Local Agency Formation Commission of Santa Clara County

LAFCO MEETING AGENDA

Board Meeting Chambers, 70 West Hedding Street, First Floor
San Jose, CA 95110
October 5, 2016
1:00 PM

CHAIRPERSON: Mike Wasserman • VICE-CHAIRPERSON: Tara Martin-Milius
COMMISSIONERS: Sequoia Hall, Ash Kalra, Linda J. LeZotte, Susan Vicklund Wilson, Ken Yeager
ALTERNATES: Cindy Chavez, Yoriko Kishimoto, Raul Peralez, Rob Rennie, Terry Trumbull

NOTICE TO THE PUBLIC

1. Pursuant to Government Code §84308, no LAFCO commissioner shall accept, solicit, or direct a contribution of more than $250 from any party, or his/her agent; or any participant or his /or her agent, while a LAFCO proceeding is pending, and for three months following the date a final decision is rendered by LAFCO. Prior to rendering a decision on a LAFCO proceeding, any LAFCO commissioner who received a contribution of more than $250 within the preceding 12 months from a party or participant shall disclose that fact on the record of the proceeding. If a commissioner receives a contribution which would otherwise require disqualification returns the contribution within 30 days of knowing about the contribution and the proceeding, the commissioner shall be permitted to participate in the proceeding. A party to a LAFCO proceeding shall disclose on the record of the proceeding any contribution of more than $250 within the preceding 12 months by the party, or his or her agent, to a LAFCO commissioner. For forms, visit the LAFCO website at www.santaclaralafco.org. No party, or his or her agent and no participant, or his or her agent, shall make a contribution of more than $250 to any LAFCO commissioner during the proceeding or for 3 months following the date a final decision is rendered by LAFCO.
2. Pursuant to Government Code Sections 56100.1, 56300, 56700.1, 57009 and 81000 et seq., any person or combination of persons who directly or indirectly contribute(s) a total of $1,000 or more or expend(s) a total of $1,000 or more in support of or in opposition to specified LAFCO proposals or proceedings, which generally include proposed reorganizations or changes of organization, may be required to comply with the disclosure requirements of the Political Reform Act (See also, Section 84250 et seq.). These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. More information on the scope of the required disclosures is available at the web site of the FPPC: www.fppc.ca.gov. Questions regarding FPPC material, including FPPC forms, should be directed to the FPPC's advice line at 1-866-ASK-FPPC (1-866-275-3772).
3. Pursuant to Government Code §56300(c), LAFCO adopted lobbying disclosure requirements which require that any person or entity lobbying the Commission or 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. In addition to submitting a declaration, 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. Additionally every applicant shall file a declaration under penalty of perjury listing all lobbyists that they have hired to influence the action taken by LAFCO on their application. For forms, visit the LAFCO website at www.santaclaralafco.org.
4. Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commissioners less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office, 70 W. Hedding Street, 11th Floor, San Jose, California, during normal business hours. (Government Code §54957.5.)
5. 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.

1. ROLL CALL

2. PUBLIC COMMENTS

This portion of the meeting provides an opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No action may be taken on off-agenda items unless authorized by law. 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 3, 2016 LAFCO MEETING

CLOSED SESSION

The Commission will recess into Closed Session to discuss Item Nos. 4, 5 and 6, and reconvene into Open Session to consider the remainder of the Agenda.

4. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Conference with Legal Counsel - Initiation of litigation pursuant to Government Code 54956.9(d)(4) (1 case)

5. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Real Property: 675 North First Street, Suite 645, San Jose, CA 95112
Agency Negotiator: Neelima Palacherla
Negotiating Parties: Michael Joseph
Under Negotiation: Price and terms of payment

6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Real Property: 777 North First Street, Suite 400, 410, and 415, San Jose, CA 95112
Agency Negotiator: Neelima Palacherla
Negotiating Parties: Steve Botto
Under Negotiation: Price and terms of payment

7. REPORT FROM THE CLOSED SESSION

PUBLIC HEARING

8. MONTE SERENO URBAN SERVICE AREA (USA) AND SPHERE OF INFLUENCE (SOI) AMENDMENT 2016 (LUCKY ROAD)

Recommended Action

CEQA ACTION

1. Denial of the project does not require a CEQA action.

In order to approve the project, LAFCO as a Responsible Agency under CEQA, must take the following actions regarding the Mitigated Negative Declaration for this project:

a. Find that the Initial Study and Mitigated Negative Declaration approved by the City of Monte Sereno on September 3, 2013 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.

b. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the Initial Study and Mitigated Negative Declaration.

Project Action

2. Deny the proposed Monte Sereno Urban Service Area (USA) Amendment and Sphere of Influence (SOI) Amendment.

9. PROPOSED AMENDMENT TO LAFCO BY-LAWS

Recommended Action: Adopt the proposed revisions to the LAFCO Bylaws.

ITEMS FOR ACTION / INFORMATION

10. TOLLING AGREEMENT BETWEEN LAFCO AND THE CITY OF MORGAN HILL

For Information Only.

11. LAFCO OFFICE SPACE: AUTHORIZATION TO LEASE PRIVATE OFFICE SPACE

Recommended Action: Authorize the Executive Officer to execute a lease agreement for office space at 675 North First Street for a five year lease term not to exceed a total cost of $213,000 and authorize an expenditure of up to $64,000 to address Life Safety improvement issues and permit / plan check fees, after coordinating with the Ad Hoc Office Space Committee and subject to review and approval by LAFCO Counsel. The executed lease agreement will be placed on the next LAFCO agenda for informational purposes.

12. EXECUTIVE OFFICER'S REPORT

12.1 UPDATE ON THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)

For Information Only.

12.2 MEETING WITH TOWN OF LOS GATOS AND RESIDENT RE: POTENTIAL EFFORT TO ANNEX AN UNINCORPORATED ISLAND

For Information Only.

12.3 MEETING WITH CITY OF LOS ALTOS STAFF RE: JARDIN DRIVE PROPERTY OWNERS' REQUEST FOR DETACHMENT FROM MOUNTAIN VIEW AND ANNEXATION TO LOS ALTOS

For Information Only.

12.4 MEETING WITH REPRESENTATIVES OF THE SAN MARTIN NEIGHBORHOOD ALLIANCE (SMNA)

For Information Only.

12.5 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING

For Information Only.

12.6 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS (SCCAPO) MEETING

For Information Only.

12.7 BAY AREA LAFCO CLERKS MEETING

For Information Only.

12.8 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING

For Information Only.

13. ANNUAL REPORT

Recommended Action: Accept the 2015-2016 Annual Report (July 1, 2015 to June 30, 2016)

14. CALAFCO TESTIMONY AT LITTLE HOOVER COMMISSION HEARING ON SPECIAL DISTRICTS

For Information Only.

15. PENDING APPLICATIONS / UPCOMING PROJECTS

16. COMMISSIONER REPORTS

17. NEWSPAPER ARTICLES / NEWSLETTERS

18. WRITTEN CORRESPONDENCE

19. ADJOURN

Adjourn to the regular LAFCO meeting on December 7, 2016 at 1:00 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

LAFCO
Local Agency Formation Commission of Santa Clara County

AGENDA ITEM # 3

LAFCO MEETING MINUTES
WEDNESDAY, AUGUST 3, 2016

CALL TO ORDER

The meeting was called to order at 1:00 p.m.

1. ROLL CALL

The following commissioners were present:

- **Chairperson Mike Wasserman**
- **Commissioner Sequoia Hall**
- **Commissioner Ash Kalra**
- **Commissioner Linda J. LeZotte** (arrived at 1:01 p.m.)
- **Commissioner Tara Martin-Milius**
- **Commissioner Susan Vicklund Wilson**
- **Commissioner Ken Yeager**
- **Alternate Commissioner Rob Rennie**
- **Alternate Commissioner Terry Trumbull** (left at 2:02 p.m.)

The following staff members were present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Assistant Executive Officer Dunia Noel**
- **LAFCO Counsel Malathy Subramanian**

2. PUBLIC COMMENTS

There were no public comments.

3. APPROVE MINUTES OF APRIL 6, 2016 LAFCO MEETING

The Commission approved the minutes of April 6, 2016 meeting.

Motion: Yeager Second: Hall

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Wilson, Yeager

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

4. APPROVE MINUTES OF JUNE 1, 2016 LAFCO MEETING

Ms. Palacherla proposed corrections to the minutes on the following pages: correct the name of "Julie Driscoll" to "Julie Borina Driscoll" and add a reference to Borina Enterprises, LLP on page 3; and, correct the spelling for Bishop Patrick McGrath on page 5.

The Commission approved the minutes of June 1, 2016 meeting, as corrected.

