate will be selected via the standard selection process.
6. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.

PASSED AND ADOPTED by the SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION on August 13, 2012.

EXHIBIT A

**Percent Allocated Per District to be Used
As a Fixed Percentage Of LAFCO Operating Costs
To Determine Annual Cost Allocation**

Organization	Allocation Based on Percentage	Fixed Percentage
Aldercroft Heights County Water District	\$124.07	0.06233%
Burbank Sanitary District	\$310.40	0.15593%
Cupertino Sanitary District	\$5,257.51	2.64110%
El Camino Hospital District	\$9,768.88	4.90738%
Guadalupe Coyote Resource Conservation District	\$96.74	0.04860%
Lake Canyon Community Svcs. District	\$43.92	0.02206%
Lion's Gate Community Services	\$439.01	0.22053%
Loma Prieta Resource Conservation District	\$40.22	0.02020%
Midpeninsula Regional Open Space District	\$11,473.67	5.76378%
Purissima Hills County Water District	\$2,695.87	1.35427%
Rancho Rinconada Rec. n Park	\$318.27	0.15988%
San Martin County Water District	\$88.21	0.04431%
Santa Clara County Open Space District	\$2,529.14	1.27051%
Santa Clara Valley Water District	\$162,121.00	81.44124%
Saratoga Cemetery District	\$638.56	0.32078%
Saratoga Fire Protection District	\$3,044.82	1.52956%
South Santa Clara Valley Memorial District	\$74.68	0.03752%
Total	\$199,065.00	100.00000%

ATTACHMENT D3

BEFORE THE BOARD OF DIRECTORS

OF THE Loma Prieta Resource Conservation
(LPRCD) DISTRICT

RESOLUTION

A resolution of the Board of Directors of the LPRCD
(District) requesting independent special district membership on the
Santa Clara County Local Agency Formation Commission

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code provides for the creation and composition of local agency formation commissions; and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, LPRCD believes independent special district (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, In counties in which there is city and ISD representation on a LAFCO, one-third of the operating costs of the LAFCO are to be borne by the ISDs; and

WHEREAS, the ISDs share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISDs; and

WHEREAS, LPRCD District supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the ISDs share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED BY THE LPRCD District,

1. The LPRCD District supports the Resolution of the Santa Clara County Special District Association requesting that the Santa Clara County Local Agency Formation Commission initiate proceedings for representation of independent special districts upon the commission, adopting an alternative formula for distributing local agency formation commission operating costs and adopting an alternative process for appointing independent special district members to the commission.
2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part hereof.
3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. Annually, the LPRCD District will be responsible for its allocation of ISD's share of LAFCO operating costs as identified by SCCLAFCO, based on multiplying the fixed percentage column for the LPRCD District detailed in Exhibit A and the one-third share of the total LAFCO cost in determining the total cost and amount to be allocated to the LPRCD District; provided, however, that LPRCD District may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
6. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the ISD's share of LAFCO costs; and the second representative and alternate shall be appointed be selected via the standard selection process.
7. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.

PASSED AND ADOPTED by the LPRCD District on 9/19/12 by the following vote:

AYES: 4

NOES: 0

ABSTAIN;

By [Signature] acting chair
Chair of the LPRCD

ATTEST:

Susan M. Meyer; Executive Director

Clerk _____

San Martin County Water District

Serving the San Martin Area East of Monterey Road



P.O. BOX 120, SAN MARTIN, CALIFORNIA 95046-0120

PHONE (408) 683-4101

Resolution # 2012-01

Requesting Independent Special District Membership on the Santa Clara County Local Agency Formation Commission

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code provides for the creation and composition of local agency formation commissions; and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, San Martin County Water District believes independent special district (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is city and ISD representation on a LAFCO, one-third of the operating costs of the LAFCO are to be borne by the ISDs; and

WHEREAS, the ISDs share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISDs; and

WHEREAS, San Martin County Water District supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the ISDs share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED BY THE San Martin County Water District,

1. The San Martin County Water District supports the Resolution of the Santa Clara County Special District Association requesting that the Santa Clara County Local Agency Formation Commission initiate proceedings for representation of independent special districts upon the commission, adopting an alternative formula for distributing local agency formation commission operating costs and adopting an alternative process for appointing independent special district members to the commission.
2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part hereof.
3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.

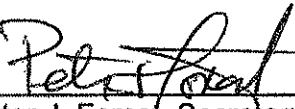
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. Annually, the San Martin County Water District will be responsible for its allocation of ISD's share of LAFCO operating costs as identified by SCCLAFCO, based on multiplying the fixed percentage column for the San Martin County Water District detailed in Exhibit A and the one-third share of the total LAFCO cost in determining the total cost and amount to be allocated to the San Martin County Water District; provided, however, that San Martin County Water District may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
6. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the ISD's share of LAFCO costs; and the second representative and alternate shall be appointed be selected via the standard selection process.
7. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.

PASSED AND ADOPTED by the San Martin County Water District on September 18, 2012 by the following vote:

AYES: 3
NOES: 0
ABSTAIN: 0
ABSENT: 0

By 
Chair of the San Martin County Water District

ATTEST:


Peter J. Forest, Secretary
San Martin County Water District

BEFORE THE BOARD OF DIRECTORS

OF THE

EL CAMINO HOSPITAL DISTRICT

RESOLUTION 2012-20

Resolution of the Board of Directors of the El Camino Hospital District ("District")
requesting independent special district membership on the
Santa Clara County Local Agency Formation Commission

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code provides for the creation and composition of local agency formation commissions; and

WHEREAS, the Santa Clara County Local Agency Formation Commission ("SCCLAFCO") promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, El Camino Hospital District believes independent special district ("ISDs") representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is city and ISD representation on a LAFCO, one-third of the operating costs of the LAFCO are to be borne by the ISDs; and

WHEREAS, the ISDs share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISDs; and

WHEREAS, El Camino Hospital District supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the ISDs share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED BY THE El Camino Hospital District,

1. The El Camino Hospital District supports the Resolution of the Santa Clara County Special District Association requesting that the Santa Clara County Local Agency Formation Commission initiate proceedings for representation of independent special districts upon the commission, adopting an alternative formula for distributing local agency formation commission operating costs and adopting an alternative process for appointing independent special district members to the commission.
2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part hereof.
3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. Annually, the El Camino Hospital District will be responsible for its allocation of ISD's share of LAFCO operating costs as identified by SCCLAFCO, based on multiplying the fixed percentage column for the El Camino Hospital District detailed in Exhibit A and the one-third share of the total LAFCO cost in determining the total cost and amount to be allocated to the El Camino Hospital District; provided, however, that El Camino Hospital District may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
6. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the ISD's share of LAFCO costs; and the second representative and alternate shall be appointed be selected via the standard selection process.
7. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.

PASSED AND ADOPTED by the El Camino Hospital District on September 18, 2012 by the following vote:

AYES: *Albo, Einarson, Reeder, Zoglin*

NOES;

ABSTAIN;

ATTEST: *[Signature]*
Secretary of the El Camino Hospital District Board

By *[Signature]*
Chair of the El Camino Hospital District Board

RESOLUTION NO. 12-34

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA
REGIONAL OPEN SPACE DISTRICT REQUESTING INDEPENDENT
SPECIAL DISTRICT MEMBERSHIP ON THE LOCAL AGENCY FORMATION
COMMISSION OF SANTA CLARA COUNTY**

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code provides for the creation and composition of local agency formation commissions; and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts (ISDs) selected by the independent special district committee; and

WHEREAS, the Midpeninsula Regional Open Space District believes independent special district (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is city and ISD representation on a LAFCO, one-third of the operating costs of the LAFCO are to be borne by the ISDs; and

WHEREAS, the ISDs share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISDs; and

WHEREAS, the Midpeninsula Regional Open Space District supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

RESOLUTION NO. 12-34

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on September 12, 2012, at a Regular Meeting thereof, by the following vote:

AYES: CYR, KISHIMOTO, HASSETT, HARRIS, SIEMENS, AND RIFFLE


NOES: NONE

ABSTAIN: NONE

ABSENT: HANKO

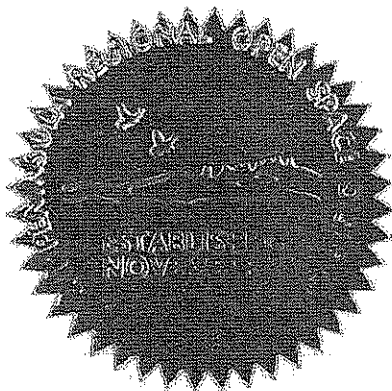
ATTEST:

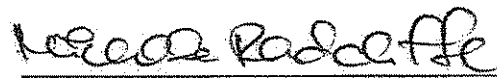
APPROVED:


Secretary
Board of Directors


President
Board of Directors

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.




District Clerk



SARATOGA FIRE DISTRICT

SERVICE SINCE 1923

BEFORE THE BOARD OF DIRECTORS
OF THE
SARATOGA FIRE PROTECTION DISTRICT
RESOLUTION 2012-4

A resolution of the Board of Commissioners of the Saratoga Fire Protection District (District) requesting independent special district membership on the Santa Clara County Local Agency Formation Commission

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code provides for the creation and composition of local agency formation commissions; and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, the Saratoga Fire Protection District believes independent special district (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is city and ISD representation on a LAFCO, one-third of the operating costs of the LAFCO are to be borne by the ISDs; and

WHEREAS, the ISDs share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISDs; and

WHEREAS, Saratoga Fire Protection District supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and



SARATOGA FIRE DISTRICT

SERVICE SINCE 1923

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the ISDs share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED BY THE Saratoga Fire Protection District,

1. The Saratoga Fire Protection District supports the Resolution of the Santa Clara County Special District Association requesting that the Santa Clara County Local Agency Formation Commission initiate proceedings for representation of independent special districts upon the commission, adopting an alternative formula for distributing local agency formation commission operating costs and adopting an alternative process for appointing independent special district members to the commission.
2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part hereof.
3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. Annually, the Saratoga Fire Protection District will be responsible for its allocation of ISD's share of LAFCO operating costs as identified by SCCLAFCO, based on multiplying the fixed percentage column for the Saratoga Fire Protection District detailed in Exhibit A and the one-third share of the total LAFCO cost in determining the total cost and amount to be allocated to the Saratoga Fire Protection District; provided , however, that Saratoga Fire Protection District may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
6. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the ISD's share of LAFCO costs; and the second representative and alternate shall be appointed be selected via the standard selection process.
7. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.



SARATOGA FIRE DISTRICT

SERVICE SINCE 1923

PASSED AND ADOPTED by the Saratoga Fire Protection District on October 15, 2012 by the following vote:

AYES: Moyles, Zambetti, Long
NOES;
ABSTAIN;

By 
Chair of the Board of Fire Commissioners

ATTEST:


Clerk

BEFORE THE BOARD OF DIRECTORS
OF THE
GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT
RESOLUTION

A resolution of the Board of Directors of the GUADALUPE-COYOTE RESOURCE
CONSERVATION DISTRICT (District) requesting independent special district membership
on the Santa Clara County Local Agency Formation Commission

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code provides for the creation and composition of local agency formation commissions; and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, the GUADALUPE-COYOTE RESOURCE CONSERVATION District believes independent special district (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is city and ISD representation on a LAFCO, one-third of the operating costs of the LAFCO are to be borne by the ISDs; and

WHEREAS, the ISDs share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISDs; and

WHEREAS, the GUADALUPE-COYOTE RESOURCE CONSERVATION District supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the ISDs share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED BY THE GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT

1. The GUADALUPE-COYOTE RESOURCE CONSERVATION District supports the Resolution of the Santa Clara County Special District Association requesting that the Santa Clara County Local Agency Formation Commission initiate proceedings for representation of independent special districts upon the commission, adopting an alternative formula for distributing local agency formation commission operating costs and adopting an alternative process for appointing independent special district members to the commission.
2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part hereof.
3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. Annually, the GUADALUPE-COYOTE RESOURCE CONSERVATION District will be responsible for its allocation of ISD's share of LAFCO operating costs as identified by SCCLAFCO, based on multiplying the fixed percentage column for the GUADALUPE-COYOTE RESOURCE CONSERVATION District detailed in Exhibit A and the one-third share of the total LAFCO cost in determining the total cost and amount to be allocated to the g District; provided , however, that the GUADALUPE-COYOTE RESOURCE CONSERVATION District may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
6. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the ISD's share of LAFCO costs; and the second representative and alternate shall be appointed be selected via the standard selection process.
7. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.

PASSED AND ADOPTED by the GUADALUPE-COYOTE RESOURCE CONSERVATION District on August 29, 2012 by the following vote:

AYES: 3

NOES; 0

ABSTAIN; 0

By: Roger Castillo
Roger Castillo

Chair of the Guadalupe-Coyote Resource Conservation District

ATTEST: Nancy Bernardi
Nancy Bernardi

Clerk: Guadalupe-Coyote Resource Conservation District

BEFORE THE BOARD OF DIRECTORS
OF THE
RANCHO RINCONADA RECREATION AND PARK DISTRICT
RESOLUTION

A resolution of the Board of Directors of the
Rancho Rinconada Recreation and Park District
requesting independent special district membership on the
Santa Clara County Local Agency Formation Commission

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code provides for the creation and composition of local agency formation commissions; and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, Rancho Rinconada Recreation and Park District believes independent special district (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is city and ISD representation on a LAFCO, one-third of the operating costs of the LAFCO are to be borne by the ISDs; and

WHEREAS, the ISDs share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISDs; and

WHEREAS, Rancho Rinconada Recreation and Park District supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the ISDs share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED BY THE
Rancho Rinconada Recreation and Park District,

1. The Rancho Rinconada Recreation and Park District supports the Resolution of the Santa Clara County Special District Association requesting that the Santa Clara County Local Agency Formation Commission initiate proceedings for representation of independent special districts upon the commission, adopting an alternative formula for distributing local agency formation commission operating costs and adopting an alternative process for appointing independent special district members to the commission.

2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part hereof.
3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. Annually, the Rancho Rinconada Recreation and Park District will be responsible for its allocation of ISD's share of LAFCO operating costs as identified by SCCLAFCO, based on multiplying the fixed percentage column for the Rancho Rinconada Recreation and Park District detailed in Exhibit A and the one-third share of the total LAFCO cost in determining the total cost and amount to be allocated to the Rancho Rinconada Recreation and Park District; provided, however, that Rancho Rinconada Recreation and Park District may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
6. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the ISD's share of LAFCO costs; and the second representative and alternate shall be appointed be selected via the standard selection process.
7. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.