Motion: Hall Second: Yeager

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Wilson, Yeager

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

Upon the order of the Chairperson, there being no objection, the Commission adjourned to Closed Session at 1:05 p.m., and considered the following items:

5. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Conference with Legal Counsel - Initiation of litigation pursuant to Government Code 54956.9(d)(4) (1 case)

6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Real Property: 675 North First Street, Suite 645, San Jose, CA 95112
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Negotiating Parties: Steve Botto
Under Negotiation: Price and terms of payment

8. PERFORMANCE EVALUATION

Public Employee Performance Evaluation (Government Code §54957)
Title: LAFCO Executive Officer

The Commission reconvened to an open meeting at 2:02 p.m., to consider the remainder of the agenda.

9. REPORT FROM THE CLOSED SESSION

Ms. Subramanian reported that on Item No. 5, the Commission voted 6-1 to initiate litigation, with Chairperson Wasserman opposed. She informed that the details of the litigation will be made public after it is filed.

10. LAFCO OFFICE SPACE: AUTHORIZATION TO LEASE PRIVATE OFFICE SPACE

Commissioner LeZotte moved for approval of a modified recommended action item "a," and of action items "b" and "c," as written. **Commissioner Hall** seconded.

The Commission:

a. Authorized the Executive Officer to execute lease agreement for office space at either 675 North First Street or 777 North First Street for a total cost not to exceed $213,000, after coordinating with the Ad Hoc Office Space Committee and subject

to review and approval by LAFCO Counsel. The executed lease agreement will be placed on the next LAFCO agenda.

b. Authorized the expenditure of an amount not to exceed $45,000, to fund moving costs; and the purchase of necessary furniture, and information technology/ telephone services for the new office space.

c. Authorized the use of reserves to fund all of the expenses described above in (a.) and (b.), associated with leasing and furnishing private space for the LAFCO office.

Motion: LeZotte Second: Hall

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Wilson, Yeager

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

In response to an inquiry by **Commissioner Wilson**, **Chairperson Wasserman** and **Commissioner Hall** confirmed that the motion included action items "b" and "c," as written.

11. EXECUTIVE OFFICER'S REPORT

11.1 UPDATE ON THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)

In response to an inquiry by Commissioner LeZotte, Ms. Noel indicated that staff is not aware of the participation of the Santa Clara Valley Habitat Agency (SCVHA) in CAPP advisory committees, and noted that the intent was to use the Habitat Conservation Program (HCP) as a model for CAPP. Chairperson Wasserman noted the amount of work that has gone to HCP and expressed support for SCVHA participation.

11.2 COMMENT LETTER ON FINAL ENVIRONMENTAL IMPACT REPORT FOR CITY OF MORGAN HILL'S GENERAL PLAN UPDATE (MORGAN HILL 2035)

Doug Muirhead, a resident of Morgan Hill, observed the need for LAFCO to engage in public relations efforts in view of how South County jurisdictions receive LAFCO's comments to their environmental documents. As an example, he referenced Don Weden's presentation from a few years ago and suggested that LAFCO explain what the County would look like had LAFCO not existed. He explained that the public is only hearing from developers and South County officials who blame LAFCO for preventing them from creating jobs and housing. He informed that he attends LAFCO meetings to learn how to counter Morgan Hill's City Council. He questioned the logic and analysis in Morgan Hill's EIR. He reiterated his appreciation for LAFCO's work and requested that LAFCO do more to educate and change public opinion in the South County.

11.3 LAFCO ORIENTATION SESSION FOR ALTERNATE COMMISSIONER PERALEZ

The Commission noted the report.

11.4 COMPLIANCE WITH ENTERPRISE SYSTEM CATALOG (SB 272)

The Commission noted the report.

11.5 UPDATE ON REQUEST FOR SEWER SERVICE TO 3262 WEST VIEW DRIVE

The Commission noted the report.

11.6 UPDATE ON REQUEST FOR SEWER SERVICE TO 23310 MORA GLEN DRIVE

The Commission noted the report.

11.7 UPDATE ON REQUEST TO ANNEX 3343 ALPINE ROAD TO WEST BAY SANITARY DISTRICT

The Commission noted the report.

11.8 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING

The Commission noted the report.

Commissioner Hall requested staff to provide information to special districts about the cost of leased office space as change in costs are important to smaller special districts.

11.9 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS (SCCAPO) MEETING

The Commission noted the report.

12. CALAFCO RELATED ACTIVITIES

12.1 NOMINATIONS TO THE 2016/2017 CALAFCO BOARD OF DIRECTORS

The Commission took no action.

12.2 DESIGNATE VOTING DELEGATE AND ALTERNATE

After a brief discussion, Alternate Commissioner Rennie was designated as the voting delegate and Commissioner Wilson as the alternate.

The Commission appointed Alternate Commissioner Rob Rennie as the voting delegate and Commissioner Vicklund Wilson as the alternate voting delegate to the CALAFCO Board of Directors election.

Motion: Wilson Second: LeZotte

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Wilson, Yeager

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

13. PENDING APPLICATIONS / UPCOMING PROJECTS

Ms. Palacherla informed that the Monte Sereno Urban Service Area/Sphere of Influence Amendment 2016 will be heard at the October meeting. She also noted that various revisions to the Bylaws will be considered at that meeting, along with the FY 2015-16 Annual Report.

14. COMMISSIONER REPORTS

There was none.

15. NEWSPAPER ARTICLES / NEWSLETTERS

There was none.

16. WRITTEN CORRESPONDENCE

There was none.

17. ADJOURN

The Commission adjourned at 2:15 PM to the regular LAFCO meeting on October 5, 2016 at 1:00 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

Approved on _____.

_____
Mike Wasserman, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk

LAFCO
Local Agency Formation Commission of Santa Clara County

AGENDA ITEM # 8

LAFCO MEETING: October 5, 2016

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst

SUBJECT: MONTE SERENO URBAN SERVICE AREA (USA) AND SPHERE OF INFLUENCE (SOI) AMENDMENT 2016 (LUCKY ROAD)

STAFF RECOMMENDATION

CEQA ACTION

1. Denial of the project does not require a CEQA action.

   In order to approve the project, LAFCO as a Responsible Agency under CEQA, must take the following actions regarding the Mitigated Negative Declaration for this project:

   a. Find that the Initial Study and Mitigated Negative Declaration approved by the City of Monte Sereno on September 3, 2013 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.

   b. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the Initial Study and Mitigated Negative Declaration.

PROJECT ACTION

2. Deny the proposed Monte Sereno Urban Service Area (USA) Amendment and Sphere of Influence (SOI) Amendment.

PROJECT DESCRIPTION

The City of Monte Sereno is proposing an amendment to its Urban Service Area (USA) and Sphere of Influence (SOI) in order to include approximately 7.4 acres of unincorporated land comprising four parcels (APNs 510-31-023, 066, 076, and 077) and a portion of a fifth parcel (APN 510-31-078) located along Lucky Road. **Attachment A** includes a map of the existing and proposed USA and SOI boundaries.

The USA and SOI amendment would facilitate the eventual annexation of the subject parcels to the City of Monte Sereno and allow for provision of services by the City. The City also indicated that the property owners want to eventually receive sewer service from the West Valley Sanitation District (WVSD). The subject parcels are currently located outside of WVSD's boundary and its SOI; and rely on a septic system for management of onsite wastewater. WVSD has stated that the parcels must be annexed into the District in order to receive service. Per WVSD policy, the properties should be within the City or the City's USA, before seeking to annex into the District.

BACKGROUND

LAFCO Considered this Application in 2013

In 2013, the City of Monte Sereno submitted an application to LAFCO for an USA/SOI amendment involving the same properties as the current application. LAFCO considered the application at its December 2013 hearing, and approved the USA/SOI amendment conditioned on the City first annexing its three unincorporated islands. However, the City did not annex its islands and therefore LAFCO's approval expired on January 4, 2015.

In late 2015, LAFCO staff received enquiries from Mr. Nicholas Petredis (attorney/representative of subject property owners), regarding potentially resubmitting a similar USA/SOI amendment application to LAFCO. At the request/suggestion of LAFCO staff, Mr. Brian Loventhal, (Monte Sereno City Manager), Mr. Petridis, and one of the property owners met with LAFCO staff on January 19, 2016, to discuss their plans to resubmit the USA/SOI amendment application. At that meeting, LAFCO staff explained LAFCO's Island Annexation Policies, which state that cities should annex urban unincorporated islands existing within their current USAs before seeking to add new lands to their USAs; and discussed LAFCO's application filing requirements. City staff indicated that the City is only interested in annexing willing landowners and that the landowners in the islands, for the most part, are not interested in annexing to the City; and that the City Council has no plans to annex the islands using the streamlined island annexation provisions available in State law.

Given that the City's position on island annexations has not changed since 2013 and given that LAFCO island annexation policies remain, all parties agreed that the issues that existed when LAFCO considered the application in 2013 still remain. LAFCO staff informed the City, Mr. Petridis, and the property owner that, given no change in circumstances, staff's recommendation was unlikely to differ from its 2013 recommendation and that the final decision rests with the Commission. Mr. Petridis and the property owner indicated that they would consider this information and decide whether to proceed further.

On April 19, 2016, the Monte Sereno City Council adopted Resolution No. 3616 to seek LAFCO approval for the proposed USA/SOI amendment. In late May 2016, the City of Monte Sereno submitted this USA/SOI amendment application to LAFCO – for the same properties as in its 2013 application.

The overall boundaries of the USA amendment request are the same as in 2013. There is also no change in the status of the City's three (3) unincorporated islands or in the City's position with regard to future annexation of the islands. LAFCO's island annexation policies also remain in effect without any change.

EXISTING AND PROPOSED LAND USES AND DESIGNATIONS

The proposed USA and SOI amendment application consists of approximately 7.4 acres of unincorporated lands, southwest of the City of Monte Sereno.

The proposed USA/SOI amendment boundary remains the same as in the 2013 application, however, there have been some internal parcel reconfigurations including a lot line adjustment and the recognition of an existing underlying lot through the issuance of a Certificate of Compliance. **Table 1** summarizes the parcel and land use information for the proposal area.

The City's General Plan land use designation for the proposal area is "Single Family Residential, 1 D.U./Acre" and the pre-zoning designation is R-1-44. Upon LAFCO approval of the USA/SOI expansion and the City's annexation of these lands, the City General Plan and Zoning designations would apply to the subject parcels.

The City has stated that no additional development is proposed at this time and that upon annexation the proposal area could potentially be subdivided to create 2 to 3 additional lots under the City's current zoning regulations.

Table 1: Parcels Proposed for Inclusion in the City's USA and SOI

APN	APPROX. ACRES	EXISTING LAND USE	COUNTY GENERAL PLAN	COUNTY ZONING	CITY GENERAL PLAN	CITY PRE-ZONING
510-31-023	0.11	Undeveloped, but part of residential estate of APN 510-31-078 located within the City	Hillsides	HS-d1	Single Family Residential, 1 D.U./Acre	R-1-44
510-31-066	4.64	Residential (Same home sits on property line with 510-31-076)	Hillsides	HS-d1	Single Family Residential, 1 D.U./Acre	R-1-44
510-31-076	1.70	Residential (Same home sits on property line with 510-31-066)	Hillsides	HS-d1	Single Family Residential, 1 D.U./Acre	R-1-44
510-31-077	0.64	Undeveloped	Hillsides	HS-d1	Single Family Residential, 1 D.U./Acre	R-1-44
Portion of 510-31-078	0.23	Portion is undeveloped, but rest of parcel consists of residential estate located within the City	Hillsides	HS-d1	Single Family Residential, 1 D.U./Acre	R-1-44

Surrounding Land Uses

The proposed USA and SOI amendment area is surrounded by incorporated and unincorporated lands, which are developed with single-family homes and estates.

ENVIRONMENTAL ASSESSMENT

Initial Study and Mitigated Negative Declaration

The City of Monte Sereno is the Lead Agency under the California Environmental Quality Act (CEQA) for the proposed Monte Sereno Urban Service Area and Sphere of Influence Amendment. Per City Resolution No. 3535, the City approved a Mitigated Negative Declaration for the proposal on September 3, 2013. The City is requiring mitigation measures to reduce potential significant environmental effects to a less than significant level for utilities and service systems. The West Valley Sanitation District provided the City of Monte Sereno with comments that the District cannot provide sanitary sewer services to the project site because the project site is located outside of the District's boundary. The City stated in its Initial Study and Mitigated Negative Declaration that "the applicant shall be required to annex into the Sewer District in order to receive service and mitigate any significant impacts that could result from any future development." See **Attachment C** for City's environmental documents.

LAFCO is a Responsible Agency under CEQA for the proposal.

CONSISTENCY WITH CITY POLICIES

The City completed a comprehensive General Plan Update in 2009 and Housing Element Update in 2010 which identified potential areas that the City may annex and efficiently provide services to during the planning period of its General Plan (2009-2025), including its three remaining unincorporated islands (see more detailed discussion under "Annexation of Unincorporated Islands"). However, the subject parcels were not included in those potential areas. In October 2013, the Monte Sereno City Council adopted a General Plan map amendment in order to indicate that the proposed USA/SOI amendment and anticipated annexation of the subject parcels are consistent with the City's General Plan.

CONSISTENCY WITH COUNTY POLICIES

In the mid-1990s the City of Monte Sereno and the other three West Valley cities (Cupertino, Los Gatos and Saratoga) each adopted an Urban Growth Boundary (UGB) in order to delineate areas intended for future urbanization and to minimize further urban encroachment into the hillsides. In return, the County adopted and implemented policies to assure the cities that the development the County allows outside of City urban service areas will be appropriate for rural hillside areas and will have minimal visual impacts when viewed from the valley floor. However, Monte Sereno staff recently reported that the City no longer has an UGB to delineate these areas. According to City staff, references to its UGB were removed during the City's recent General Plan Update. It is not clear why the UGB was removed. The County continues to implement its associated policies and was unaware of this major change in the City's General Plan until LAFCO staff informed them.

The proposal is inconsistent with County General Plan Policy R-LU 200, which states that urban development and the extension of urban services should be limited to those

areas most suitable for urban development and that further substantial expansion of the urban area into the West Valley hillsides should be discouraged.

The proposal is partially inconsistent with County General Plan Policy C-GD 3, which states that urban service areas should include only those areas suitable for urban development by being: reasonably serviceable with public services, relatively free from risks associated with natural hazards, that do not create substantial adverse environmental impacts, and that are not likely to create severe off-site impacts on the surrounding areas or to any natural resource. The subject parcels are all located within a Very High Fire Hazed Severity Zone within the Santa Clara County Wildland Urban Interface Fire Area as declared by the California Department of Forestry and Fire Protection. The proposal would facilitate the eventual annexation of the area and thus allow for further subdivision into 2 or 3 additional parcels and allow for additional development. More intense development is discouraged in this Zone.

The proposal is consistent with County General Plan Policy C-GD 8. The subject parcels are contiguous to the existing urbanized area and the City and the affected service providers are all able to provide public services and facilities within 5 years without lessening existing levels of service.

CONSISTENCY WITH LAFCO POLICIES

Consistency of Proposed SOI with the Service Review for the City of Monte Sereno

The Cortese Knox Hertzberg Act (CKH Act) requires that LAFCO conduct a service review prior to amending a sphere of influence. LAFCO conducted a service review for the City of Monte Sereno in 2015 as part of LAFCO's "Cities Service Review." However, the Service Review report did not identify a need for the City to expand its Urban Service Area (USA) or Sphere of Influence (SOI).

Availability of Vacant Land within Existing Boundaries

According to City's application, the City has no vacant residential land within its USA. State law and LAFCO policies encourage the use of vacant lands within existing boundaries in order to prevent inefficient growth patterns and service responsibilities. LAFCO policies discourage USA expansions when a City has more than a 5-year supply of vacant land within its USA.

Logical, Orderly and Efficient Boundaries

The subject parcels proposed for inclusion in the City's USA and SOI are located adjacent to the current City limits, USA and SOI boundaries. The subject parcels are located adjacent to the southwestern edge of the city and are part of a large unincorporated rural hillside area containing single family residences on large lots.

Growth Inducing Impacts

Including the proposal area within the City's USA/SOI would allow the City to annex the parcels. The three subject parcels have a County General Plan land use designation of Hillsides and a County Zoning designation of HS-d1 (Hillsides with a design review

combining district). The current County General Plan (Hillsides) and Zoning designation of HS –d1 (Hillsides with a design review combining district) would allow one dwelling unit per 20 to 160 acres based on the slope of the property. Therefore, the proposal area cannot be subdivided further under the County regulations.

The City's pre-zoning designation for the proposal area is R-1-44 (Residential Single Family). The R-1-44 City Zoning designation requires a minimum net lot area of 43,560 sq. ft. on lots with a slope of less than 10%. On lots with a slope of 10% or greater, the minimum net lot size will be increased based on the City's Slope Density Formula. According to the City, under the City's Zoning Ordinance, the proposal area could be subdivided into an additional 2 to 3 lots.

Additionally, upon inclusion of these properties into the City's USA, the properties could become eligible for annexation to the WVSD and receive sewer service from the District, which could enable development of new single family residences on the properties.

Directly to the south and west of the proposal area are unincorporated lands that could potentially also seek inclusion into the City's USA in the future (when they become contiguous to the City boundaries following the approval of this USA expansion). Because these adjacent properties also currently do not receive sewer service, and do not have the ability to subdivide under the County regulations, they have similar incentives as the subject properties to seek future annexation to the City. Thus there is potential for further growth inducement into the hillsides as the neighboring properties in turn become adjacent to the City's USA.