PASSED AND ADOPTED by the Rancho Rinconada Recreation and Park District on 4 September 2012 by the following vote:

AYES: Jordan Eldridge, Julie Jervis, Miriam Salo, Steven Wesolowski

NOES:

ABSTAIN: Sandra Yeaton

By 
Chair of the RRR&PD Board

ATTEST:


Clerk of the RRR&PD Board

RESOLUTION 12-34

**RESOLUTION OF THE GOVERNING BOARD OF
THE SANTA CLARA COUNTY OPEN SPACE AUTHORITY,
REQUESTING INDEPENDENT SPECIAL DISTRICT MEMBERSHIP ON THE SANTA
CLARA COUNTY LOCAL AGENCY FORMATION COMMISSION**

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code provides for the creation and composition of local agency formation commissions; and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, Santa Clara County Open Space Authority (Authority) believes independent special district (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is city and ISD representation on a LAFCO, one-third of the operating costs of the LAFCO are to be borne by the ISDs; and

WHEREAS, the ISDs share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISDs; and

WHEREAS, the Authority supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the ISDs share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED by the Santa Clara County Open Space Authority,

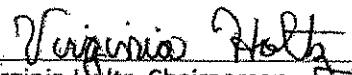
1. The Santa Clara County Open Space Authority supports the Resolution of the Santa Clara County Special District Association requesting that the Santa Clara County Local Agency Formation Commission initiate proceedings for representation of independent special districts upon the commission, adopting an alternative formula for distributing local agency formation commission operating costs and adopting an alternative process for appointing independent special district members to the commission.
2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part hereof.

Santa Clara County Open Space Authority

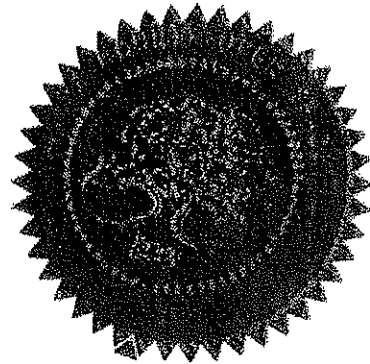
3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. Annually, the Authority will be responsible for its allocation of ISD's share of LAFCO operating costs as identified by SCCLAFCO, based on multiplying the fixed percentage column for the Authority detailed in Exhibit A and the one-third share of the total LAFCO cost in determining the total cost and amount to be allocated to the Authority; provided, however, that the Authority may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
6. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the ISD's share of LAFCO costs; and the second representative and alternate shall be appointed be selected via the standard selection process.
7. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.

PASSED, APPROVED AND ADOPTED this 23rd Day of August, 2012, by the following vote:


AYES: Alex Kennett, Jim Foran, Sequoia Hall, Virginia Holtz, Clark Williams, Calvin Gill
NOES: None
ABSENT: Garnetta Annable
ABSTAIN: None



Virginia Holtz, Chairperson
Santa Clara County Open Space Authority



APPROVED AS TO FORM:



William P. Parkin, Legal Counsel

ATTEST:



Lauren Monack, Clerk of the Board

RESOLUTION OF THE SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION

REQUESTING THAT THE SANTA CLARA COUNTY LOCAL AGENCY FORMATION COMMISSION INITIATE PROCEEDINGS FOR REPRESENTATION OF INDEPENDENT SPECIAL DISTRICT UPON THE COMMISSION,

AND

ADOPTING AN ALTERNATIVE FORMULA FOR DISTRIBUTING

LOCAL AGENCY FORMATION COMMISSION OPERATING COSTS

AND

ADOPTING AN ALTERNATIVE PROCESS FOR APPOINTING INDEPENDENT SPECIAL DISTRICT MEMBERS TO THE SANTA CLARA COUNTY LOCAL AGENCY FORMATION COMMISSION

WHEREAS, California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 2, Part 2, Division 3, Title 5 of the Government Code) provides for the creation and composition of local agency formation commissions (LAFCO); and

WHEREAS, the Santa Clara County Local Agency Formation Commission (SCCLAFCO) promotes orderly growth and development in Santa Clara County by, preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting public accountability and transparency of local agencies to improve governance; and

WHEREAS, the composition of the SCCLAFCO may include two members from the legislative bodies of independent special districts selected by the independent special district committee; and

WHEREAS, the Santa Clara County Special District Association (SCCSDA) believes independent special districts (ISDs) representation on the SCCLAFCO will facilitate achieving SCCLAFCO's goals; and

WHEREAS, in counties in which there is a city and ISD representation on a LAFCO, one third of the operating costs of the LAFCO are to be borne by the ISD; and

WHEREAS, the ISD's share of operating costs are to be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within the county or by an alternative method approved by a majority of the ISD's; and

WHEREAS, the SCCSDA supports the need for an alternative formula which recognizes the need for all special districts to contribute, that no one district should bear a disproportionate share of the cost, that there are differences in the ability of enterprise versus non-enterprise districts to contribute to costs, and that extraordinary revenue such as gifts and grants should not be taken into consideration when determining a district's revenue for the purpose of apportioning LAFCO costs; and

WHEREAS, the Santa Clara Valley Water District has consented to bear more than 50% of the SCCSDA's share of LAFCO operating costs.

NOW, THEREFORE, BE IT RESOLVED by the Santa Clara County Special District Association as follows:

1. The SCCSDA believes it is important that independent special districts have a voice in LAFCO matters and SCCLAFCO is requested to initiate proceedings for representation of independent special districts upon the commission.
2. The alternative allocation of SCCSDA share of operating costs of LAFCO shall be based on the percentages allocated to each district as set forth in Exhibit A, attached hereto and made a part thereof; provided, however, that any district may pass a resolution declaring financial hardship and requesting the SCCSDA to conduct a review and revision of the allocations described in Exhibit A.
3. Exhibit A shall be reviewed every five (5) years, beginning July 1, 2018, during a regularly scheduled meeting of the SCCSDA, to determine if there is a desire, by a majority of the ISD's to initiate action to amend the allocations assigned to each ISD.
4. For any multi-county ISD, the contribution level shall be solely based on that percentage of income received within Santa Clara County by that ISD.
5. The Santa Clara Valley Water District shall have one appointment to the SCCLAFCO as a result of its consent to pay greater than 50% of the LAFCO costs; and the second representative and alternate will be selected via the standard selection process.
6. The SCCSDA representatives to SCCLAFCO are strongly encouraged to submit bi-annual reports at regularly scheduled meetings of the SCCSDA that will update the SCCSDA on LAFCO issues and actions.

PASSED AND ADOPTED by the SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION on August 13, 2012.

EXHIBIT A

**Percent Allocated Per District to be Used
As a Fixed Percentage Of LAFCO Operating Costs
To Determine Annual Cost Allocation**

Organization	Allocation Based on Percentage	Fixed Percentage
Aldercroft Heights County Water District	\$124.07	0.06233%
Burbank Sanitary District	\$310.40	0.15593%
Cupertino Sanitary District	\$5,257.51	2.64110%
El Camino Hospital District	\$9,768.88	4.90738%
Guadalupe Coyote Resource Conservation District	\$96.74	0.04860%
Lake Canyon Community Svcs. District	\$43.92	0.02206%
Lion's Gate Community Services	\$439.01	0.22053%
Loma Prieta Resource Conservation District	\$40.22	0.02020%
Midpeninsula Regional Open Space District	\$11,473.67	5.76378%
Purissima Hills County Water District	\$2,695.87	1.35427%
Rancho Rinconada Rec. n Park	\$318.27	0.15988%
San Martin County Water District	\$88.21	0.04431%
Santa Clara County Open Space District	\$2,529.14	1.27051%
Santa Clara Valley Water District	\$162,121.00	81.44124%
Saratoga Cemetery District	\$638.56	0.32078%
Saratoga Fire Protection District	\$3,044.82	1.52956%
South Santa Clara Valley Memorial District	\$74.68	0.03752%
Total	\$199,065.00	100.00000%

RESOLUTION NO. 2012 –07

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF SANTA CLARA COUNTY**

**RESOLUTION OF INTENTION TO SEAT INDEPENDENT SPECIAL
DISTRICTS TO THE COMMISSION**

RESOLVED by the Local Agency Formation Commission of Santa Clara County, State of California that

WHEREAS, on November 29, 2012, the Commission received nine resolutions from independent special districts in Santa Clara County requesting representation on LAFCO; and

WHEREAS, the districts that have adopted and forwarded their resolutions to the Executive Officer include: Santa Clara County Open Space Authority (August 23, 2012), Guadalupe Coyote Resource Conservation District (August 29, 2012), Rancho Rinconada Recreation and Park District (September 4, 2012), Midpeninsula Regional Open Space District (September, 12, 2012), El Camino Hospital District (September 18, 2012), San Martin County Water District (September 18, 2012), Loma Prieta Resource Conservation District (September 19, 2012), Santa Clara Valley Water District (October 23, 2012), and Saratoga Fire Protection District (October 15, 2012); and

WHEREAS, the Executive Officer has received resolutions from a majority of independent special districts within the County that have been adopted by the districts within one year from the date that the first resolution was adopted; and

WHEREAS, at the next regular scheduled meeting after receipt of these resolutions, the Commission is considering the adoption of this Resolution of Intention.

NOW THEREFORE, the Local Agency Formation Commission of Santa Clara County does hereby resolve, determine, and order as follows:

SECTION 1: The proceedings have been initiated by the independent special districts, which are set forth above.

SECTION 2: The Commission directs the Executive Officer to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of this resolution or soon thereafter in order to select independent special district representation on the Commission pursuant to Government Code section 56332.

PASSED AND ADOPTED by the Local Agency Formation Commission of Santa Clara County, State of California on December 12, 2012 by the following vote:

RESOLUTION NO. 2012 –07

AYES:
NOES:
ABSENT:
ABSTAIN:

Pete Constant, Chairperson
LAFCO of Santa Clara County

ATTEST:

APPROVED AS TO FORM:

Emmanuel Abello, LAFCO Clerk

Malathy Subramanian, LAFCO Counsel

LAFCO MEETING: December 12, 2012

TO: LAFCO

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

**SUBJECT: Approval of Response to the 2011-2012 Civil Grand Jury Report
Entitled, "The South Santa Clara Valley Memorial Special District
Continues to Fall Short of Good Governance"**

RECOMMENDATION

1. Consider and approve, with revisions as necessary, the attached draft response (Attachment A) to the 2011-2012 Santa Clara County Civil Grand Jury Report of June 20, 2012 entitled "The South Santa Clara Valley Memorial Special District Continues to Fall Short of Good Governance."
2. Direct staff to forward the response to the Presiding Judge of the Santa Clara County Superior Court and the Foreperson of the Civil Grand Jury.

BACKGROUND

On June 20, 2012, the Santa Clara County Civil Grand Jury released a report entitled "The South Santa Clara Valley Memorial Special District Continues to Fall Short of Good Governance" (Attachment B). The Grand Jury's Report contains one finding and one recommendation directed to LAFCO of Santa Clara County. Specifically:

Finding 3

The District has no oversight that would ensure they are fulfilling their special district obligations.

Recommendation 3

LAFCO should include this district in its next service area review and should expand the review to a performance management review, examining the District's ability to deliver appropriate services and determine whether the District has the operations knowledge to perform their duties.

On November 4, 2012, a representative of the Civil Grand Jury (CGJ) contacted LAFCO staff concerning LAFCO's failure to respond to the CGJ's June 20th Report or its October 16th letter (Attachment C). LAFCO staff then informed the CGJ's representative that the LAFCO Office had not received their requests and that staff was unaware of these requests. Upon further research, it was determined that the CGJ had mistakenly sent the Report and associated letters to the LAFCO Chairperson, without providing a copy to

the LAFCO Office for circulation to the entire Commission. Staff then informed the CGJ's representative that the Report and LAFCO's draft response would be placed on the next LAFCO meeting agenda for the Commission's consideration. Staff also informed the CGJ's representative that items requiring the Commission's response should be directed to the LAFCO Office.

Per the CGJ's June 20, 2012 letter, LAFCO's response must state whether the Commission agrees with the CGJ'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 (Attachment A) will be forwarded to the Honorable Richard J. Loftus, Jr., who is the Presiding Judge for the Santa Clara County Superior Court, and to the Foreperson of the 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 Civil Grand Jury regarding June 20, 2012 Civil Grand Jury Report
- Attachment B: June 20, 2012 Santa Clara County Civil Grand Jury Report Entitled "The South Santa Clara Valley Memorial District Continues to Fall Short of Good Governance."
- Attachment C: October 16, 2012 Letter from the Civil Grand Jury.

December 12, 2012

DRAFT

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

RE: 2011-2012 Santa Clara County Civil Grand Jury Report Entitled “The Santa Clara Valley Memorial Special District Continues to Fall Short of Good Governance”

Dear Judge Loftus and Members of the Civil Grand Jury:

The Local Agency Formation Commission of Santa Clara County (LAFCO) reviewed the 2011-2012 Santa Clara County Civil Grand Jury Report entitled “The Santa Clara Valley Memorial Special District Continues to Fall Short of Good Governance” at its meeting on December 12, 2012 and approved this letter in response to the Report’s finding and recommendation specifically directed at LAFCO.

FINDING 3

The District has no oversight that would ensure they are fulfilling their special district obligations.

Response:

The respondent partially agrees with the finding. LAFCO, through its service reviews and boundary change process provides a layer of oversight for special districts, but LAFCO does not have the legal authority to ensure that the South Santa Clara Valley Memorial District (SSCVMD) or any other special district is fulfilling their special district obligations. LAFCO, through its service review process, strives to increase the public’s awareness of special districts and to encourage special districts to fulfill their obligations.

Additionally, the County and the State of California can provide a layer of oversight as it relates to the District’s finances, budget, governance and operations (e.g. collection of financial statements and annual budgets, and the ability to investigate alleged violations of the Brown Act or other laws). However, neither the County nor the State

has the legal authority to ensure that SSCVMD is fulfilling their special district obligations.

Ultimately only the voters in a special district's boundary have the power, through communications to the district board, election of district board members, initiatives and referenda to ensure that a district is meeting its obligations.

RECOMMENDATION 3

LAFCO should include this district in its next service area review and should expand the review to a performance management review, examining the District's ability to deliver appropriate services and determine whether the District has the operations knowledge to perform their duties.

Response:

The recommendation is being implemented to the extent feasible. LAFCO is currently conducting a service review of the South Santa Clara Valley Memorial District (SSCVMD) as part of LAFCO's current Special Districts Service Review. In addition to including the required analysis and written statement of service review determinations, the Service Review will address the following four key areas for each of the affected special districts, as appropriate:

- Purpose of the district at the time of creation, services currently provided by the district, and any changes in the mission of the district or in the needs of the community since the creation of the district
- Opportunities for consolidation of services or changes in governance to reduce costs and/or increase service levels
- Opportunities for increased transparency in operations, management and administration and for increased public accountability of the district
- Benchmarks and standards for measuring the efficiency and effectiveness of the district and opportunities for increasing the district's efficiency and effectiveness.

Furthermore, LAFCO is aware of the issues and concerns that the Civil Grand Jury has raised regarding the SSCVMD. LAFCO's Service Review for the District will address these concerns to the extent feasible. It is anticipated that LAFCO's review of SSCVMD will be completed by May 2013. Such reviews include agency specific recommendations and LAFCO establishes a time-frame for each agency to implement the necessary reforms and to report back to LAFCO on their progress.

We appreciate the Civil Grand Jury's interest in the South Santa Clara Valley Memorial District and LAFCO of Santa Clara County. Thank you for the opportunity to respond to the finding/recommendation presented in the Report.

Sincerely,

Pete Constant, Chairperson
LAFCO of Santa Clara County

ATTACHMENTS

- Attachment A: September 2012 LAFCO Newsletter Entitled “LAFCO Takes a Fresh Look at Special Districts in Santa Clara County”
- Attachment B: December 12, 2012 LAFCO Staff Report Re: Approval of Response to 2011-2012 Civil Grand Jury Report Entitled, “The South Santa Clara Valley Memorial Special District Continues to Fall Short of Good Governance”



**2011-2012 SANTA CLARA COUNTY
CIVIL GRAND JURY REPORT**

**ITEM NO. 6
Attachment B**

**THE SOUTH SANTA CLARA VALLEY MEMORIAL SPECIAL
DISTRICT CONTINUES TO FALL SHORT OF GOOD
GOVERNANCE**

Issue Statement

The Grand Jury received a complaint claiming that the South Santa Clara Valley Memorial District (District) Board of Directors (Board) was not conducting its business properly. The District is an independent special district serving veterans in southern Santa Clara County (County). The Grand Jury undertook an investigation of the complaint.

Background

A special district is a separate local government that delivers public services to residents in a geographically defined area. The District was formed in 1946 under the California Military and Veterans Code.¹ State law defines a special district as "any agency of the state for the local performance of governmental or proprietary functions within limited boundaries, and shall not include a school district or community college district."² As an independent special district, it has a governing board of five directors elected for fixed terms. The board members are not compensated for their services. The District, like other special districts, receives a portion of the County's 1% property tax with which to operate. See Appendix A for more on special districts.

Memorial districts were intended to serve returning World War II and other veterans by offering a social gathering place. The District operates a meeting hall primarily for veterans' groups. Within that hall is a tenant-operated bar whose patrons must be members of either the American Legion (AL) or the Veterans of Foreign Wars (VFW). The hall is occasionally rented to non-veteran users.

¹ California Military and Veterans Code Sections 1170-1259.

² California Government Code Section 53508.9(b)(2).

Methodology

The Grand Jury conducted interviews with three board members and a staff member. The Grand Jury also reviewed available operating and regulatory required documents, past Grand Jury reports, the 2000 "Little Hoover Commission" Report, board meeting minutes and agendas, board members' training records, required certificates, and operating documents. The Grand Jury also attended two board meetings. A list of documents reviewed is included in Appendix B.

Discussion

The citizen's complaint alleged the Board had attempted to remove a voter-elected board member, which the Board is not authorized to do. In the course of investigating this allegation, the Grand Jury found additional concerns.

Attempted Removal of a Board Member

On October 19, 2011, four board members held a meeting they called a "closed session" meeting and discussed removing the fifth board member, who was not invited to attend. Three of the four board members voted to remove the absent fifth board member. Both the meeting and the attempt to remove a board member were improper.

As to the meeting, the Ralph M. Brown Act (Government Code §§ 54950-54962) governs meeting access for local public bodies, including the District. District meetings must be "open and public." The District is permitted to hold closed-session meetings, but they are the exception and permitted only for certain matters specified by statute. Special public notice and agenda requirements apply for closed-session meetings. (§§ 54954, 54954.2, 54954.5, 54957.7). The October 19 meeting did not meet the criteria for a proper closed-session meeting. While the Brown Act allows for closed-session meetings when certain personnel matters are being discussed, elected officials are specifically excluded from this exception³. Thus, the meeting topic was improper, since a closed session meeting is not permitted to discuss the performance of an elected official. Further, even if they had a permissible subject to discuss, that would require that they meet notice and agenda requirements. They did not.

As to the attempted removal, the Board has no authority to remove a duly elected board member. There are certain mechanisms to remove an elected official. For example, as an elected body, the District board serves at the will of the residents of the District. If voters within a district's boundaries disapprove of an elected official's activities, the voters can pursue a recall. A recall allows voters to remove elected board members before their term of office is complete. An elected official can also be removed from

³ California Government Code Section 54957(b)(4).

office upon the filing of an accusation by the Grand Jury and a finding by a jury that the elected official engaged in willful or corrupt misconduct in office. Additionally, an elected official can be removed pursuant to a *quo warranto* proceeding typically filed by the Attorney General.

The attempted removal of the board member was brought to the attention of Santa Clara County Supervisor Mike Wasserman. He referred the matter to County Counsel. On November 2, 2011, County Counsel provided Supervisor Wasserman with a non-confidential opinion letter stating that the District Board had no lawful authority to remove the absent board member, and that the attempted removal was thus, improper and ineffective.

Supervisor Wasserman mailed County Counsel's letter to the District the same day he received it. County Counsel is not the legal advisor to the District and Supervisor Wasserman has no authority over the District. The non-confidential letter was apparently sought and provided to the District in an effort to inform the board members about the problems with their removal efforts.

Members of the Grand Jury attended the January 18, 2012 District meeting. During this meeting, and despite the information provided in the County Counsel letter that the removal of a board member was ineffective, a board member directed the District's recording secretary to not record the voted-out member's vote. Given that it is the District Board members' responsibility to vote on the affairs of the District, the board member's instruction to the secretary to ignore another board member's vote was tantamount to removal. Further, in spite of being on notice that the Board had no authority to remove a board member, Board members continued to discuss their desire to remove the board member.

The Board failed to seek advice on how to properly perform the desired act of removing a board member. Even though the District was informed by a County Counsel letter that their effort to remove a board member was unlawful and ineffective, certain board members continued to focus their efforts on this result. Following the Grand Jury's attendance at a Board meeting, the matter was dropped and the member was "reinstated." This matter reached an unusually high level of public visibility before board members finally dropped their unlawful efforts.

Business Operations

The Military and Veteran's Code lays out the parameters for doing business, including adopting from time to time regulations for the reasonable use of the hall by veterans or organizations of veterans, and to use the hall for lawful purposes that meet the objectives of this code section. The Grand Jury requested the Board to produce documents that summarize their business operation to evaluate whether the District is adhering to the code. Balance sheets were provided, but they did not contain enough information to allow the Grand Jury or members of the public to evaluate whether the District's actions are in compliance with the code.

The Military and Veterans Code Sections 1221 – 1224 specify the legal requirements for construction and alteration of the hall. The Grand Jury was informed that the Board president hired an architect to draw up plans for a kitchen remodel at a cost of \$8,000. This was done without the benefit of competitive estimates and the expenditure was authorized without Board approval. These actions do not meet the code requirements.

Required Training and Good Governance Documents

Independent special districts are state entities, but are elected by and answerable only to the voters in the District. The District and its board members have a responsibility to follow the Military and Veterans Code and other legal requirements governing its conduct. Every two years, Board members are required to participate in training that covers general ethics principles and a brief summary of specific laws concerning conflicts of interest, prerequisites of office and government transparency. The District is subject to the Brown Act and the Public Records Act. The Board members must comply with the Political Reform Act, which requires, among other responsibilities, that public officials file Form 700, the Statement of Economic Interest, every year. Form 700s, which are disclosures of personal economic interest, help to ensure financial conflicts of interest are avoided. The above tasks must be completed by all board members.

The Grand Jury's investigation revealed that the District had no written bylaws, mission statement, or other written operating guidance documents. Further investigation revealed that only two board members had received Brown Act training and certification, but their certification was out of date. None of the board members had submitted the required Conflict of Interest Form 700 Statements, nor had they completed required biennial ethics training.

SSCVMD Purpose

The District is governed by the California Military and Veteran's Code Sections 1170-1259, which provides for veterans' memorial districts.

Since the District's purpose is to serve all military veterans within its boundaries, the Grand Jury investigated the District's outreach and promotion efforts to veterans. The Grand Jury found there to be none. The District, unlike many other memorial districts in the state, does not have a website to communicate its purpose or to promote its services and rates. It is the only independent special district in the county without an e-mail contact address. The Board president's home address and telephone number are the only contact information available, and this information is only available at the LAFCO website under the topic of special districts.

Oversight or Accountability

The District, along with 27 other special districts in the county, fall under the purview of Local Agency Formation Commission (LAFCO) for Santa Clara County (see Appendix C for more about LAFCO). For this District, LAFCO is primarily responsible for conducting a performance management review every five years. Other than LAFCO, independent special districts are accountable only to the constituents within their district boundaries.

The special district is ultimately accountable to the voters; however, the voters may not be aware that the memorial is a special district funded by their tax dollars or that the voters are ultimately responsible for district oversight.

Conclusions

The Grand Jury found that the District and/or Board members have failed to follow the law in the following respects:

- Attempting to illegally remove one board member
- Conducting an unlawful closed-session meeting on October 16, 2011
- Violating requirements for approving contracts
- Failing to complete required biennial ethics training for all board members
- Failing to complete the Form 700 Statement of Economic Interest Form 700.

Little outreach is performed to inform veterans in south county of the District's services. Board members told the Grand Jury that they do not fully understand their ethical responsibilities or grasp the legal requirements applicable to the District. The Grand Jury determined that the District is significantly lacking in good governance and good business practices.

While the volunteer District board members give freely of their time and effort, they do so without benefit of meaningful guidance, training, accountability or written procedures. Training, including that required by state law, as well as basic business training, will help in overcoming the issues found.

Findings and Recommendations

Finding 1

The Board is conducting meetings and taking unlawful actions without regard to the legal parameters that govern their conduct.

Recommendation 1

The Board should obtain the required training focused on their ethical, legal, and fiscal responsibilities for being a board member and, in particular, for running a veterans memorial district.

Finding 2

The District does not have a written mission statement or bylaws to guide it in defining and fulfilling the District's purpose, and communicating its function to veterans in the community or the District residents in general.

Recommendation 2

The District should adopt a written mission statement and set of bylaws. This activity could be coordinated with the local chapter of the California Association of Special Districts and modeled after other veterans memorial districts.

Finding 3

The District has no oversight that would ensure they are fulfilling their special district obligations.

Recommendation 3

LAFCO should include this district in its next service area review and should expand the review to a performance management review, examining the District's ability to deliver appropriate services and determine whether the District has the operations knowledge to perform their duties.

Finding 4

The District demonstrates no effort to communicate its mission and operations to all District veterans.

Recommendation 4

The District should communicate its mission and advertise their programs to all veterans in the District. For instance, it could establish a website to promote and welcome all military veterans.

Appendix A: What is a Special District?⁴

A special district is a separate local government that delivers a single or, in some cases, a number of public services to a geographically limited area. Typically, they are created by the voters within a geographic area defined as the district, to fill a need they want and are willing to tax themselves to have the service delivered.

Special districts have four distinguishing characteristics:

- They are a form of government created by local voters
- They have governing boards
- They provide a focused service and/or the facilities to do so
- They have defined boundaries.

They have the same basic powers as cities and counties.

Special districts have both corporate power and tax powers. Their *corporate power* is the ability to “do something”; their *tax power* is the authority to raise money to pay for what they do. They operate either under a principal act or a special act. Currently, there are about 50 principal statutes, which local voters can use to create and govern a local special district.

Special districts can be broken down further into the following categories:

- Independent vs. Dependent
- Enterprise vs. Non-enterprise
- Single Function vs. Multiple Function

An independent special district has a governing board; members are usually elected by the voters within the district and serve fixed terms.

One quarter of California’s special districts are enterprise districts, meaning that they operate like business enterprises charging fees for their services.

⁴ Excerpted from *What’s So Special About Special Districts: A Citizen’s Guide to Special Districts in California*, Fourth Edition, Senate Local Government Committee, October, 2010.

Appendix B: List of Documents Reviewed

California Special District Association, *Guide to Special District Laws and Related Codes*, 2007

Caligari, Gregory H., Santa Clara County LAFCO, *RE: Response to 2010-2011 Santa Clara County Civil Grand Jury Report Entitled "LAFCO's Responsibility for Special Districts: Overseen or Overlooked?"*, Letter to Judge Richard J. Loftus, Jr., October 5, 2011

Chiang, John, California State Controller, *Special Districts Annual Report*, 60th Edition, December 13, 2011

Marquez, Miguel, Santa Clara County, County Counsel, *RE: South Santa Clara Valley Memorial District*, Letter to Supervisor Mike Wasserman, County Supervisor, District 1, November 2, 2011

Santa Clara County LAFCO, *LAFCO Cost Apportionment: County, Cities, Special Districts – Estimated Costs to Agencies Based on the 2012 LAFCO Budget*, PDF Document

Santa Clara County LAFCO, *Special Districts*, Website, <http://www.santaclara.lafco.ca.gov/specialdistricts.html>

State of California Little Hoover Commission, *Special Districts: Relics of the Past or Resources for the Future?*, Report, May 3, 2000

Senate Local Government Committee, *What's So Special About Special Districts?*, Fourth Edition, October, 2010

Santa Clara County 2004-2005 Civil Grand Jury, *Special Districts and Joint Powers Agencies*, Final Report

Santa Clara County 2004-2005 Civil Grand Jury, *Special District and LAFCO Overview*, Final Report

Santa Clara County 2005-2006 Civil Grand Jury, *Independent Special Districts – Oversight Falls Far Short!*, Final Report

Santa Cruz County 2008-2009 Civil Grand Jury, *Who is Watching Our Special Districts?*, Final Report

South Santa Clara Valley Memorial District, *Minutes of December 21, 2011 Board of Directors Meeting*

South Santa Clara Valley Memorial District, *Minutes of January 18, 2012 Board of Directors Meeting*

Appendix C: Local Agency Formation Commission

The Local Agency Formation Commission (LAFCO) is a state-mandated county agency responsible, in part, for establishing new districts and defining physical boundaries for both new and existing cities and special districts. Additionally, LAFCO has regulatory and planning responsibility for the 28 special districts in Santa Clara County. Santa Clara County's LAFCO is governed by five commissioners: two county supervisors, one city council member from San Jose, one city council member from another city in the county (selected by the cities), and one public citizen selected by the other four members. LAFCO is required to conduct service area reviews of the special districts under its purview every five years.

This report was **PASSED** and **ADOPTED** with a concurrence of at least 12 grand jurors on this 31st day of May, 2012.

Kathryn G. Janoff
Foreperson

Alfred P. Bicho
Foreperson pro tem

James T. Messano
Secretary

GRAND JURY

**ITEM NO. 6
Attachment C**

October 16, 2012

Honorable Pete Constant
President
LAFCO of Santa Clara County
200 East Santa Clara Street
Tower 18
San Jose, CA 95113

Dear President Constant and Members of the Commission:

The Santa Clara County Civil Grand Jury has not received your response to the 2011-2012 Final Report, **The South Santa Clara Valley Memorial Special District Continues to Fall Short of Good Governance**, which was forwarded with the attached letter dated **June 20, 2012**. Your agency's response was due to the Honorable Richard J. Loftus, Jr., Presiding Judge, Santa Clara County Superior Court, on **September 21, 2012**, pursuant to Penal Code Section 933.05.