Impacts to Prime Agricultural Lands and Open Space

The subject parcels are not under a Williamson Act Contract and do not contain open space or prime agricultural lands as defined in the Cortese Knox Hertzberg Act. Therefore the proposed USA and SOI amendment will not impact agricultural or open space lands.

Ability of City to Provide Urban Services

Fire Protection Services

The Santa Clara County Central Fire Protection District provides fire protection services to the proposal area. The District would continue to provide these services to the subject parcels upon annexation. The District is headquartered in Los Gatos and manages a total of 16 stations. Although none of the stations are located in Monte Sereno, the closest stations to the city are the Quito Fire Station at 18870 Saratoga-Los Gatos Road in the unincorporated area on the western border of Monte Sereno and the Los Gatos Fire Station at 306 University Avenue in Los Gatos on the eastern border of Monte Sereno. The District does not anticipate the need for additional personnel or new facilities to service the subject parcels.

The subject parcels are all located within a Very High Fire Hazard Severity Zone within the Santa Clara County Wildland Urban Interface Fire Area as declared by CalFIRE, due to the slope, aspect (south or west-facing slope), topography, vegetation type and fire history of the subject area. More intensive development is not recommended in this Zone.

Police Services

The subject parcels currently receive police services from the County Sheriff. The Los Gatos-Monte Sereno Police Department serves the City of Monte Sereno under a long-term contract, which the City put into effect July 28, 1995. The Department would provide services to the subject parcels upon annexation. At present, the Department has 64 sworn officers and 150 regular employees. The nearest station is located at 110 East Main Street in the City of Los Gatos. The Department does not anticipate the need for additional personnel or new facilities to serve the subject parcels.

Sanitary Sewer Service

The residential development on subject parcels is currently served by a septic system and the subject parcels are all located outside of the West Valley Sanitation District. In order to receive sewer service from WVSD, the subject parcels must be annexed into the District. However, per WVSD policy, the subject parcels must first be within the City limits or included in the City's USA before WVSD can serve them.

According to the WVSD, the property owners will have to install a new privately maintained sewer system within Lucky Road. The District will not provide maintenance service to this sewer main because this section of Lucky Road is a private road. The future sewer main will connect to the terminus of an existing sewer main at the intersection of Greenwood Lane and Ojai Drive. The District will require that the future sewer be designed and constructed in accordance with the District's "Sanitary Sewerage System Design Standards." Furthermore, the property owners must also demonstrate to the WVSD that the necessary rights and easements for the required sewer services have been obtained.

Water Service

The subject parcels currently receive water service from the San Jose Water Company (SJWC), which also serves all of Monte Sereno.

Storm Drain

The City of Monte Sereno uses a stormwater collection system, in conjunction with a natural creek drainage system, to manage runoff. Stormwater collected through this system ultimately drains into the San Francisco Bay. The subject parcels are not located within a 100-year flood hazard zone as identified by the Federal Emergency Management Agency's Flood Insurance Rate Maps.

Schools

The subject parcels are within the boundaries of the Los Gatos Union School District and the Los Gatos-Saratoga Joint Union High School District. City staff has indicated that further subdivision and new residential development on the subject parcels would typically generate less than 1 public school student per a housing unit according to the Los Gatos Union School District. This translates into a total of 2 or 3 students attributable to the potential new residential lots that could be created under the City's Zoning Ordinance. According to the School Districts, the Districts' existing facilities are adequate to accommodate this very small increase in student enrollment. Furthermore, the City applies a school impact fee of $2.97 per a sq. ft. to all additions to existing homes and new residential development.

Annexation of Unincorporated Islands

There are three unincorporated islands (see **Attachment B)** located within the City's USA:

- MS 01: Karl Avenue (9.3 acres)
- MS 02: Blythswood-Hillview (127 acres)
- MS 03: Lancaster-Matilija (68 acres)

All three of these islands are completely or substantially surrounded by the City and /or its USA and developed with single family homes or residential estates. These islands are also located within the WVSD which provides sewer service to the homes. Each of these islands are smaller than 150 acres in size. These islands meet the criteria for annexation under the streamlined island annexation provision which allows the City Council to annex the islands at a noticed public hearing without the Council's decision being subject to protests/votes by property owners or voters.

Island Annexation Provisions in the CKH Act

Since 2005, State law allows cities to annex unincorporated islands through a streamlined process that does not require protest proceedings or elections, provided the islands are 150 acres or smaller in size and meet specific criteria.

Unincorporated islands contribute to inefficiencies for local government (both at the city and County level) in terms of service provision and governance. The state legislature recognized the public benefits of eliminating such islands and provided for an expedited process to annex them into the surrounding city. Although this expedited process requires a noticed public hearing, it does not require protest proceedings or elections because the state legislature recognized that the public benefits of their annexation outweigh the individual interests of the residents or property owners to remain within an unincorporated island.

Santa Clara County Island Annexation Program

It has been a longstanding countywide policy that the unincorporated islands should be annexed into the surrounding cities. To encourage cities to actively pursue island annexations, LAFCO, in partnership with the County, has provided staff support and financial incentives to defray the costs of entire island annexations. County prepares the annexation maps, and covers the SBE fees, and prioritizes road maintenance in the islands slated for annexation; LAFCO waives its fees and provides staff support.

Island Annexations: Monte Sereno's Past Efforts and Current Position

In 2005, Monte Sereno was one of the first cities in the County to consider initiating island annexations under the streamlined island annexation provisions. At the City's request, the County and LAFCO, under their Island Annexation Program, provided assistance to the City and prepared annexation maps and reports for the three islands, at no cost to the City. The City conducted a public hearing on the island annexations but due to opposition expressed by some of the island residents, the City Council did not have sufficient votes to continue with the annexation process. Another effort to annex the islands in 2009 also failed for the same reason. The City has since adopted a policy requiring the City to have the support of a majority of affected landowners before annexing these islands (even though under state law, these islands are eligible for annexation without landowner protest and elections). Please see City's letter dated July 26, 2011 (**Attachment D**) regarding City's island annexation plans. Per City staff, this letter represents the City Council's current position on this issue.

LAFCO's Island Annexation Policies

In the interests of encouraging orderly growth and development, LAFCO's Island Annexation Policies #5 and #6 state that "cities should annex urban unincorporated islands existing within their current USAs, before seeking to add new lands to their USAs."

Further, the Policies provide an exception "if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action." However, this exception does not apply here because according to City staff, the septic system that serves the existing residences is new and there are no existing public health and safety issues associated with this proposal.

Comment Letters Received to date

LAFCO received the following letters included in **Attachment E**:

1. Letter from Nicholas Petredis, representative of the subject properties
2. Email from Dan and Jeanette Turkus, neighboring property owners
3. Email from Brian and JoAnne Swing, neighboring property owners

Fiscal Impact to the City of Monte Sereno and Affected Agencies

The City of Monte Sereno anticipates that the USA/SOI amendment and potential annexation and subdivision of the project area could result in the development of two to four new residences and generate a population of 11 persons at build-out. The City of Monte Sereno prepared a Fiscal Impact Analysis which concluded that the proposal would have a small positive fiscal impact on the City.

The project is expected to have a positive fiscal impact on the City of Monte Sereno's General Fund and is expected to generate annual surpluses of $1,473 in Years One and Five, and $4,747 in Year Ten, at which time it would be built-out.

For the County of Santa Clara, the analyses indicated that the proposed project would have a negative annual fiscal impact on the County's General Fund and generate annual deficits of $21,243 in Year Five, and $25,284 in Year Ten.

The Los Gatos Union School District and the Los Gatos-Saratoga Joint Union High School District are both "basic aid" school districts, where local property tax revenues collected by the Districts exceed their entitlement and therefore the Districts do not receive additional money from the State to meet their revenue limit guarantee. Basic Aid districts are also allowed to keep these excess property taxes. The anticipated development and additional population as a result of the proposed project is not expected to significantly impact either District with respect to ongoing operating or instructional costs.

Staff recommended action

1. Deny the USA/SOI amendment proposal.

Reason for Staff Recommendation

The proposed USA and SOI amendment would facilitate annexation of the proposal area into the City of Monte Sereno and to the West Valley Sanitation District which in turn would enable provision of sewer service to the properties and further subdivision of the area into 2 or 3 additional lots.

The County and City had agreed that further urbanization of the West Valley hillsides should be discouraged and the County has prohibited uses of an urban density, intensity or nature outside of the City's USA. The City's current proposal appears contrary to the City and County agreement to keep development from encroaching into the hillsides. Approval of the proposal (which would facilitate annexation to the City and WVSD) could lead to further growth in a hillside area with steep slopes, narrow roads, limited access, and designated as Very High Fire Hazard Severity Zone – where more intensive development is not recommended. Such areas should be kept outside urban service areas.

Moreover, the proposal could set a precedent for similar requests from the owners of lands adjacent to and in the vicinity of the proposal area and there is no means to limit the extent of such requests.