Please send your response by **Thursday, October 25, 2012**, to avoid further communication from the Court. You may contact Dennis Aldycki at 408-882-2709 if you have any questions.

Sincerely,

STEVEN P. McPHERSON
Foreperson
2012-2013 Civil Grand Jury

SPM:dsa
Enclosures (2)

LAFCO MEETING: December 12, 2012
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: EXECUTIVE OFFICER'S REPORT

7.1 UPDATE ON EL CAMINO HOSPITAL DISTRICT'S IMPLEMENTATION OF REFORMS TO IMPROVE GOVERNANCE, TRANSPARENCY, AND PUBLIC ACCOUNTABILITY

For Information Only

In August, LAFCO voted to accept the El Camino Hospital District Audit and Service Review Report and requested that the District implement reforms to improve governance, transparency and public accountability. LAFCO also requested that the District report back within 12 months regarding implementation of the improvements, at which time, LAFCO would re-evaluate the District and consider the need for further changes or follow-up actions.

In late October, LAFCO staff met with Michael R. King (Chief Financial Officer for the El Camino Hospital) and Chris Ernst (Vice President of Marketing and Corporate Communication for the Hospital) in order to discuss the District's implementation plans. The meeting allowed for a more in-depth discussion of LAFCO's recommendations as well as for a discussion of some new ideas to improve transparency. LAFCO staff will continue to have periodic meetings with the District as needed, and will update the Commission.

At the August 2012 LAFCO meeting, the Commission also directed staff to seek the Attorney General's opinion on the applicability of the Gann Appropriations limit to health care districts. In mid-September, LAFCO staff and Commissioner Abe-Koga had preliminary discussions with Assembly Member Gordon's staff regarding this issue. Assemblyman Gordon represents the 21st Assembly District which includes northern Santa Clara County and southern San Mateo County.

7.2 UPDATE ON SPECIAL DISTRICTS SERVICE REVIEW

For Information Only

In August, LAFCO retained Matrix Consulting Group to prepare the Special Districts Service Review. The firm was selected through an RFP and interview process. The

members of the Technical Advisory Committee (TAC) for the Special Districts Service Review, including Commissioner Abe-Koga and Patrick Kwok, Board of Director, Santa Clara Valley Water District (SCVWD), participated in the consultant selection process. A newsletter (Attachment A) outlining the project scope, process and schedule was emailed to all cities, districts, interested parties and LAFCO Commissioners. Subsequently, the Consultant began gathering data from the affected special districts. In late September, the Consultant and LAFCO staff met with each affected special district in order to gather additional information.

A TAC meeting was held in late October to discuss some of the preliminary agency specific issues that were uncovered during the Consultant's data gathering process. Commissioner Abe-Koga was unable to attend the TAC meeting due to a scheduling conflict. Due to the end of Patrick Kwok's term on the SCVWD Board, LAFCO staff has requested that the Special Districts Association appoint another member to the TAC.

The Consultant is developing a draft profile of each affected district for LAFCO staff review. Developing a sufficiently comprehensive profile for several of the districts has proven to be more difficult and involve more of staff's time than anticipated. Following LAFCO staff review, each agency will be provided an opportunity to review its profile for accuracy of information. The Consultant will then conduct the required analysis and develop preliminary findings for each agency. The project schedule calls for the draft report to be released for public review and comment in January 2013. Staff anticipates that this date will need to be revised. Staff will continue to provide the Commission with updates on this project as it progresses.

7.3 UPDATE ON IMPLEMENTATION OF THE RECOMMENDATIONS FROM THE 2011 COUNTYWIDE WATER SERVICE REVIEW

For Information Only

In December 2011, LAFCO adopted the 2011 Countywide Water Service Review Report. The Report included several recommendations for improving the services and governance of water and resource conservation districts in the county

The Commission specifically requested that the Guadalupe Coyote Resource Conservation District (GCRCDD) return to LAFCO within a year with a plan for services which does not overlap with the Santa Clara Valley Water District's (SCVWD's) efforts and could not otherwise be provided by SCVWD through its enabling act. LAFCO would re-evaluate the District and its SOI considering the District's plan and application for providing new or different services per Government Code § 56654(b) and § 56824.12. The GCRCDD recently submitted a draft long range plan for LAFCO staff's preliminary review and comment. Staff is currently reviewing this document and plans to meet with GCRCDD staff later this month. LAFCO staff will provide more information and recommendations on the GCRCDD's plans and an update on the status of the implementation efforts of the other water and resource conservation districts at the February 2013 LAFCO meeting.

7.4 UPDATE ON ISLAND ANNEXATIONS

For Information Only

In late October 2012, LAFCO staff received a response (Attachment B) from the City of Morgan Hill regarding LAFCO's May 2011 letter concerning the status of unincorporated islands within the City's Urban Service Area and requesting information on their island annexation plans. The City of Morgan Hill has two remaining unincorporated islands. In regards to the unincorporated island referred to as Holiday Lake Estates, the City indicates that it has no plans to annex this area and no requests from property owners in this area to annex to Morgan Hill. The area currently receives water service from the City and is developed with single-family homes that are served by individual septic systems and has a history of failing septic systems. The City states that were annexation to be considered by the City, a funding mechanism for improving and expanding sewer infrastructure in the area would have to be approved by the residents, since the City does not have the resources to fund this expansion. The City notes that, so far, the residents have been unwilling to pay for an assessment district to fund the necessary sewer upgrades.

Regarding their other unincorporated island, the City indicates that annexation of this island would not make good planning practice as it contains several properties that are bisected by the City's Urban Service Area. Annexation of this unincorporated island would result in several properties having a portion of their lots within the City, and a portion of the same lots would also be within the unincorporated County. The City states that annexation of this island may make sense at some future date, if a larger area would be considered that would avoid splitting the jurisdiction of the lots.

The City says that they do not object to both islands remaining in their Urban Service Area.

7.5 REPORT ON THE 2012 CALAFCO ANNUAL CONFERENCE

For Information Only

LAFCO staff and Commissioners Constant, Tucker, and Wilson attended this year's CALAFCO Annual Conference which was held in Monterey from October 3rd through October 5th. Commissioner Abe-Koga was unable to attend due to illness. The program for the first day of the conference included a mobile workshop on water, recycled water and energy production projects in Monterey County and sustaining agriculture in the county; a session on LAFCO basics which was particularly useful for new Commissioners; a general session entitled "Partnerships with LAFCO: Preserving California's Agriculture;" and roundtable discussions for commissioners, staff, and attorneys.

The annual conference provides an opportunity for LAFCOs across the state to share some of their best practices and learn new techniques and approaches from other LAFCOs. Commissioner Wilson was a panelist for a session entitled "LAFCO's Role in

Oversight of Local Agencies” and discussed how Santa Clara LAFCO is using service reviews as a tool for providing greater oversight of local agencies.

Commissioner Constant moderated a breakout session, organized by Executive Officer Palacherla, entitled “Health Care Districts and LAFCO,” which included a presentation from Harvey Rose and Associates on Santa Clara LAFCO’s Audit and Service Review of the El Camino Hospital District.

CALAFCO presented Santa Clara LAFCO with the Project of the Year Award for our 2011 Countywide Water Service Review and the Commission’s efforts to work with agencies to encourage timely implementation of the recommendations.

Thursday’s program included breakout sessions on “Sustaining Agriculture and the Regional Economy”; “LAFCO’s Role in Shared Services: A ‘How To’ Approach”; “Providing Municipal Services Outside Agency Boundaries”; “Conditioning Spheres of Influence – The New Future?”; “Integrating Sustainable Communities Strategy with the LAFCO Application Process”; and “The Commissioner’s Independent Judgment Dilemma: Which Hat am I Wearing?”.

Friday’s program included a session on “Strategic Thinking & Adaptive Leadership in Trying Times” and a Legislative Update from the CALAFCO Executive Director. Lastly, Pamela Miller was formally introduced as CALAFCO’s new Executive Director. Ms. Miller was selected by the CALAFCO Board to replace Bill Chiat who is scaling back his obligations due to retirement.

7.6 UPDATE ON PLANS TO CELEBRATE LAFCO’S 50th ANNIVERSARY

For Information Only

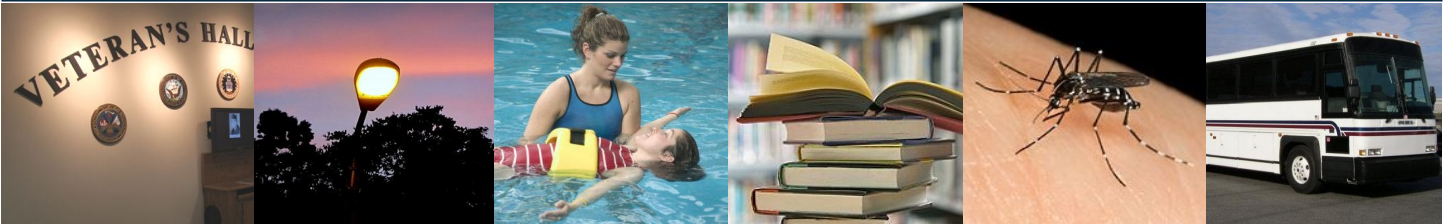
Next year will mark the 50th anniversary of the creation of LAFCOs. In recognition of this milestone, LAFCO staff is developing a presentation on the creation of LAFCO of Santa Clara County, the history of the county’s Joint Urban Development Policies, and the current and future relevance of LAFCO in Santa Clara County. Recognizing and celebrating this golden anniversary was identified as a recommended action to help increase the visibility and public awareness of LAFCO and its mandate. Staff is tentatively planning to hold the celebration as part of the April 2013 LAFCO meeting. Staff is also exploring additional ideas and will provide further details to the Commission at its February 2013 meeting.

ATTACHMENTS

- Attachment A: LAFCO Newsletter Entitled “LAFCO Takes a Fresh Look at Special Districts in Santa Clara County
- Attachment B: October 25, 2012 Letter to LAFCO from the City of Morgan Hill Re: Input on Remaining Unincorporated Islands within City’s USA

LAFCO Takes a Fresh Look at Special Districts in Santa Clara County

September 2012



The Special Districts Service Review will be conducted by LAFCO in two phases and will involve a comprehensive review of all special districts in Santa Clara County (excluding water, fire, and health care districts which were reviewed in recently completed service reviews). Please see insets for information on which agencies will be studied in each phase. The Service Review Report will provide an overview of these agencies, evaluate the provision of services, and recommend actions to promote efficient service delivery. The Report will include sphere of influence recommendations for each of the fifteen districts. In addition to including the required analysis and written statement of service review determinations, the Report will address the following four key areas:

- Purpose of the district at the time of creation, services currently provided by the district, and any change in the mission of the district or in the needs of the community since the creation of the district
- Opportunities for consolidation of services or change in governance to reduce costs and/or increase service levels
- Opportunities for increased transparency in operations, management and administration and for increased public accountability of the district
- Benchmarks and standards for measuring the efficiency and effectiveness of the district and opportunities for increasing the district's efficiency and effectiveness

Service Review Process

As a first step, LAFCO has established a technical advisory committee (TAC) to serve as a liaison with affected agencies, to help select a consultant for the project and to provide technical expertise/advice throughout the process.

TAC Members	Appointed by
Margaret Abe-Koga LAFCO Commissioner	LAFCO of Santa Clara County
Patrick Kwok, Board Member Santa Clara Valley Water District	Santa Clara County Special Districts Association

Matrix Consulting Group, selected through a RFP process, has been retained by LAFCO to conduct the service review. They will be contacting the special districts within the next few days to begin data collection.

FIRST PHASE	
Agencies	
Rancho Rinconada Recreation and Park District Santa Clara County Vector Control District Santa Clara Valley Transportation Authority Saratoga Cemetery District South Santa Clara Valley Memorial District Santa Clara County Lighting Services Area Santa Clara County Library Service Area	
Timeline	
Aug 2012	Start project, establish TAC, select consultant
Sept/Oct	Data collection and verification of data by agencies
Nov/Dec	Data analysis, preliminary findings, and preparation of Draft Service Review
Jan	Release Draft Report for public review and comment
Feb	LAFCO public hearing on Draft Report (date TBD)
March	Release Revised Draft Report for public review and comment
April 2013	LAFCO public hearing on Revised Draft Report (date TBD)

LAFCO Service Review Responsibilities

State law mandates that each LAFCO conduct service reviews prior to or in conjunction with the sphere of influence updates for districts and cities which must be conducted once every 5 years. The Service Review must include an analysis and written statement of determination regarding each of the following seven categories:

- Growth and population projections for the affected area
- Location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence
- Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including infrastructure needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence
- Financial ability of agencies to provide services
- Status of, and opportunities for, shared facilities
- Accountability for community service needs, including governmental structure and operational efficiencies
- Any other matter related to effective or efficient service delivery, as required by commission policy

LAFCO completed a Countywide Fire Service Review in 2010, a Countywide Water Service Review in 2011, and an Audit and Service Review of the El Camino Hospital District in August 2012. Following the completion of the Special Districts Service Review, LAFCO will conduct a service review of cities.



Intended Use of the Service Review Report

The Service Review Report will serve as an information resource on special districts in Santa Clara County for LAFCO, local agencies and the public. Service providers may use the Report to pursue service delivery changes or to further assess the options identified in the Report for providing more efficient services. LAFCO may use the information in the Report when reviewing future proposals for jurisdictional boundary changes. LAFCO, local agencies or the public may use the Report together with additional analysis where necessary, to pursue changes in governance, changes in jurisdictional boundaries or spheres of influence.

Opportunities for Input

In addition to direct communication with special districts, the service review process will include periodic updates to the Santa Clara County Special Districts Association, other stakeholder groups and to LAFCO. Members of the public, interested groups or affected agencies are encouraged to contact LAFCO staff to provide input, to discuss / request that a specific issue be addressed in the report or to obtain more information on the project. Further information on service reviews and on LAFCO is available on the LAFCO website at: www.santaclara.lafco.ca.gov.