The proposal is inconsistent with LAFCO's island annexation policies as the City is seeking expansion of its USA without first annexing its three unincorporated islands – all of which are eligible for the streamlined annexation process.

Lastly, there does not appear to be a need for the proposed USA and SOI amendment as the existing residential development on the subject parcels is served by a new septic system and there is no existing health or safety issue present.

Staff recommends denial of the proposed USA/SOI amendment for all of the aforementioned reasons.

Other Options for Commission Consideration

2. Approve the USA/SOI amendment.

Reasons for <u>not</u> recommending this option

Although the proposal area is contiguous to the City / USA, inclusion of the area within the City's USA has the potential to induce growth in an area where the County and City have agreed that further urbanization is discouraged. The proposal area and the adjacent lands to the north, south and west, are designated Hillsides by the County and are planned for lower densities consistent with the terrain (e.g. steep slopes, narrow roads, limited access, and wildland fire hazard potential) and are not suitable for inclusion within an urban service area.

This proposal also sets a precedent for future requests from adjacent landowners (who would become contiguous to the city boundaries following approval of this proposal) and there is no means to limit the extent of such requests.

While the USA expansion would allow the property to connect to the WVSD sewer system, the property is currently served by a functioning septic system (the expected means of waste water management in such unincorporated areas) and there is no existing health and safety concern.

The proposal is also inconsistent with LAFCO's island annexation policies as the City is seeking expansion of its USA without first annexing its three unincorporated islands – all of which are eligible for the streamlined annexation process.

Therefore staff does not recommend the proposed USA expansion.

If the Commission wishes to approve the proposed USA and SOI Amendment, staff recommends that the Commission direct LAFCO staff to prepare SOI determinations for the Commission to consider and adopt at its next meeting, as required by the CKH Act.

3. Approve the USA/SOI amendment conditioned on the City annexing its three remaining unincorporated islands

Reasons for <u>not</u> recommending this option

As discussed in the "Background" Section of this staff report, in December 2013 LAFCO approved an identical USA/SOI amendment request conditioned on the City first

annexing its three unincorporated islands. However, the City did not annex its islands and therefore LAFCO's approval expired on January 4, 2015.

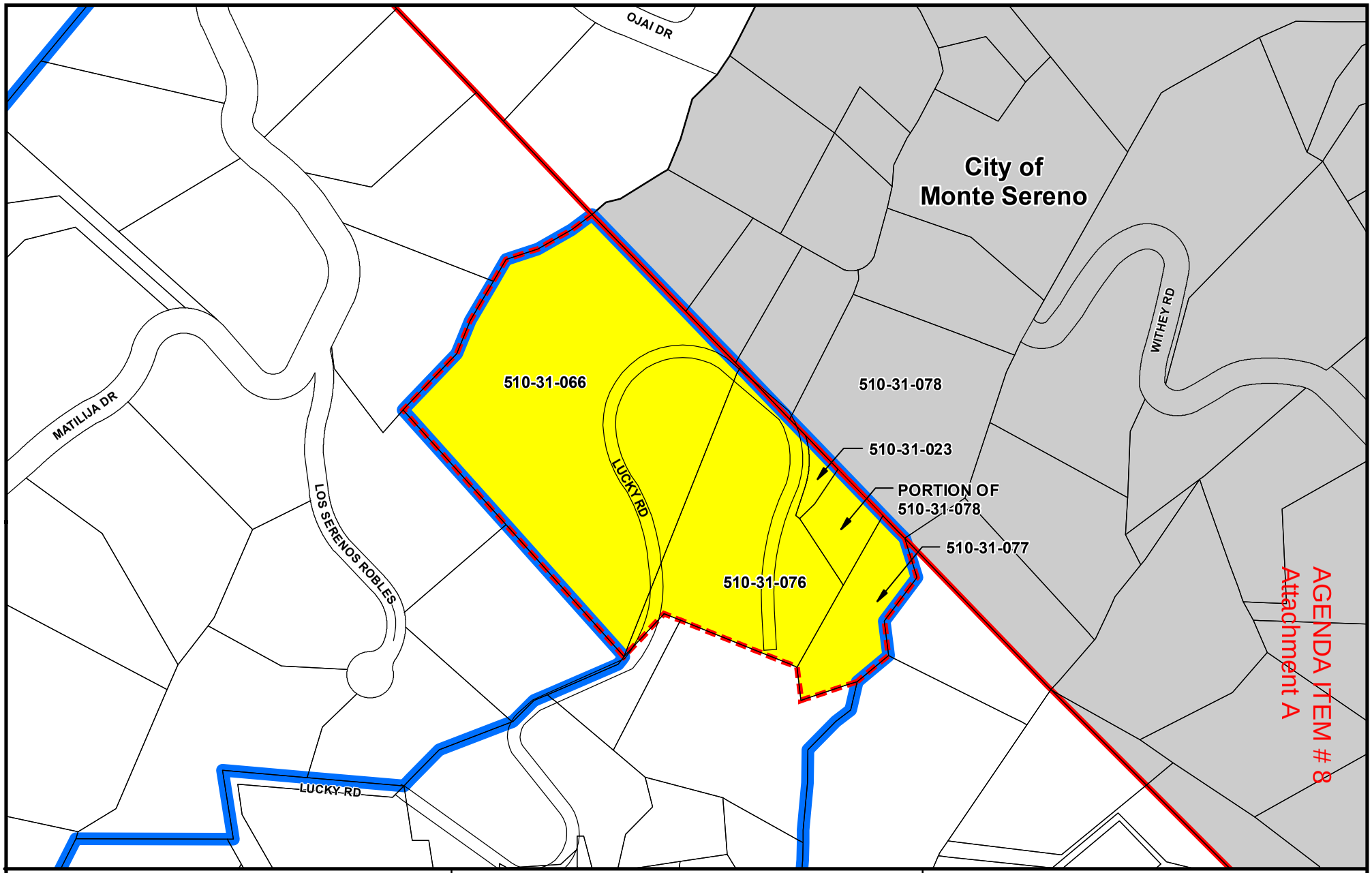
The City has a policy requiring the City to have the support of a majority of affected landowners before annexing its islands. City staff have indicated that this policy remains effective and that the City will not initiate annexation of its unincorporated islands unless and until property owners in the islands are supportive. There is no indication that the City's position and/or the island property owners' position will change in the near term. Given this situation, an approval conditioned on island annexation is not recommended.

If the Commission wishes to approve the proposed USA and SOI Amendment, staff recommends that the Commission direct LAFCO staff to prepare SOI determinations for the Commission to consider and adopt at its next meeting, as required by the CKH Act.

ATTACHMENTS

Attachment A:	Map of Proposed Monte Sereno USA/SOI Amendment
Attachment B:	Map of Monte Sereno Unincorporated Islands
Attachment C:	City of Monte Sereno's Environmental Documents for the Proposed Monte Sereno USA and SOI Amendment (Lucky Road)
Attachment D:	Letter from the City of Monte Sereno Re: Annexation of Unincorporated Islands (dated July 26, 2011)
Attachment E:	Comment Letters

1. Letter from Nicholas Petredis, representative of subject properties
2. Email from Dan and Jeanette Turkus, neighboring property owners
3. Email from Brian and JoAnne Swing, neighboring property owners



County of Santa Clara

Department of Planning and Development
Office of the County Surveyor

County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose, California 95110

TITLE:

Monte Sereno Urban Service Area and Sphere of Influence Amendment 2016

7.4 Acres ±

Prepared by the Office of the County Surveyor
August 8, 2016
William F. Slepnikoff, County Surveyor