SECOND PHASE

Agencies

Burbank Sanitary District
 County Sanitation District No. 2-3
 Cupertino Sanitary District
 West Bay Sanitary District
 West Valley Sanitation District
 Lake Canyon Community Services District
 Lion's Gate Community Services District
 Midpeninsula Regional Open Space District
 Santa Clara County Open Space Authority

Timeline

Jan/ Feb 2013	Data collection and verification of data by agencies
March/ April	Data analysis, preliminary findings, and preparation of Draft Service Review Report
May	Release Draft Report for public review and comment
June	LAFCO public hearing on Draft Report (date TBD)
July	Release Revised Draft Report for public review and comment
Aug 2013	LAFCO public hearing on Revised Draft Report (date TBD)



COMMISSIONERS

Pete Constant
 Liz Kniss
 Margaret Abe-Koga
 Mike Wasserman
 Susan Vicklund-Wilson

ALTERNATE COMMISSIONERS

Sam Liccardo
 George Shirakawa
 Terry Trumbull
 Cat Tucker

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COMMUNITY DEVELOPMENT AGENCY

17575 PEAK AVE MORGAN HILL, CA 95037-4128 (408) 778-6480 FAX (408) 779-7236
WEBSITE ADDRESS: WWW.MORGANHILL.CA.GOV

October 25, 2012

Neelima Palacherla
LAFCO Executive Officer
70 West Hedding Street
11th Floor, East Wing
San Jose, CA 95110

Dear Ms. Palacherla:

Thank you for requesting our input on the remaining unincorporated islands within the City of Morgan Hill's Urban Service Area (USA). Regarding Island ID# MH01 – Holiday Lake Estates, as you may know many of the homes in that unincorporated area are served by private individual septic systems. If this area were annexed into the City, as existing septic systems fail, the individual property owners would have to connect to the City sewer system. In order to do so, many connections would require lift stations. That would be costly for individual owners. In addition, the City sewer system main lines in this area would need to be upgraded in order to accommodate the additional wastewater. This would also be costly, and the City does not have the resources to fund this expansion. The City completed an assessment district study several years ago to explore funding options for such improvements. Input from residents of the area was that they were not willing to pay for an assessment district for necessary sewer upgrades. The City currently has no property owner requests, nor plans to annex this area. The City already serves residents within this area with water service, and we have no objection to the area remaining within the Urban Service Area (USA) adjacent to the City boundaries.

Regarding Island ID# MH02 – abutting the south side of Llagas Road, west of Llagas Court, the Urban Island contains several properties through which the LAFCO Island line bisects the

Neelima Palacherla

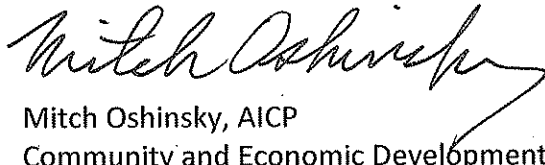
October 25, 2012

Page 2

properties. If the City were to annex that land as shown on the LAFCO Map provided with your letter, it would result in several properties having a portion of their lots within the County, and a portion of the same lots would be within the City. It would not be good planning practice to split the jurisdiction, and therefore the multi-layered service provision for those lots. Therefore the City is not proposing annexation under those parameters. We remain open to those properties remaining within the City's USA. Annexation may make sense at some future date, if a larger area would be considered, in order to avoid splitting the jurisdiction of the lots.

Thank you again. Should you have any questions, please contact me at (408) 310-4652.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitch Oshinsky". The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

Mitch Oshinsky, AICP

Community and Economic Development Director

cc: Ed Tewes, City Manager
Leslie Little, Assistant City Manager

**2013 SCHEDULE OF LAFCO MEETINGS AND
APPLICATION FILING DEADLINES**

LAFCO MEETING	DEADLINE TO FILE APPLICATION
Wednesday February 6, 2013 Board Meeting Chambers	December 13, 2012
Wednesday April 3, 2013 Board Meeting Chambers	February 7, 2013
Wednesday June 5, 2013 Board Meeting Chambers	April 4, 2013
Wednesday August 7, 2013 Board Meeting Chambers	June 6, 2013
Wednesday October 2, 2013 Board Meeting Chambers	August 8, 2013
Wednesday December 4, 2013 Board Meeting Chambers	October 3, 2013

TIME OF MEETINGS: 1:15 PM

LOCATION OF MEETINGS: County Government Center
70 West Hedding Street, 1st Floor
San Jose, CA 95110

FILING LOCATION: LAFCO Office
70 West Hedding Street, 11th Floor
San Jose, CA 95110
(408) 299-6415

LAFCO MEETING: December 12, 2012
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst

SUBJECT: APPOINTMENT OF 2013 LAFCO CHAIRPERSON AND VICE-CHAIRPERSON

RECOMMENDATION

Per the rotation schedule, appoint Commissioner Mike Wasserman, the County representative, as Chairperson for 2013; and Commissioner Susan Vicklund Wilson, the Public representative, as the Vice-Chairperson for 2013.

BACKGROUND

Appointment of the Chair and Vice-Chair is made on a calendar year basis, usually at the December LAFCO meeting. LAFCO's rotation schedule is as follows:

- Cities representative
- County representative
- San Jose representative
- County representative
- Public representative

The Chairperson for 2012 calendar year is Commissioner Pete Constant, San Jose representative and the Vice-Chairperson is Commissioner Mike Wasserman, County representative. In accordance with the rotation schedule, the County representative is appointed as the 2013 Chairperson and Public representative as the 2013 Vice-Chairperson.

October, 2012

Throw Away Cities? Not this Year?

Bill Chiat, CALAFCO Executive Director

Last year, SB 89 – one of the budget trailer bills – was signed into law. It severely reduced the vehicle license fees (VLF) for all cities and eliminated them for cities incorporated after 2004 or for inhabited territory annexed to cities after 2004. This created a fiscal crisis for the four most recently incorporated cities, all of which are in Riverside County.

Early this year Senator Gloria Negrete McLeod introduced SB 1566 to correct this gap. Despite intense efforts from the League of Cities and the affected cities, the bill died in Senate Appropriations Committee in May.

Not only creating a financial penalty for the affected cities, it shapes a policy issue for the state: If VLF is no longer available for incorporations and inhabited annexations – will there be another new city or inhabited annexation in California? It turns out the pressure continued on the Legislature, and during the very last two days of the session AB 1098 (Carter) was gutted and amended to restore VLF funding to incorporations and annexations since 2004, and into the future. At the time of publication the bill passed the Legislature and is on the Governor's desk for action. The cities' futures may rest with his action.

Still, the issues of funding new cities and annexations remain. This issue of *The Sphere* features articles which explore questions of incorporation, annexation and disadvantaged unincorporated communities.

Adding to the drama, on August 3rd *The Los Angeles Times* published an editorial entitled: **New California cities? Not now. Sorry, Jurupa Valley, Menifee, Wildomar and Eastvale, but we can't afford you.**

The editorial took aim at the cities, claiming that the state could not afford to "subsidize" these cities with state cash any longer. Unfortunately it contained erroneous information and assumptions about the nature and use of VLF funds and (any) state subsidies to new cities. It correctly observed that we are suffering the consequences of the cut in VLF in 2004. Done at a time of budget surpluses when the state could backfill lost VLF revenues, the funds soon were unavailable resulting in SB 89 last year. A response to the editorial was submitted by the mayors of the four cities and the Chair of the Riverside Board of Supervisors. It's instructive to read the editorial and response in the context of the broader issues of incorporation and annexation. You will find them on page 14.



ANNUAL CONFERENCE EDITION

2012 Report to the
Membership

Future of CALAFCO is
Bright

Case Study of East Los
Angeles

A View from the Balcony

The Power of
PARTNERSHIPS
CALAFCO 2012 Conference

The Sphere

CALAFCO Journal

October, 2012

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

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To submit articles, event announcements, comments or other materials noteworthy to LAFCo commissioners and staff, please contact the Editor at 916-442-6536 or info@calafco.org.

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

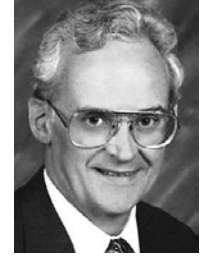
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CALIFORNIA ASSOCIATION OF
LOCAL AGENCY FORMATION
COMMISSIONS **CALAFCO**

FROM THE CHAIR

Future of CALAFCO is Bright



Jerry Gladbach
Chair, CALAFCO
Board of Directors

CALAFCO has come a long way under the stewardship of Bill Chiat. Bill has laid the foundation for CALAFCO to become even more effective. This is because of the relationships Bill has developed with the LAFCos, the Legislature and the Governor's office.

I see CALAFCO continuing to be recognized as the premier organization that can provide unbiased information regarding cities and special districts, not only for the Legislature and Executive branch of the State, but also for cities, special districts and the public. I see CALAFCO being respected by the Legislature and hence providing the tools necessary for the Legislature to carry out its responsibilities in an ever-changing society.

Within the Regions I already see more interest among Commissioners wanting to be elected to the CALAFCO Board. This is great because the Board then gets new ideas, making the Board even stronger. I predict that the interest among Commissioners to get on the Board will become even more exciting. I also see some LAFCos within a Region pursuing shared staff and consulting services, e.g. GIS and auditing.

With the continuing fiscal challenges counties, cities and special districts have – and I predict that these challenges will

continue long after the economy gets back to the way it was – the need for the Municipal Service Reviews will become ever more valuable. The MSR's can help point to those services that will be impacted by dire financial conditions. This will provide LAFCos the opportunity to encourage consolidations or other options for shared resources in their work with local agencies.

Perhaps the biggest challenge to LAFCos is sustaining agriculture. Recognizing the increase in the State's population and accompanying desire for cities to expand, on the one hand, and the increasing dependence on California agriculture to feed the nation and the world, on the other hand, sustaining agriculture will not be an easy task.

One item that will aid LAFCos is the authority to act as an arbitrator to a final decision regarding tax sharing agreements to end stalemates. Decisions that are made on a timely basis will gain public confidence in the governmental process.

In conclusion, Bill Chiat will leave us some large shoes to fill, but I am confident that Pamela Miller, with the support and guidance from the CALAFCO Board, will do a great job.

Commissioners Appointed to CALAFCO Board of Directors

Two vacancies created on the Board of Directors when commissioners lost elections were filled by Board appointments. In both cases recruitments were held for interested commissioners and a recommendation made by the Board members from that region.

In May the Board appointed Contra Costa LAFCo Commissioner **Michael McGill, P.E.** to fill a special district Board vacancy in the Coastal Region.



Commissioner McGill is a member of the Central Contra Costa Sanitary District Board of Directors. He replaces Cathy Schlottmann, formerly of Santa Barbara LAFCo, who was not reappointed as a commissioner.

In July the Board appointed Stanislaus LAFCo Alternate Commissioner **Matthew**



Beekman to fill a city Board vacancy in the Central Region.

Commissioner Beekman is the Mayor Pro Tem of the City of Hughson. He replaces former Yolo Commissioner Stephen Souza who lost his reelection bid.

The Board expressed its gratitude to both Cathy Schlottmann and Stephen Souza for their service to the Association.

Both appointed seats will be up for election at the CALAFCO Business Meeting in October.

FROM THE EXECUTIVE DIRECTOR

The View from the Balcony



Bill Chiat
Executive Director

We rarely take the opportunity to step a happening in the complex environments in which we operate without occasionally stopping to look around and reflect on what we see. Since announcing my retirement from CAway from fray of daily challenges to take a look at what's going on around us, to "get on the balcony." It's hard to understand what's LAFCo, I have had a chance to do some of that observation from the balcony and have also benefited from the observations of many others – both inside and outside CALAFCO – who have shared their reflections on LAFCo.

We live in a world that is challenging the very role of government in our lives. The structures and systems many of us grew up with no longer work. Over my 35 years of public service I have had the privilege to serve in city, county, special district and state governments, and now in state association leadership roles. The challenges we face today are unlike anything I've seen before. They require organizations to constantly assess the needs of the communities they serve and the services they provide. The opportunities we face require adaptive solutions and adaptive leadership: to consider new approaches, mobilize discovery, take risks, let go of past conceptions, shed certain ways, and generate new capacity among staff and boards to thrive anew.

From the balcony I see six adaptive challenges for LAFCo for your consideration:

1. Facilitating Adaptive Challenges in Municipal Service Delivery

Much has been said about new paradigms in service delivery. Several LAFCos have taken leadership roles in facilitating shared services, functional consolidations and other approaches to sustain effective local services. The need for these and other adaptive approaches will only increase; they require continued learning and experiments in how to provide services in an ever-transforming world. LAFCo can play a critical facilitative role in bringing together service provider to learn, plan, try solutions and learn again. And the parties at the table will continue to evolve. Service provision may come to include more private providers, not-for-profits, mutual corporations and others in addition to local agencies. Both LAFCo and local agencies need to consider entirely new ways of providing services. Traditional solutions are less likely to be sustainable. LAFCo has the opportunity to position itself as a valuable facilitator to these adaptive challenges.

2. Oversight of Local Agencies

A significant adaptive challenge for LAFCo from the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 was its expanded role in oversight and review of local agencies. Now, the reality of Bell, Vernon, Stockton, sanitary agencies in Marin and others has raised the question of who *should* be watching local agencies. As far back as 1969 the courts have

found LAFCo's role to be the "... watchdog the Legislature established to guard against the wasteful duplication of services..." Recent legislative hearings have examined the oversight issue and LAFCo's role. A general session at the 2012 annual conference will further explore this issue. As commissions consider the next round of MSRs, some are grappling with whether they should expand their review of finances, governance, conflict of interests and agency effectiveness and whether they have a role in identifying potential problems outside of service delivery and capacity. From an outsider's perspective the questions may be: If not LAFCo, then who? From a LAFCo's perspective the question might be: "So what if we identify something?" While these are adaptive challenges are bigger than LAFCo, certainly LAFCo could – and could be in the best position to – have a role in the solutions.

3. Managing Growth and the New Urbanism

Depending on whom one asks and where one asks it, those outside of LAFCo will give a range of responses on LAFCo's effectiveness in preventing sprawl and encouraging orderly growth. The economic catastrophe in California has stopped growth and provided a few years for reflection on where growth will go in the future. Some LAFCos have used this opportunity to review policies. It's only a matter of time before growth comes back

to California. But it is likely to be a different kind of growth. New state policies such as SB 375 and AB 32 will affect how growth will occur, and the financial means to fund local services have been altered as well.

LAFCo "... is the "watchdog" the Legislature established to guard against the wasteful duplication of services ..."

City of Ceres v. City of Modesto
5th District Court of Appeals
July, 1969

Community expectations may be changing as well. Denser urban housing, shorter commutes, public transportation and similar trends will affect how communities grow. Most general plans (and LAFCo policies?) are lagging this change.

The financial mechanisms have been altered as well. How should LAFCos respond? How should policies regarding

spheres of influence, annexations, service extensions and agency formation be reviewed or revised in light of this opportunity to observe what is happening with respect to growth now and in the future?

4. Growth in Unincorporated Territory

Who should manage growth in the unincorporated areas? Should LAFCo have a role? This has been a long-contested issue. It was again addressed in CKH in 2000 and the compromise solution (GC §56434) expires at the end of the year with no one interested in its extension. Still, LAFCo has a regulatory role to manage orderly growth and prevent sprawl for cities and special districts, but not counties. There are solid arguments on both sides of the equation, but clearly LAFCo cannot meet the legislative mandates for

agricultural preservation and orderly growth or local policies adopted in response to the previous point if it has no authority on growth in unincorporated, undeveloped territory within the county.