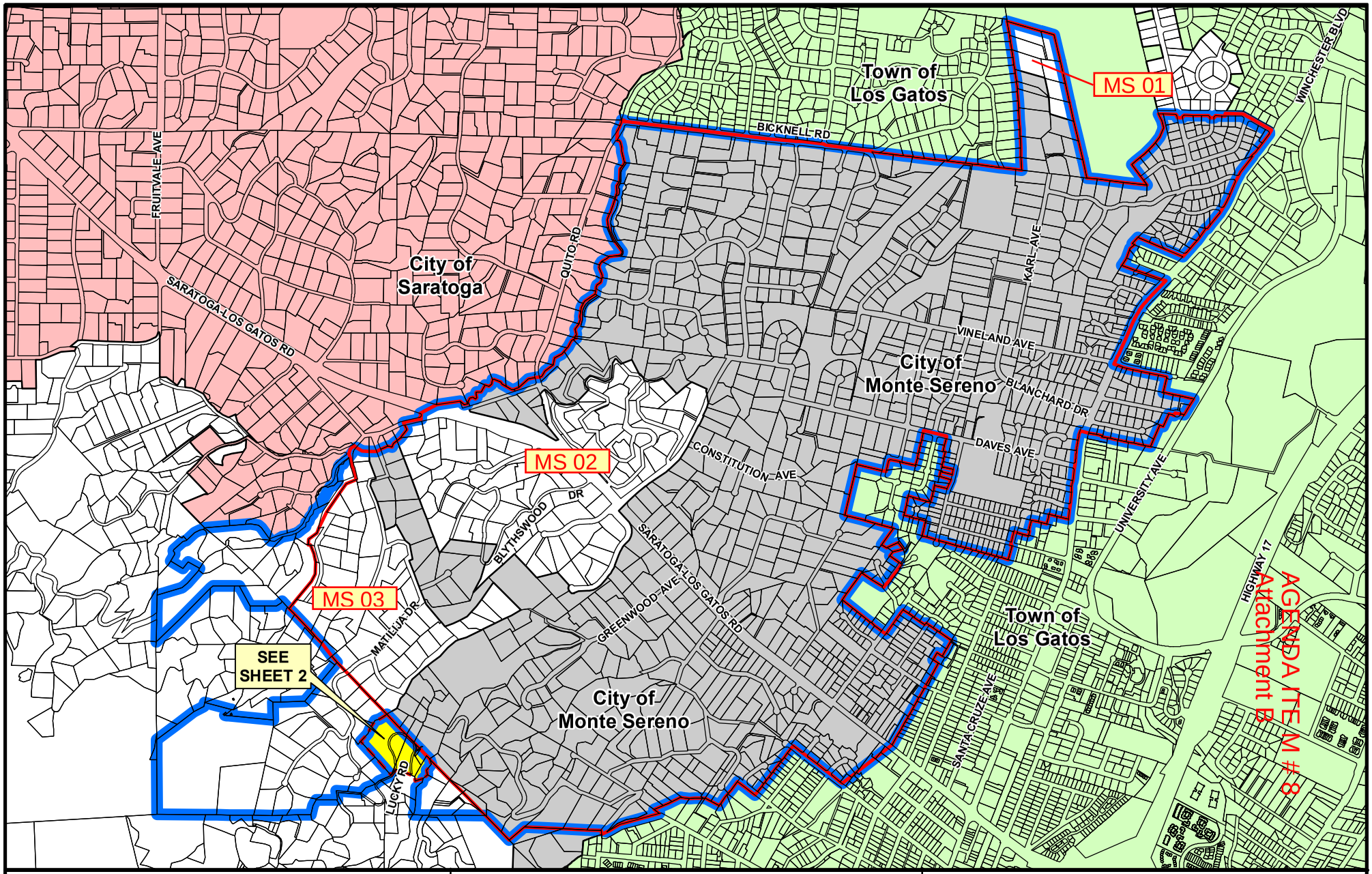
LEGEND:

- Existing Monte Sereno U.S.A. Boundary
- Existing Monte Sereno S.O.I. Boundary
- Area Proposed for Inclusion in U.S.A./S.O.I.
- City of Monte Sereno
- Unincorporated Lands
- 510-31-066 Assessor's Parcel Number

N

0 50 100 200 Feet

Sheet 2 of 2



County of Santa Clara

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TITLE:

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LEGEND:
- Existing Monte Sereno U.S.A. Boundary
- Existing Monte Sereno S.O.I. Boundary
- Area Proposed for Inclusion in U.S.A./S.O.I.
- City of Monte Sereno
- Town of Los Gatos
- City of Saratoga
- Unincorporated Lands

N

0 375 750 1,500 Feet

Sheet 1 of 2

AGENDA ITEM # 8
Attachment C

RESOLUTION NO. 3535

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTE SERENO APPROVING A MITIGATED NEGATIVE DECLARATION FOR ANNEXATION OF TERRITORY KNOWN AS LUCKY ROAD, AMENDMENT TO THE CITY'S GENERAL PLAN, URBAN SERVICE AREA AND SPHERE OF INFLUENCE TO INCLUDE THE LUCKY ROAD TERRITORY

Whereas, Vladimir Rubashevsky applied to annex 3 parcels of land totaling approximately 7 acres (APN 510-31-023, 510-31-065 and 510-31-066) (collectively referred to as the "Properties") into the City limits; and

Whereas, in order to annex the Properties into the City, the City's General Plan, Urban Service Area and Sphere of Influence must be amended to include the Properties (the "Project"); and

Whereas, the annexation and amendment of the General Plan, Urban Service Area and Sphere of Influence are a "project" pursuant to the California Environmental Quality Act ("CEQA"); and

Whereas, a Mitigated Negative Declaration ("MND") has been prepared pursuant to Section 15070 et seq. of the California Environmental Quality Act ("CEQA") for use in conjunction with the General Plan amendment, Urban Service Area amendment, Sphere of Influence amendment and annexation; and

Whereas, the MND has been prepared and circulated for a 20-day review period and the MND was available for review as provided pursuant to the requirements of CEQA; and

Whereas, no comments were received on the MND; and

Whereas, the Project is determined to not have a significant impact on the environment based upon the results of an environmental assessment; and

WHEREAS, a public hearing on the Project was noticed pursuant to the requirements of the Monte Sereno Municipal Code and State Law and a duly noticed public hearing was held by the City Council on September 3, 2013.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTE SERENO AS FOLLOWS:

SECTION 1: The City Council of the City of Monte Sereno hereby specifically makes the following findings:

1. The MND for the Project has been completed in compliance with CEQA.

2. The Project as mitigated will not result in any significant impacts to the environment.

3. The MND represents the independent judgment of the City Council. The MND was prepared by the City. All reports and supporting information has been reviewed and approved by the City.

4. Documents and other materials constituting the record of the proceedings upon which the City's decision and its findings are based will be located at the Office of the City Clerk of the City of Monte Sereno.

SECTION 2: After careful consideration, the City Council hereby approves the MND.

SECTION 3: The approval of the MND does not, in any manner whatsoever, represent or reflect an approval of the Project which shall be considered at a later date.

REGULARLY PASSED AND ADOPTED this 3rd day of September, 2013, by the following vote:

AYES: Council Members Anstandig, Craig, Huff, Wiltshire and Mayor Rogers
NOES: None
ABSTAIN: None
ABSENT: None

By: _____
Curtis Rogers, Mayor

Attest: _____
Andrea Chelemengos, City Clerk

This is a true and correct copy
of the document on file in this office
Attest: Andrea M. Chelemengos
City Clerk, City of Monte Sereno
By: _____
Dated: 9/23/13

Print Form

Appendix C

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH #

Project Title: Lucky Road General Plan, SOI, USA amendment, pre zoning and annexation

Lead Agency: City of Monte Sereno — Contact Person: Brian Loventhal
Mailing Address: 18041 Saratoga Los Gatos Road — Phone: 408-354-7635
City: Monte Sereno — Zip: 95030 — County: Santa Clara

Project Location: County: Santa Clara — City/Nearest Community: Monte Sereno
Cross Streets: Lucky Road and Greenwood Lane — Zip Code: 95030
Longitude/Latitude (degrees, minutes and seconds): 37 ° 13 ' 51.4 " N / -122 ° 0 ' 11.5 " W Total Acres: 7.12
Assessor's Parcel No.: 510-31-023,065 and 066 — Section: ____ Twp.: ____ Range: ____ Base: ____
Within 2 Miles: State Hwy #: 9 — Waterways: None
Airports: None — Railways: None — Schools: None

Document Type:

CEQA: ☐ NOP ☐ Early Cons ☐ Neg Dec ☒ Mit Neg Dec ☐ Draft EIR ☐ Supplement/Subsequent EIR (Prior SCH No.) ____ Other: ____
NEPA: ☐ NOI ☐ EA ☐ Draft EIS ☐ FONSI
Other: ☐ Joint Document ☐ Final Document ☐ Other: ____

Local Action Type:

☐ General Plan Update ☒ General Plan Amendment ☐ General Plan Element ☐ Community Plan
☐ Specific Plan ☐ Master Plan ☐ Planned Unit Development ☐ Site Plan
☐ Rezone ☒ Prezone ☐ Use Permit ☐ Land Division (Subdivision, etc.)
☒ Annexation ☐ Redevelopment ☐ Coastal Permit ☒ Other: USA/SOI

Development Type:

☒ Residential: Units 1 Acres 7.12
☐ Office: Sq.ft. ____ Acres ____ Employees ____
☐ Commercial: Sq.ft. ____ Acres ____ Employees ____
☐ Industrial: Sq.ft. ____ Acres ____ Employees ____
☐ Educational: ____
☐ Recreational: ____
☐ Water Facilities: Type ____ MGD ____
☐ Transportation: Type ____
☐ Mining: Mineral ____
☐ Power: Type ____ MW ____
☐ Waste Treatment: Type ____ MGD ____
☐ Hazardous Waste: Type ____
☐ Other: ____

Project Issues Discussed in Document:

☒ Aesthetic/Visual
☐ Agricultural Land
☐ Air Quality
☒ Archeological/Historical
☒ Biological Resources
☐ Coastal Zone
☐ Drainage/Absorption
☐ Economic/Jobs
☐ Fiscal
☐ Flood Plain/Flooding
☒ Forest Land/Fire Hazard
☒ Geologic/Seismic
☐ Minerals
☐ Noise
☐ Population/Housing Balance
☐ Public Services/Facilities
☐ Recreation/Parks
☐ Schools/Universities
☐ Septic Systems
☒ Sewer Capacity
☐ Soil Erosion/Compaction/Grading
☐ Solid Waste
☐ Toxic/Hazardous
☐ Traffic/Circulation
☐ Vegetation
☐ Water Quality
☐ Water Supply/Groundwater
☐ Wetland/Riparian
☐ Growth Inducement
☐ Land Use
☐ Cumulative Effects
☐ Other: ____

Present Land Use/Zoning/General Plan Designation:

Hillside/ HS-D1

Project Description: *(please use a separate page if necessary)*

The proposed project is an amendment to the Monte Sereno General Plan, Sphere of Influence, Urban Service Area, adoption of a pre zoning ordinance and annexation of 16290 Lucky Road (APN's 510-31-065, 510-31-066, 510-31-023. The Sphere of Influence (SOI) and Urban Service Area (USA) of the City of Monte Sereno is proposed to be expanded to include the subject properties. The subject properties are proposed to be pre-zoned with the City of Monte Sereno's existing R-1-44 designation. If the proposed SOI, USA and pre zoning are approved by the City of Monte Sereno and LAFCO then the proposed annexation would be categorically exempt from CEQA as a class 19 exemption.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X".
If you have already sent your document to the agency please denote that with an "S".

_____ Air Resources Board
_____ Boating & Waterways, Department of
_____ California Emergency Management Agency
_____ California Highway Patrol
_____ Caltrans District # _____
_____ Caltrans Division of Aeronautics
_____ Caltrans Planning
_____ Central Valley Flood Protection Board
_____ Coachella Valley Mtns. Conservancy
_____ Coastal Commission
_____ Colorado River Board
_____ Conservation, Department of
_____ Corrections, Department of
_____ Delta Protection Commission
_____ Education, Department of
_____ Energy Commission
_____ Fish & Game Region # _____
_____ Food & Agriculture, Department of
_____ Forestry and Fire Protection, Department of
_____ General Services, Department of
_____ Health Services, Department of
_____ Housing & Community Development
_____ Native American Heritage Commission

_____ Office of Historic Preservation
_____ Office of Public School Construction
_____ Parks & Recreation, Department of
_____ Pesticide Regulation, Department of
_____ Public Utilities Commission
_____ Regional WQCB # _____
_____ Resources Agency
_____ Resources Recycling and Recovery, Department of
_____ S.F. Bay Conservation & Development Comm.
_____ San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
_____ San Joaquin River Conservancy
_____ Santa Monica Mtns. Conservancy
_____ State Lands Commission
_____ SWRCB: Clean Water Grants
_____ SWRCB: Water Quality
_____ SWRCB: Water Rights
_____ Tahoe Regional Planning Agency
_____ Toxic Substances Control, Department of
_____ Water Resources, Department of

_____ Other: _____
_____ Other: _____

Local Public Review Period (to be filled in by lead agency)

Starting Date July 29, 2013 Ending Date August 19, 2013

Lead Agency (Complete if applicable):

Consulting Firm: _____
Address: _____
City/State/Zip: _____
Contact: _____
Phone: _____

Applicant: _____
Address: _____
City/State/Zip: _____
Phone: _____

Signature of Lead Agency Representative: _____ Date: 7/25/13

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

A. BACKGROUND

Project Title	Lucky Road General Plan Amendment, SOI amendment, USA amendment, prezoning and annexation
Lead Agency Contact Person and Phone Number	Brian Loventhal, City Manager/City Planner (408) 354-7635
Date Prepared	July 26, 2013
Study Prepared by	City of Monte Sereno 18041 Saratoga Los Gatos Rd. Monte Sereno, CA 95030
Project Location	
Project Sponsor Name and Address	City Council, City of Monte Sereno 18041 Saratoga Los Gatos Rd. Monte Sereno, CA 95030
General Plan Designation	None- Proposed to be designated 1 DU/acre
Zoning	None-Proposed to be pre-zoned R-1-44

Setting

The total project site area is 7.12 acre and is located at 16290 Lucky Road in unincorporated Santa Clara County and contiguous to the existing Monte Sereno Sphere of Influence boundary, Urban Service Area boundary, and City boundary. The project site is comprised of three parcels, including Assessor's parcel numbers: 510-31-065, 510-31-066 and 510-31-023. The project site is surrounded by low density residential neighborhoods.

Description of Project

The proposed project is an amendment to the Monte Sereno General Plan, Sphere of Influence, Urban Service Area, adoption of a prezoning ordinance and annexation of 16290 Lucky Road (APN's 510-31-065, 510-31-066, 510-31-023. The General Plan amendment consists of amending the following figures: Figure 1-2, Figure LU-1 and Figure LU-2. The Sphere of Influence (SOI) and Urban Service Area (USA) of the City of Monte Sereno is proposed to be expanded to include the subject properties. The subject properties are proposed to be pre-zoned with the City of Monte Sereno's existing R-1-44 designation. The proposed project also includes an application for annexation into the City of Monte Sereno. If the proposed SOI, USA

and prezoning are approved by the City of Monte Sereno and LAFCO then the proposed annexation would be categorically exempt from CEQA as a class 19 exemption (annexation of existing facilities and lots for exempt facilities).

Other Public Agencies Whose Approval is Required

LAFCO of Santa Clara County

B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Greenhouse Gas Emissions	☐ Population/Housing
☐ Agriculture and Forestry Resources	☐ Hazards & Hazardous Materials	☐ Public Services
☐ Air quality	☐ Hydrology/Water Quality	☐ Recreation
☐ Biological Resources	☐ Land Use/Planning	☐ Transportation/Traffic
☐ Cultural Resources	☐ Mineral Resources	☑ Utilities/Service Systems
☐ Geology/Soils	☐ Noise	☐ Mandatory Findings of Significance

C. DETERMINATION

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☑ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier

analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (1) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (2) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

	July 26, 2013
Name and Title	Date

D. EVALUATION OF ENVIRONMENTAL IMPACTS

Notes

1. A brief explanation is provided for all answers except "No Impact" answers that are adequately supported by the information sources cited in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer is explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers take account of the whole action involved, including off-site as well as on-site, cumulative as well a project-level, indirect as well as direct, and construction as well as operational impacts.

3. Once it has been determined that a particular physical impact may occur, then the checklist answers indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4. "Negative Declaration: Less-Than-Significant Impact with Mitigation Measures Incorporated" applies where the incorporation of mitigation measures has reduced an

effect from "Potentially Significant Impact" to a "Less-Than-Significant Impact." The mitigation measures are described, along with a brief explanation of how they reduce the effect to a less-than-significant level (mitigation measures from section XVII, "Earlier Analyses," may be cross-referenced).

5. Earlier analyses are used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier document or negative declaration. [Section 15063(c)(3)(D)] In this case, a brief discussion would identify the following:

   a. "Earlier Analysis Used" identifies and states where such document is available for review.

   b. "Impact Adequately Addressed" identifies which effects from the checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and states whether such effects were addressed by mitigation measures based on the earlier analysis.

   c. "Mitigation Measures"—For effects that are "Less-Than-Significant Impact with Mitigation Measures Incorporated," mitigation measures are described which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6. Checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances, etc.) are incorporated. Each reference to a previously prepared or outside document, where appropriate, includes a reference to the page or pages where the statement is substantiated.

7. "Supporting Information Sources"—A source list is attached, and other sources used or individuals contacted are cited in the discussion.

8. This is the format recommended in the CEQA Guidelines as amended October 1998.

9. The explanation of each issue identifies:

   a. The significance criteria or threshold, if any, used to evaluate each question; and

   b. The mitigation measure identified, if any to reduce the impact to less than significant.

1. AESTHETICS

Would the project:

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
a. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☑
b. Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☑
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☑
d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	☐	☐	☐	☑

Comments:

a. The City's general plan does not designate specific scenic vistas (signed and accessible to the public) within the City or in the immediate unincorporated areas adjacent to the City. The General Plan does state that the Loma Serena neighborhood have views and vistas (page 21), but this neighborhood is located at a distance from the project site. The general plan also emphasizes the value of scenic resources such as hillsides, natural resource areas and open space.

b. The project site is not located within or near the scenic highway 9 corridor.

c.-d Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, prezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

Any potential visual impacts caused by a site specific project will be mitigated to a less than significant impact through the existing design review process (Site Development Permit) that is required for new development projects. In order for a Site Development Permit to be approved, the Monte Sereno Site and Architecture Commission must make several affirmative findings. Monte Sereno Municipal Code Section 10.08.050B2 requires an affirmative finding that "...the architectural design proposed to be employed will mitigate any significant visual impact which could result from the proposed improvement and/or use."