5. Service Delivery and Disadvantaged Unincorporated Communities

Over the entire eight years of my tenure (and well beyond) there has been discussion regarding the modification of GC §56133 to allow more authority for LAFCo to extend services outside boundaries and spheres. A task group worked extensively over the last two years to craft language which provides expanded authority with limitations. The proposal has CALAFCO Board support, but there still remains a need to work with other stakeholders and some LAFCos to bring the language to the legislature next winter.

In my work with stakeholders in disadvantaged unincorporated communities over the last three years, one thing became very clear. In most cases annexation of those communities to nearby cities is not practical, political and/or financially feasible. What IS feasible and has a greater potential for actually getting badly needed services to these communities is to allow service extensions outside of boundaries and spheres. This avoids the issues of annexation but does open up the potential for unintended growth.

This adaptive challenge requires new thinking, taking some risk in oversight of services and growth, and abandonment of certain assumptions and beliefs in order to implement.

Continued on page 9



Dear CALAFCO Members:

We are proud to report to you that the Association continues as a strong, vibrant educational resource to members and as an advocate for LAFCo and LAFCo principles to statewide decision makers. In 2012 the Association maintained a high level of educational services as well as a healthy agenda of legislative issues. During the year we saw active involvement of LAFCos from around the state and had the privilege of welcoming a number of new Board members who enrich the Board's perspectives. We are excited with both the program quality and participation in the Staff Workshop and the CALAFCO U courses this year. Monterey LAFCo and the Annual Conference planning committee have done an outstanding job with the 2012 Conference. We are sad to say goodbye to our retiring executive director, Bill Chiat, but look forward to working with our new ED, Pamela Miller. Finally, the Association remains on solid financial ground. The recently adopted budget maintains member service levels and retains a healthy reserve.

Our achievements are the result of the dedicated efforts of the many volunteer LAFCo staff who contribute their time and expertise. The Board is grateful to the Commissions that support their staff as they serve in the CALAFCO educational and legislative roles on behalf of all LAFCos. We are also grateful to the Associate Members and event sponsors that help underwrite the educational mission of the Association and allow us to keep registration fees as low as possible to encourage more participation.

EDUCATIONAL SERVICES

CALAFCO educational and information sharing-services are the Board's top priority for member services. The Association focuses its resources in four areas: the Staff Workshop, Annual Conference, CALAFCO University courses, and electronic resources including the web site and the member list-serves.

Staff Workshop and Annual Conference We continued the tradition of quality education programming with the Staff Workshop held in Murphys in April and the Annual Conference in Monterey in October. The Workshop, hosted by Calaveras LAFCo, brought together 96 LAFCo staff from around the state for a three-day workshop at the Ironstone Winery Conference Center. It created an opportunity for LAFCo staff to visit a part of the

state most of them had never seen. An exceptional program centered on the theme "LAFCos in a Brave New World" with sessions including LAFCo's role in regional planning, addressing agency labor agreements in shared services and consolidations, implementation of SB 244-Disadvantaged Unincorporated Communities, leadership practices to meet adaptive challenges, how the economy is affecting service delivery, GIS mapping and more. A special series of sessions was specifically designed for clerks and included records management, use of technology and best practices among the topics. The unique mobile workshop brought participants to the historic Utica Water Authority where they visited the wood flumes, canals, penstocks, and historic powerhouse facilities along the district's 27-mile water delivery system.

Over 200 LAFCo commissioners and staff are expected at the 2012 Conference in Monterey. Hosted by Monterey LAFCo, the program centers on the theme "*The Power of Partnerships*" and includes a range of sessions on current issues: sustaining agriculture; shared services; LAFCo oversight of local agencies; services outside boundaries; and strategic thinking in trying times. The Conference attracted an impressive list of speakers, including Assembly Member Roger Dickinson, Food and Agricultural Secretary Karen Ross, Department of Conservation Director Mark Nechodom, and Panetta Institute for Public Policy director Sylvia Panetta. The popular mobile workshop highlighted sustainable agricultural practices that help Monterey growers feed the world.

CALAFCO University The Association offered four courses in 2012 on a range of current issues. The courses allow staff, commissioners and other interested parties to explore in depth LAFCo processes, policies and actions. All four were timely topics and well-attended. *LAFCos and Health Care Districts* was held in February in San Jose, *Shared Services and Service Efficiencies* was held in April in Murphys just before the staff workshop, *Cities Merge? Municipal Consolidations and Bankruptcies* was held in Los Angeles in June, and *CEQA for LAFCos* was held in September in Sacramento. These courses are possible only with the volunteer efforts of LAFCo staff and associate members. Thank you in particular to Orange, Los Angeles, Santa Clara and Calaveras LAFCos, BB&K, Colantuono & Levin, Baracco & Associates and all the others who contributed to the classes. A special thanks to **June Savala** (Los Angeles LAFCo) for coordinating the courses this year.



Accreditations CALAFCO's educational activities have all been accredited by the American Planning Association to provide AICP credits for certified planners. This benefit is provided at no cost to LAFCo staff and helps them maintain their certifications. In addition, both the Conference and Workshop have sessions for LAFCo counsel that have been accredited for MCLE credits by the California Bar.

Web Site The CALAFCO web site is a vital resource for both LAFCos and the community with questions about local government in California. The site consistently attracts between 5,500 and 6,500 visits per week. The vast majority of the visits are for the reference and resource materials found on the site and referral information to member LAFCos. The design of the site has remained virtually unchanged since it was launched in the early 2000s. After a lengthy planning and design period, we are very excited to announce the launch of an all new CALAFCO Web Site! Among the many improvements is a new look, easier navigation with drop-down menus, a sophisticated search function, self-generated passwords for the Members' section, better organization of materials and a host of other resources. We are grateful to the volunteers who worked with the executive director to develop the site and to **Emmanuel Abello**, Santa Clara LAFCo, who designed, built and launched the site. Please check it out at www.calafco.org.

List-Serves The list-serves maintained by the Association continue to be an important communication and information sharing tool among LAFCo staff. In total, we now maintain eight list serves to help members share information, materials, and expertise. This year our webmaster upgraded his servers, and we launched a new list serve system. The launch created an overload on the system, but staff was able to quickly remedy the problems. The new system is better able to handle content and attachments and is much easier for CALAFCO staff to administer. It required no changes on the part of the users.

White Paper CALAFCO was approached by the Governor's Office of Planning and Research (OPR) to update an obsolete state publication on general plans and city annexations. The publication was written in 1997 before the rewrite of LAFCo law in 2000. CALAFCO partnered with OPR and helped fund the rewrite of the publication *LAFCos, General Plans and City Annexations*. This new publication integrates the city annexation process with CEQA and local general plans. The CKH Act provides

opportunities for dovetailing the requirements of the Planning and Zoning, CEQA and annexation laws which, in turn, can promote efficiency in processing applications. The publication was written by Associate Members Ken Lee (RSG, Inc.) and Holly Whatley (Colantuono & Levin) and reviewed by Carole Cooper, Steve Lucas, Lou Ann Texeira and Bill Chiat. The document is available to download from the CALAFCO web site.

LEGISLATIVE PROGRAM

CALAFCO maintained a full legislative agenda this year. While the Association sponsored only one bill this session, it was lengthy and complex. During this second year of the session, CALAFCO staff tracked over 30 different bills that could affect LAFCo. The top priority of the Legislative Committee was **AB 2698**, the Assembly Local Government Committee Omnibus bill. While normally this annual bill contains minor technical changes to Cortese-Knox-Hertzberg, this year the 23-page bill sponsored by CALAFCO contained the first phase of a major project to clean up the many conflicting and confusing protest provisions in the Act. This culminates a lengthy project to consolidate all of the protest provisions into a single section of the Act. While no substantive changes were made to the law, the goal was to set the stage for subsequent phases to eliminate conflicting statutes and bring consistency to the provisions. These policy changes will take careful work with stakeholders, but we believe we made a substantial first step with AB 2698. The legislation was signed into law by the Governor on July 9th.

We are grateful to the support of San Diego LAFCo, and in particular former LAFCo Counsel Bill Smith for authoring the language in the bill. We also appreciate the efforts of Legislative Committee Vice Chair **Harry Ehrlich** (San Diego LAFCo), Assembly Local Government Committee chief consultant **Debbie Michel**, and our sister associations which assisted in bringing this effort to fruition.

Highlights of other legislation we worked include:

- ♦ *AB 2238 (Perea)* – This bill originally included significant unfunded mandates for LAFCo to study alternative service delivery structures in MSRs for agencies that serve or could serve disadvantaged unincorporated communities. Staff worked extensively with the author and sponsors to successfully remove the mandate. The bill was eventually gutted and amended to focus on emergency water grants and have no effect on LAFCo.



- ♦ *AB 2624 (Smyth)* – Would make LAFCo eligible to apply for planning grants from the Strategic Growth Council. It passed the Assembly with no opposition. However there was objection to the bill by Senate staff in the Natural Resources and Appropriations Committee. Despite no opposition (and encouragement from the Strategic Growth Council) Senate staff prepared an erroneous and exaggerated report on the potential costs of the bill. CALAFCO was able to move the bill out of Natural Resources; however it was placed in the Senate Appropriations suspense file and was never heard in committee. (CALAFCO-sponsored; died in Senate Approps.)
- ♦ *SB 1566 (Negrete McLeod)* – This bill would have corrected the VLF funding hole created by the 2011-12 state budget for inhabited annexations and incorporations since 2004. This has created major fiscal crises for a number of cities. After dying in the Senate it was resurrected in the Assembly as *AB 1098 (Carter)* (CALAFCO supported; passed legislature, awaiting Governor)

For a complete list of CALAFCO bills, please visit the web site. Information is updated daily.

The Legislative Committee is currently working on several substantial legislative proposals for 2013:

- ♦ *Protest Provisions* The second phase of the project will be to enact more substantive changes to the protest provisions, to make them more consistent and easier to apply.
- ♦ *Extension of Services Outside Boundaries* The Legislative Committee has examined this for years, but in 2011-12 an intensive effort led by Keene Simonds (Napa LAFCo) led to a near-consensus on language that would increase LAFCo flexibility in certain situations to extend services outside of boundaries and spheres. The Board is supportive of the language and expanded authority, but it will require work with other affected stakeholders in the environmental, agricultural and local agency communities prior to introducing a bill this winter.
- ♦ *Disincorporation Law* - State law is terribly out-of-date with respect to municipal consolidations and mergers. The June CALAFCO U course examined the issues in depth. Because there is a potential for a disincorporation – or certainly many people are looking at the law – the Legislative Committee is examining the possibility of updating the law. Thank you to Orange LAFCo for organizing and preparing a

White Paper on legislative questions; it is available on the web site.

The positive results of the Committee's efforts would not be possible without the leadership of Committee Chair Bill Chiat and Vice Chair Harry Ehrlich (San Diego LAFCo), along with the volunteer efforts of the 20 LAFCo staff, counsel and Board members who serve on the Committee. The work of this group is critical in crafting legislation, providing recommendations to the Board on legislative issues and supporting the legislative process.

ASSOCIATION MANAGEMENT

A Change in Leadership In February, Executive Director Bill Chiat announced his retirement following the October Conference. The Conference marked his eight year of service as executive director. The Board reluctantly accepted the retirement and initiated a process for selecting a new executive director. This provided an opportunity for the Board to reflect and consider the capacities and strengths it desired in the ED, along with affirming what the Board sees as the role and responsibilities of the ED. The Board expressed great appreciation for Bill's leadership over the years and affirmed the ED model created when he was hired.

The Board appointed a Selection Committee to manage the process. The Committee included Chair Jerry Gladbach (Southern Region), Vice Chair Ted Novelli (Central Region), Secretary Mary Jane Griego (Northern Region), Treasurer John Leopold (Coastal Region) and CALAFCO Executive Officer Lou Ann Texeira. A Request for Professional Services Proposals was issued in February. Eleven complete proposals were submitted ... an impressive number! In May the Board met and identified key qualifications and capacities they wanted in the new executive director. The Selection Committee met and screened the proposals based on the criteria set by the Board. While all eleven had merit, the Committee selected four candidates to interview in the next step. The interviews were conducted by the Selection Committee in Sacramento in June, and two finalists were identified to be interviewed by the full Board and staff officers in July. Following the interviews the Board selected Pamela Miller and offered her a contract as new Executive Officer. Pamela begins her work as Executive Director on September 17th. The Board included funds in the budget to allow overlap in executive directors and a smooth transition. We look forward to working with Pamela and are excited about the energy and talents she brings to the Association.



New Board Members During 2012 three Board members left CALAFCO as a result of outcomes from local elections. We are honored to welcome these new commissioners to the Board:

- **Eugene Montanez** – Riverside LAFCo (city member, Southern Region)
- **Mike McGill** – Contra Costa LAFCo (district member, Coastal Region)
- **Matthew Beekman** – Stanislaus LAFCo (city member, Central Region)

We are grateful for the time contributed by all 16 Board Members and the support from their LAFCos for serving on the Board of Directors.

Financial Policies and Reporting The Association continues to stand on a strong financial base. The Board maintains policies and current filings which are in compliance with all federal and state requirements for 501(c)(3) organizations. The CALAFCO Policy Manual, IRS Form 990 and other key Association documents are available on the CALAFCO web site. The Association also maintains its records with the national non-profit reporting organization, GuideStar (www.guidestar.com). In 2012 CALAFCO once again earned the *GuideStar Exchange Seal* in recognition of its transparency and completeness in documentation.

All financial records are reviewed quarterly by an outside CPA with reports to the Treasurer and the Board. The Board also reviews the annual IRS Form 990 tax filing prepared by the CPA and staff.

2012-13 Budget The Board has managed the financial resources of the Association closely. For the first time in four years LAFCo dues were increased by the CPI as authorized in the Association By Laws. While only a 2.2% increase, the Board felt it was necessary to keep up with the increasing costs of operating the Association.

The adopted budget for 2012-13 provides only minor changes from the 2011-12 budget. The budget increased \$1,100 over the previous year, largely to accommodate a short overlap between executive directors. The close of the fiscal year showed a greater year-end balance than anticipated in the adopted budget, allowing the Association to avoid the use of reserves as authorized when it adopted the budget in February. The approved budget is \$359,192, which includes a \$15,367 contingency. There are small increases in rent, professional services and conference and workshop expenses in

the budget which are offset by increases in revenues from dues and returns from the conference. The budget is balanced and does not tap any of the reserve funds.

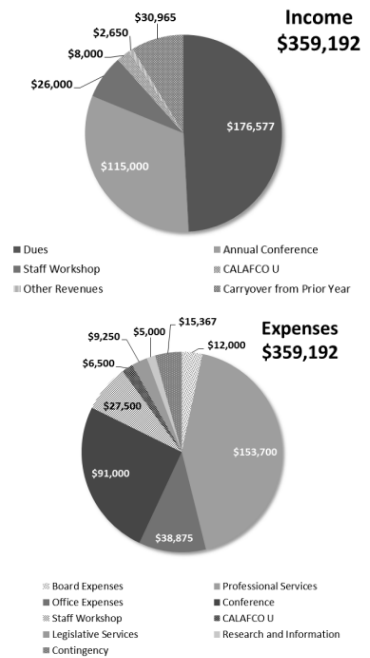
Restricted Fund Reserve Since 2005 an important goal established by the Board has been to grow and maintain a fund reserve to support member services in uncertain economic times and avoid the need to tap members for additional funds, as

had been done in the past. With an initial goal of 35% of non-conference operating expenses, the reserve is currently at \$120,754, about 53% of the annual operations budget outside of the conference and workshop. The reserve is not part of the annual budget and requires a vote of the Board to use its funds. The Association has not used the fund reserve since the early 2000s. CALAFCO maintains its funds with the Local Agency Investment Fund (LAIF). While the interest rate has remained low again this year, we have not lost any of the principle in our savings or investments.

Finally we want to recognize the outstanding leadership of our executive director **Bill Chiat** and executive officer **Lou Ann Texeira** (Contra Costa LAFCo). Added to that is our appreciation for all the contributions of executive assistant **Jamie Szutowicz** in the CALAFCO office, deputy executive officers **Marjorie Blom** (Stanislaus LAFCo), **June Savala** (Los Angeles LAFCo) and **Steve Lucas** (Butte LAFCo), and Legal Counsel **Clark Alsop** (BB&K). These people, along with many other volunteers, associate members, and members of the Board have all worked together this year to bring many achievements and a strong Association to you, our member LAFCos.

Sincerely Yours,

The CALAFCO Board of Directors



The View from the Balcony

Continued from page 4

6. Broader Representation on Commissions

Over the years I've been asked by those outside LAFCo about the objectivity of LAFCo commissioners and their ability to separate LAFCo decisions from the decisions of their city, county or district. LAFCo law is clear about this representation and most LAFCos go to great lengths to educate their commissioners. As a county executive I observed on more than one occasion where one of my supervisors voted differently at a LAFCo meeting than the Board preferred.

Nonetheless the make-up of commissions does continue to raise the question. The 29 LAFCos with special district representation have helped address this concern by having a broader base which helps break up any voting blocks. Getting districts on the remaining 28 LAFCos is an adaptive challenge. When I served as an executive in a sanitation district we argued that districts should be considered equal partners in service provision with cities and counties and should have a seat at the table on decisions of services and growth. LAFCo is one of the few, if not only, governing board where that can happen. It benefits the districts, the customers of the districts and the community as a whole to have a broader perspective on every commission (San Francisco is the obvious exception). Perhaps the time has come for legislative action to require districts to be seated on every LAFCo in the same manner as cities and counties.

So that's my view from the balcony. We've made much headway in addressing these

adaptive challenges – I note, for example, the 45 bills CALAFCO has supported, sponsored or influenced over the last eight years, 39 of which have become law. But there are more challenges out there and it will take the adaptive leadership of commissioners and staff to continue for continued progress on the LAFCo mission of orderly growth, prevention of sprawl, preservation of agricultural and open space lands, and sustainable municipal services.

I hope you too will take a moment every now and then for your own trip to the balcony. It can be an eye-opening exercise to look at what is happening around you; to reflect on what you learn; and to strategically apply it to the direction of the commission.

Best wishes in these great adaptive opportunities!

Chiat, Szutowicz Leaving CALAFCO

Thank you Jamie and Bill!

The 2012 Annual Conference marks the end of an era for CALAFCO. In February Executive Director **Bill Chiat** announced his retirement. Shortly after that Executive Assistant **Jamie Szutowicz** announced she accepted a full time position with another agency. Both Bill and Jamie serve CALAFCO as part-time independent contractors.

After eight years as Executive Director, Bill plans to free up some of his time to expand his culinary education (and practice). He will continue his work as

Dean of the CSAC Institute for Excellence in County Government and his organizational development and facilitation consulting practice, Alta Mesa Group LLC.

Jamie joined CALAFCO five years ago and brought order to the chaos of boxes, data and files that filled the CALAFCO office. She brought that same order to the registration process and records for workshops, conferences and classes, along with organizing our financial records and working closely with the CPA, executive officer and treasurer to manage our financial records



Jamie is responsible for countless innovations at CALAFCO, including establishment of the membership database, event registration system, credit card registration, and the QuickBooks financial system. She also created the financial procedures for tracking all Association income and expenses. She has updated the directories and implemented cost reduction strategies such as reduced rates for insurance. Then there's the fabulous cooking too (which Bill got to enjoy every now and then!). Jamie brings a smile to everyone she greets at the registration tables at CALAFCO events. She says working with all the LAFCo folks was her greatest joy. She will certainly be missed!

Jamie has been named Event and Officer Manager for the Power Inn Alliance, a Property and Business Improvement District in Sacramento.

Both Jamie and Bill will be leaving following the Annual Conference in October

STRATEGIES FOR MUNICIPAL INDEPENDENCE: A Case Study of East Los Angeles

By Richard L. Berkson

On February 8, 2012, the Los Angeles Local Agency Formation Commission (LAFCo) voted to deny the application for the incorporation of East Los Angeles. This denial terminated the most recent East Los Angeles incorporation effort which extended for almost five years.

While many of the feasibility issues influencing LAFCo's denial were unique to East Los Angeles, other communities throughout the State face similar constraints to incorporation. A diagnosis of these constraints suggests a number of steps that could be taken to lay a foundation for improved local governance and increased potential for a successful incorporation in the future, both in East Los Angeles as well as other unincorporated communities.

Factors Contributing to Incorporation Infeasibility

A variety of factors contributes to the fiscal weakness of East Los Angeles. Some of these factors are "cyclical," such as the persistent weak economic conditions; others are "structural," such as California's local government finance regime that disadvantages communities seeking incorporation in various ways; and still others are "endemic," unique to an area, such as the limited development capacity in East Los Angeles or its weak economic base and retail sales performance.

Understanding these factors is very important to evolving a governance and community development strategy. While

little can be done about cyclical factors, structural factors, while challenging, can be addressed over time. Most importantly, the endemic factors that are a key



limiting factor in East Los Angeles can be addressed in a variety of ways, thus strengthening the likelihood of incorporation in the future.

* **Lack of Economic Base** — The primary factor limiting the ability of a community to incorporate is an insufficient economic base to generate the revenues necessary to fund public services. Without adequate revenues, the need to increase taxes to achieve feasibility is likely to terminate most incorporation efforts.

In 2010, median household income in East Los Angeles was \$39,000 compared to \$52,700 for Los Angeles County. Recent successful incorporations, for example Menifee, California, averaged above \$70,000. Incomes are one indicator of property

values and sales tax potential. Sales tax generated in East Los Angeles, typically a major source of funding for cities, is \$30 per resident compared to \$140 per resident for all cities in Los Angeles County. There are no regional retailers or "big box" stores in East Los Angeles to generate sales taxes. The area includes few hotel rooms to yield hotel tax, another common source of city revenue. The area is largely built-out, without many opportunities for future growth and development.

An increase in local utility users tax was considered as one option to improve feasibility in East Los Angeles; however, this created additional resistance to incorporation in this low-income community.

* **Adverse Economic Conditions and Government Budget Reductions** — A significant downturn in the economy reduces current and projected revenues available for a new city. The realignment of State revenues eliminated Vehicle License Fee (VLF) revenues to new cities, a major source of funding particularly in the initial years of a city. VLF accounted for more than 20 percent of East Los Angeles's projected budget. Redevelopment areas were eliminated in 2011, removing a source of funding for economic development and capital improvements.

* **County Access to Funding Sources** — County funding of services in unincorporated areas is often limited, which provides impetus to

incorporation efforts. In East Los Angeles, there exists some dissatisfaction with the provision and allocation of funding to certain County-provided services. However, in urbanized counties such as Los Angeles, access to a broad revenue base and range of revenues can enable a county to provide some services at a relatively high level. These service levels can create a costly hurdle to incorporation as it can be difficult for a proposed new city to generate similar funding.

For example, libraries in East Los Angeles maintain hours that exceed those of most cities in the County, and sheriff protection expenditures are greater than the levels found in many cities. These services are the result of a shift of property tax and other general fund revenues generated in wealthier areas of the County to services in East Los Angeles, as well as County “Prop. 172” funds¹ which are unavailable to new cities.

* **Uncertainty About Future Governance and Regulation** — A community that has relied on county government may have little local governance experience and leadership. Residents, if generally satisfied with current services, may tend to prefer the county government they know rather than the uncertainty of a future, unknown city government. Typically, the business community will prefer county governance, viewing it as providing less local oversight and regulation, and perhaps easier to influence relative to a locally elected city council.

The East Los Angeles business community was one source of opposition to incorporation, expressing wariness about the potential for increased city regulation. Many residents stated their satisfaction with services provided by the County and concern about potential reductions in revenues and services that may accompany a new city. Recent incidents in other cities involving abuse of public authority and financial resources also raised issues about local governance.

Organizational Options for East Los Angeles

Despite LAFCo’s finding of infeasibility and the related denial of the incorporation petition, various options are available to the community that could improve local economic conditions, governance, and quality of life in the near term and enhance the future potential for incorporation, as described below. Discussion and debate in community forums could improve prospects for adoption and implementation of these mechanisms, and increase local dialogue to mitigate the divisiveness that marked the incorporation process.

1. Unincorporated Area Budget (UAB) — Residents and members of the business community could work with the County to create and review a local UAB². The UAB would provide an informal budget, based on actual County budgets allocated to the area, for services and revenues generated in the community.

During the East Los Angeles incorporation hearings, discussion occurred about the

possibility of creating a UAB to help to better inform the community about where their tax dollars were spent and what levels of services were being provided. Commissioner Gloria Molina, Los Angeles County Supervisor, proposed that “...we should publish a budget on a regular basis for East Los Angeles.”

This UAB could facilitate discussion and a better understanding about local municipal services, reducing the level of effort and time that would be required to prepare this information during a future incorporation effort. The UAB would also help the community to better understand the prospects for incorporation and, ideally, it would help to establish a stronger working relationship with the County.

2. Special Studies — As part of a LAFCo Special Study, a detailed “Governance Options” analysis could be prepared. This analysis could include evaluation of a potential Municipal Advisory Council (MAC)/Area Planning Commission (APC) and Community Services District (CSD), described further in the next item. Reorganization of various services could be considered.

3. Municipal Advisory Council/Area Planning Commission — A MAC, which can also serve as an APC, could provide an entity to represent community interests and review the UAB, as well as provide input into services and planning.

As established in Section 31010 of the Government Code, the board of supervisors of any county may by resolution establish and provide funds for the operation of a municipal advisory council for any unincorporated area in the county to advise the board on matters of public health, safety, welfare, public works, and planning. Unless the board of supervisors specifically provides to the contrary, a municipal advisory council may represent the community to any state, county, city, special district or

¹ In 1993, voters approved Prop. 172, which increased State sales tax for the purpose of partially compensating for the loss of local revenues (e.g., property tax shifted to the State’s Educational Revenue Augmentation Fund, or ERAF, in 1993-94). New cities formed after 1993 do not qualify for an allocation of Prop. 172 funds. The funds are restricted to “public safety” purposes.

² On May 1, 2012 the County of Los Angeles’s Chief Executive Officer requested that Departments submit expenditures and revenues associated with delivering services to East Los Angeles for Fiscal Year 2010-11. This request was in response to the constituents of East Los Angeles “interested in obtaining financial information about their community” expressed during the incorporation process.

school district, agency or commission, or any other organization on any matter concerning the community.

California Government Code Sec. 65902 states that a county “may provide that an area planning commission shall exercise all of the functions and duties of a board of zoning adjustment or a zoning administrator in a prescribed portion of the county.” The APC shall hear and decide applications for conditional uses or other permits, and applications for zoning variances.

4. Community Services District

— A CSD can be created and authorized to perform virtually any service that any special district can perform in California (GC 61100). The creation of a CSD would establish an independent governance entity as transition toward incorporation; it would act as a central, organizing entity for actions related to municipal services and establish working relationships between local government, the business community, and residents.

A CSD in East Los Angeles could provide local control of certain services/districts (i.e., the current Belvedere Garbage District and existing lighting and landscape assessment districts), create a vehicle for future funding sources, and provide oversight of the UAB. The CSD could be empowered to provide service as a MAC and an APC.

The adoption of new taxes and assessments is rarely an easy process, particularly if it is perceived as the consequence of forming a new level of government such as a city. However, special taxes are more palatable when directly linked to maintenance and enhancement of specific services. Adoption of taxes, managed by a CSD before incorporation, could significantly improve city feasibility prospects and reduce local opposition driven by tax uncertainties.

5. Economic Development Plan

— An Economic Development Plan could be developed to

identify strategies specific to the unique characteristics of East Los Angeles, to help in focusing countywide resources and economic development programs on building the local economy and tax base. The plan could address specific concerns of local businesses about the appropriate role of governmental regulation and issues related to the “informal economy” prevalent in the area. The plan could help to inform the community and decision makers about opportunities as well as constraints that limit the ability of local businesses to financially support economic development activities. Incentives for investment in the community from the private and public sectors would be important elements of the plan.

One of the plan’s key objectives in East Los Angeles would be to enhance the current revenue base, which in turn would improve fiscal prospects for a future city. The East Los Angeles CSD, or MAC/APC, could act as a forum for local input and direction on the plan.

6. Funding of Economic Infrastructure

— The CSD, or MAC/APC, could work with the County on strategies (e.g., creation of an Infrastructure Finance District [IFD]) to fund economic development in accord with strategies and goals of the Economic Development Plan and seek special taxes and/or assessments to fund targeted services and improvements, in addition to regional, State, and federal grants.

In East Los Angeles, an IFD could partially restore funding to the former redevelopment areas

that existed within East Los Angeles as well as other potential areas targeted by the Economic Development Plan.

7. Incorporation Legislation

— The local governing entity could provide a forum and a political body to work in conjunction with other entities toward legislation to improve potential viability of incorporation. For example, it would work on legislation to restore funding for new cities, provide for additional non-property tax funding based on transfer of services, and address other issues related to incorporation.

Conclusion

While East Los Angeles was unsuccessful in its recent incorporation effort, pursuing options such as those listed above can provide an improved foundation for cityhood. At the same time, the community would gain more responsive local governance, increased influence over land use decisions and public services, and opportunities to enhance the local business environment and economy. East Los Angeles is unique in many ways; yet, other urbanized areas considering incorporation face similar challenges. In these cases it may be valuable to pursue a similar agenda of improved governance and community development in advance of, or as a part of, incorporation efforts.

Richard L. Berkson is a Principal with Economic & Planning Systems, Inc. (EPS) and prepared the Comprehensive Fiscal Analysis of the Proposed Incorporation of East Los Angeles. EPS is a long-time Gold Associate member of CALAFCO.



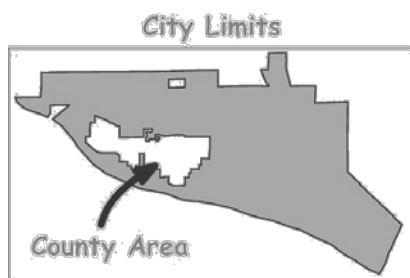
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Off the Island!

By Scott E. Porter

Local Agency Formation Commissions (LAFCo) are charged with determining in which instances cities may annex unincorporated territory and may approve annexations after protest proceedings give landowners and voters opportunity to stop a proposal or require an election on it. Government Code section 56375.3 authorizes a streamlined procedure for annexations involving an “island” of unincorporated territory of 150 acres or fewer — in these cases no protests are permitted. The term “island” is not defined.



The Attorney General issued a recent opinion clarifying the island annexation rule. First, she concluded: “For purposes of Government Code section 56375.3, an “island” is an area of unincorporated territory that is (1) completely surrounded, or substantially surrounded—that is, surrounded to a large degree, or in the main—either by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean, or (2) completely surrounded by the city to which annexation is proposed and adjacent cities. An “island” may not be a part of another island that is surrounded or substantially surrounded in this same manner.”

A LAFCo still may determine, in light of the whole record before it, whether a particular area is an “island.” The Attorney General expressly declined to provide a mathematical formula as to what is sufficient to constitute an island

(as the Legislature had also refused to do) but cited a case identifying an “island” only 68% surrounded by incorporated territory.

The Attorney General took the analysis further. She also concluded that the statutory requirement that a city annex an “entire” island means that the LAFCo may not allow annexations that “split up an unincorporated island that exceeds 150 acres into smaller segments to utilize the streamlined “island annexation” procedures.”

Although opinions of the Attorney General are not legally binding precedent, courts typically grant the decisions great weight in formulating their decisions, especially on public law questions that are rarely litigated. As a result of this opinion, LAFCos may be less willing to approve island annexations in reliance on the streamlined annexation procedures.

Scott E. Porter is an attorney with Colantuono & Levin PC. Colantuono & Levin PC is a Gold Associate Member of CALAFCO.

Planning for Disadvantaged Communities

By David J. Ruderman

Since October of last year, when the Governor signed SB 244 (Wolk, D-Davis), California’s cities have been required to count their DUCKs—i.e., disadvantaged unincorporated communities. Although the goals of SB 244 are laudable, cities have expressed concern about the impacts of SB 244. There were efforts in the Legislature this year by the League of Cities to clarify SB 244 and provide cities more flexibility to carry out their goals, but attempts to make any changes in SB 244 failed. CALAFCO

encouraged all parties to get a year of experience under their belts before making any changes to the law.

SB 244 requires cities and counties to review and update the land use elements of their general plans to map and analyze the service needs of unincorporated communities within or adjacent to their spheres of influence. In some ways SB 244 may limit a city’s ability to annex territory because it prohibits LAFCos from approving an annexation of territory greater than 10 acres (or as determined by commission policy) where a DUC is contiguous unless an application to annex the DUC is also filed. Cities argue this dual annexation requirement may discourage all annexations, not just those of DUCs. There are also exceptions where LAFCo can show there is no support in the DUC for annexation.



In March, Sen. Bill Emmerson (R-Riverside) introduced SB 1498 sponsored by the League of Cities to repeal the dual annexation requirement. It also proposed allowing LAFCos to approve the extension of services beyond a city or district’s sphere of influence to support existing or planned uses involving public or private properties. However, the bill failed to pass out of committee.

(Editor’s note: CALAFCO did not support SB 1498 because it removed the annexation requirement.)

David J. Ruderman is an attorney with Colantuono & Levin PC. Colantuono & Levin PC is a Gold Associate Member of CALAFCO.

New City Editorial and Response from the Los Angeles Times

The Los Angeles Times

EDITORIAL

New California cities? Not now.

Sorry, Jurupa Valley, Menifee, Wildomar and Eastvale, but we can't afford you.

August 3, 2012

If communities in California have the desire and the tax base to make it on their own as independent cities, without increasing the resource burdens on their county governments or their neighbors or the state, then as a rule of thumb they ought to be able to give it a go. Self-governance and home rule are integral parts of American liberty.

But in their first few years after incorporation, cities are likely to need a financial boost from the rest of us, and right now, well — sorry, Jurupa Valley, Menifee, Wildomar and Eastvale, but we can't afford you. With three much more established cities already in bankruptcy (Stockton, San Bernardino and Mammoth Lakes), another one or two teetering and yet another recently emerged from proceedings (Vallejo), and with tax revenue down and budgets being cut for basic state functions, California must watch its money carefully. There's no booster cash to launch those four new Riverside County cities, and now the very youngest, Jurupa Valley, which voted to become a city a year ago, says it might have to disincorporate.

Not to be flip, but that's the way it goes. Communities that dream of cityhood must, for now, either be truly independent by forgoing state cash and taxing themselves at higher rates to make ends meet, or defer their plans until taxpayers elsewhere in the state can again afford to send them a multimillion-dollar birthday present.

Of course, some politicians in the Inland Empire look at things a little differently. They find it convenient to view the cutoff of taxpayer money from other quarters in California as some sort of betrayal. They call it a state money grab and insist that the rest of us owe them cash to start their new cities. A year ago, when state lawmakers first diverted the funding to pay for needed public safety programs instead, some Republican officials said Gov. Jerry Brown targeted the cuts at them out of spite for their failure to support his request to put a tax extension on the ballot. A Riverside County supervisor called for secession and a new state of South California — and that pointless and unfortunate diversion of attention is the aspect of the story that made the national media, because it fit the shallow mold so easily: liberals versus conservatives, the deserts and mountains versus the coast, north (including, somehow, L.A. County) versus south.

The real story is the hypocrisy of those who agitate against government and taxes and yet insist that government keep sending them other people's tax money — to help them form new governments, no less — when prudence requires spending the funds elsewhere. But there is enough blame to spread thickly across the map, and it begins with the scheme hatched in the late 1990s to cut the vehicle license fee from 2% of a vehicle's value, the rate it had been set at for 60 years.

Really? We're going to discuss the car tax again? Yes, because that's how Californians pay for local government, especially after we cut and capped property taxes in the 1970s. The car tax pays for cities and counties to meet their local health and welfare mandates and accounts for a huge chunk of cities' general fund money. Take out the amount it costs the Department of Motor Vehicles to collect it, and what's left over is the amount the state has on hand to help new cities organize and operate. So it stands to reason that when you slash the tax down to 0.65%, you're going to have a lot less to spend on starting up new cities.

Californians didn't notice it at first, because Sacramento had a budget surplus at the time and picked up the tab directly. Once the state had made up for the lost car tax money, cities old and new came to expect that the dollars would be there forever.

But of course they weren't. The state needed that money to underwrite local public safety programs such as the one the Los Angeles Police Department uses to fight gangs, and when a temporary increase in the tax (though not up to its historic level) lapsed last year, the state had to dip into its base car tax money for those same public safety functions.

Meanwhile, California had been ordered to unpack the prisons that voters had filled by passing various conservative tough-on-crime measures. Public safety realignment diverts car tax money from things like starting new cities to jails and other programs that now must handle felons who formerly would have gone to state prison.

California's in a jam, and it's not because we've raised taxes, but because we've cut them while irresponsibly spending down surpluses. We can't afford things we once paid for. That's the problem that has come home to roost in Jurupa Valley. Cityhood dreams are important. But public safety — and solvency — come first.

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The Los Angeles Times

BLOWBACK

Throwaway cities in the Inland Empire? Hardly

By Ben Benoit, Jeff DeGrandpre, John Denver, Ronald O. Loveridge, Laura Roughton and John F. Taviglione

August 8, 2012

We cannot even begin to say how disappointed we are by The Times' Aug. 3 editorial regarding the Inland Empire and our four recently incorporated Riverside County cities of Jurupa Valley, Eastvale, Wildomar and Menifee. The implication that all other California cities are subsidizing our communities is not remotely true. To the contrary, we have been subsidizing other communities for years as unincorporated areas when our locally paid tax dollars left our area because we weren't cities.

Since the passage of Proposition 47 in 1986, vehicle license fees (VLF), which date back to 1935, have been a constitutionally protected local source of revenue. Even before 1935, individual cities actually instituted their own VLF assessments. To ease collection and to promote uniformity, the Legislature replaced the locally administered programs with the more familiar statewide-coordinated billing process of today.

Although VLF monies were taken from all cities, the monies taken from our four cities and those municipalities that conducted inhabited annexations after 2006 are the ones subsidizing today's law enforcement grants and the realignment process. Thanks to the passage of SB 89 in 2011, we lost our full VLF distribution and received pennies on the dollar in grant money in return. In essence our cities are disproportionately paying for programs abdicated by the state.

Our four cities alone lost more than \$16 million that would have funded our own law enforcement needs. Two of our jurisdictions, Jurupa Valley and Wildomar, have already been forced to reduce the number of law enforcement officers to below the level we had when we incorporated. The primary source for public safety in our four cities was the VLF. If insolvency caused by state action forces disincorporation of any of the four cities, then Riverside County will have to reassume responsibility for municipal services, including public safety, and without adequate offsetting revenues.

Up to now, VLF disbursements to counties were not earmarked for law enforcement. Realignment monies and law enforcement grants do not offset the cost of daily law enforcement services. Our incorporations actually helped to ease the county's burden for providing public safety, as this service became our responsibility. Incorporation was supposed to bring a higher level of public safety primarily funded with VLF revenue. Jurupa Valley and Wildomar residents currently receive fewer law enforcement services than those levels enjoyed by their counterparts in older communities.

So The Times' basic message of "we need ours and you don't" is irresponsible. People in different communities deserve equal treatment. We deserve to have safe communities with local representation, as our citizens voted at each incorporation election. We are not throwaway cities.

The 2004 state budget agreement included the VLF-for-property tax swap. Though it established reimbursement amounts in the form of additional property tax revenues to existing cities and counties, it left future inhabited annexations and incorporations fiscally unviable. In 2006, AB 1602 addressed this inadequate funding by providing special supplemental allocation of city VLF revenue to new annexations and incorporations after 2004. Such funding was extended by SB 301 in 2008 — that is, until the aforementioned SB 89 wiped out that funding in June 2011. It is important to remember that our four cities do not receive the same proportionate amount of property tax enjoyed by the 478 California cities that incorporated before 2006.

The attempt to level the playing field by granting more VLF monies to newly incorporated cities was meant to offset this property tax imbalance. The elimination of our VLF revenue now expands the distance between the new and the old. With our solution stalled in committee (SB 1566), time will tell if there is truly an inequality between the many and the few, a tyranny of the majority.

Additionally, our state-caused financial troubles don't just stop at our municipal boundaries. The inability of one community to protect its residents affects those in surrounding communities as well.

What The Times seems to suggest to the nearly 266,000 residents of Jurupa Valley, Eastvale, Menifee and Wildomar (and the rest of Riverside County, for that matter) is that their public safety needs are less important than those in every other California city. So much for fiscal, social and economic justice.

Ben Benoit, Jeff DeGrandpre, John Denver, Ronald O. Loveridge and Laura Roughton are the mayors of, respectively, Wildomar, Eastvale, Menifee, Riverside and Jurupa Valley. John F. Taviglione is chairman of the Riverside County Board of Supervisors.

Napa LAFCo Adopts “Tag Line” to LAFCo

Napa LAFCo is pleased to announce it has established an official tagline for the agency titled “*We Manage Governmental Boundaries, Evaluate Municipal Services, and Protect Agriculture.*” The decision to establish a tagline is borne from Commissioners’ collective desire to more effectively convey the agency’s core responsibilities to the public and other governmental agencies with specific focus on post formation activities.



The tagline was unanimously approved on June 4, 2012.

New Ventura LAFCo Member

The Ventura LAFCo has selected **Linda Ford-McCaffrey** to fill an unexpired Alternate Public Member term ending January 1, 2013. Ms. Ford-McCaffrey holds a juris doctor degree and has a background in environmental planning and consulting. She has also worked for the Los Angeles County Transportation Commission, the Los Angeles County Metropolitan Transportation Authority and the Southern California Regional Rail Authority.



Ventura LAFCo Approves Annexation of Last Remaining Islands in the City of San Buenaventura

At its meeting on July 18, 2012, the Ventura LAFCo approved a reorganization to annex 12 islands of territory to the City of San Buenaventura pursuant to the island annexation provisions of the Government Code. A total of 255 parcels were included in the proposal. All but one of the islands is located in the southeastern portion of the City and is referred to as the ‘Montalvo’ community. All of the islands are entirely surrounded by the City and all are currently receiving City water service. Public sewer service will be provided to most of the territory by the Montalvo Community Services District, which currently serves the area.

Although the City was compelled to initiate the island annexation to comply with a LAFCo condition imposed on a previously approved proposal to annex undeveloped territory on the eastern edge of the City, the City took extraordinary steps to roll out the welcome mat to the residents. Both prior to and after initiating the proposal and with the assistance of LAFCo staff, the City held meetings to address the affected residents’ concerns. They also distributed detailed fact sheets to help residents understand the island annexation law and the changes they will face regarding utility charges, fees, and zoning regulations.

Surprisingly, only a handful of residents attended the subsequent LAFCo hearing and no one spoke in opposition to the annexation. Without a doubt, this happy outcome would not have been possible without the City’s cooperation and proactive efforts.

2013 CALAFCO Staff Workshop

April 11th – 13th, 2013
Hallmark Inn
Davis
Hosted by Yolo LAFCo

2013 CALAFCO Annual Conference

September 4th – 6th, 2013
The Resort at Squaw Creek
North Lake Tahoe
Hosted by Nevada, Placer and El Dorado LAFCos

On the Horizon



2013: LAFCo’s Golden Anniversary



The Sphere

CALAFCO Journal

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CALAFCO provides educational, information sharing and technical support for its members by serving as a resource for, and collaborating with, the public, the legislative and executive branches of state government, and other organizations for the purpose of discouraging urban sprawl, preserving open-space and prime agricultural lands, and encouraging orderly growth and development of local agencies.

Sharing Information and Resources

THE VIEW

Scenes from the CALAFCO Workshop in Murphys



Photos by Jamie Szurawicz

LAFCo's Role in Regional Planning session

Hosted by Calaveras LAFCo at the beautiful Ironstone Winery and Conference Center



Discussion at EO Roundtable



Bill Chiat's 'call for leadership' conversation



Host EO John Benoit



Kathy Rollings-McDonald speaks at Disadvantaged Unincorporated Communities session



Bill Smith on Protest Provisions



CALAFCO GOLD ASSOCIATE MEMBERS

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