Any potential impacts resulting from increased light and glare that may be caused by a site specific project will be mitigated to a less that significant impact because any future development shall conform to the City of Monte Sereno design guidelines for residential development regarding exterior lighting. These guidelines are intended to reduce light and glare to a less than significant level in residential neighborhoods.

2. AGRICULTURE AND FOREST RESOURCES

In determining whether impacts on agricultural resources are significant environmental effects and in assessing impacts on agriculture and farmland, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	☐	☐	☐	☑
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☑

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	❑	❑	❑	☑
d. Result in the loss of forest land or conversion of forest land to non-forest use?	❑	❑	❑	☑
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to nonagricultural use or conversion of forest land to non-forest use?	❑	❑	❑	☑

3. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
a. Conflict with or obstruct implementation of the applicable air quality plan?	❑	❑	❑	☑
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	❑	❑	❑	☑
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?	❑	❑	❑	☑
d. Expose sensitive receptors to substantial pollutant concentrations?	❑	❑	❑	☑
e. Create objectionable odors affecting a substantial number of people?	❑	❑	❑	☑

4. BIOLOGICAL RESOURCES

Would the project:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☑
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☑
c. Have a substantial adverse effect on federally protected wetlands, as defined by section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filing, hydrological interruption, or other means?	☐	☐	☐	☑
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☑
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☑
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☑

Comments:

a-f. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, prezoning and annexation.

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

The City's general plan calls for preserving and rehabilitating natural habitat areas that support wildlife, encouraging the retention and re-establishment of native vegetation in all private development projects, and minimizing the disturbance of or removal of existing trees o the extent possible. All new development is required to obtain a site development permit intended to ensure these measures are taken to preserve the natural habitat.

5. CULTURAL RESOURCES

Would the project:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5?	☐	☐	☐	☑
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5?	☐	☐	☐	☑
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☑
d. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☑

Comments:

a-d. The proposed project does not propose any demolition of existing structures, or change to any historical, archaeological or paleontological resource.

6. GEOLOGY AND SOILS

Would the project:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☐	☑
(1) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?	☐	☐	☐	☑
(2) Strong seismic ground shaking?	☐	☐	☐	☑
(3) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☑
(4) Landslides?	☐	☐	☐	☑
b. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☑
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☑
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☑

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☑

Comments:

a.-e. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, prezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

The Monte Sereno Municipal code regulates development that is located near active, or tract fault zones, or in areas that have expansive or other undesirable soil conditions. Special geological and/or soil reports are required to detail remedial measures necessary to reduce any significant impact to less than significant.

7. GREENHOUSE GAS EMISSIONS

Would the project:

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☑
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☑

Comments:

a-b. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, prezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

8. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☑
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☑
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☑
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, create a significant hazard to the public or the environment?	☐	☐	☐	☑

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
e. For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or a public-use airport, result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
f. For a project within the vicinity of a private airstrip, result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☑
h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands area adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☑

Comments:

a-h. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, prezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

The project site is located in the State designated wildland-urban fire interface area. Any future development is required to comply with the California State Fire Marshall's requirements and the Monte Sereno Municipal Code requirements for the wildland fire urban interface area.

9. HYDROLOGY AND WATER QUALITY

Would the project:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Violate any water quality standards or waste discharge requirements?	❑	❑	❑	☑
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., would the production rate of preexisting nearby wells drop to a level which would not support existing land uses or planned uses for which permits have been granted?	❑	❑	❑	☑
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in *substantial erosion or siltation on- or off-site?*	❑	❑	❑	☑
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface run-off in a manner which would result in *flooding on- or off-site?*	❑	❑	❑	☑
e. Create or contribute run-off water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted run-off?	❑	❑	❑	☑
f. Otherwise substantially degrade water quality?	❑	❑	❑	☑
g. Place housing within a 100-year flood hazard area as mapped on Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	❑	❑	❑	☑
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	❑	❑	❑	☑

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
i. Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☑
j. Be subject to inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☑

Comments:

a.-J. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, prezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

10. LAND USE AND PLANNING

Would the project:

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
a. Physically divide an established community?	☐	☐	☐	☑
b. Conflict with any applicable land-use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☑
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☑

Comments:

b. The proposed general plan amendment is intended to make the City's General Plan consistent with the application to amend the USA and SOI.

11. MINERAL RESOURCES

Would the project:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Result in loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑
b. Result in the loss of availability of a locally important mineral resource recovery site delineated in a local general plan, specific plan, or other land-use plan?	☐	☐	☐	☑

12. NOISE

Would the project:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or in applicable standards of other agencies?	☐	☐	☐	☑
b. Result in exposure of persons to or generation of excessive ground-borne vibration or ground borne noise levels?	☐	☐	☐	☑
c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☑

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☑
e. For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or public-use airport, expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
f. For a project located within the vicinity of a private airstrip, expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑

13. POPULATION AND HOUSING

Would the project:

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☐	☑
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑

14. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Fire protection?	☐	☐	☐	☑
b. Police protection?	☐	☐	☐	☑
c. Schools?	☐	☐	☐	☑
d. Parks?	☐	☐	☐	☑
e. Other public facilities?	☐	☐	☐	☑

15. RECREATION

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☑
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	☐	☐	☐	☑

16. TRANSPORTATION/TRAFFIC

Would the project:

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☑
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☑
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☑
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☑
e. Result in inadequate emergency access?	☐	☐	☐	☑
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decreased the performance or safety of such facilities?	☐	☐	☐	☑

17. UTILITIES AND SERVICE SYSTEMS

Would the project:

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☑
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☑
e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☑	☐	☐
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid-waste disposal needs?	☐	☐	☐	☑
g. Comply with federal, state, and local statues and regulations related to solid waste?	☐	☐	☐	☑

Comments:

e. The West Valley Sanitation District provided the City of Monte Sereno with comments that the District cannot provide sanitary sewer services to the project site because the project site is located outside of the Sewer District boundary. The applicant shall be

required to annex in to Sewer District in order to receive service and mitigate any significant impact that could result from any future development.

For sanitary sewer service in the future, the property owner must install a new privately maintained sewer system within Lucky Drive. Because Lucky Drive is a private road, the Sanitation District will not provide maintenance service to this sewer main. This future sewer main will connect to the terminus of an existing sewer main at the intersection of Greenwood Lane and Ojai Drive. The District will require the future sewer be designed and constructed in accordance with the District's "Sanitary Sewerage System Design Standards."

The property owners must also demonstrate that the necessary rights and easements for the required sewer services have been obtained.

18. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	*Less-than-Significant Impact with Mitigation Measures Incorporated*	*Less-Than-Significant Impact*	*No Impact*
a. Does the project have the potential to degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☑
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)	☐	☐	☐	☑
c. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☑

E. SOURCES

All documents referenced above are available for review at 18041 Saratoga Los Gatos Road, Monte Sereno, CA 95030, during normal business hours.

AGENDA ITEM # 8
Attachment D

City of Monte Sereno

July 26, 2011

Ms. Neelima Palacherla
LAFCO Executive Officer
Santa Clara County
70 West Hedding Street, 11th floor, East Wing
San Jose, CA 95110

RE: Request for status of unincorporated islands within the City of Monte Sereno's Urban Service Area

Dear Ms. Palacherla:

The City has received your letter dated May 2, 2011, requesting a status update of the unincorporated islands in the Monte Sereno Urban Service Area. Pursuant to your request, I am providing the following response.

Monte Sereno has three islands identified by LAFCO as MS01, MS02 and MS03. The City is aware that these unincorporated islands are eligible for a streamlined annexation process. The City is also aware that the County and LAFCO have provided financial incentives including payment of fees and costs to annex these islands.

Since 2005, the Monte Sereno City Council has formally considered annexation of the islands on two occasions. On October 19, 2006, the City conducted a public hearing and discussed annexation. Ultimately, the motion to annex these islands failed by a 2-3 vote of the City Council. On September 15, 2009, the City Council again conducted a public hearing and discussed annexation of the three islands. Based on opposition of the affected property owners the majority of the City Council indicated that they would not support the continuation of the annexation process for these islands.

The Land Use Element of the Monte Sereno General Plan identifies the potential annexation of islands MS01, MS02 and MS03. The Land Use Element also contains policy LU-4.5 that details the conditions that must exist for the City to continue annexation of areas within the City's Sphere of Influence in the future.

At this point in time, the City is considering annexation of individual parcels, on a case by case basis, as property owners voluntarily avail themselves of development projects that trigger the City right to annex their property. The City has conducted one such annexation in the last year.

If you have any additional questions please feel free to contact me at 354-7635.

Sincerely,

Brian Loventhal
City Manager

CC: Monte Sereno City Council

Attachments: Monte Sereno City Council meeting minutes (10/19/06 and 9/15/09)
Monte Sereno General Plan, Land Use Policy, LU-4.5

AGENDA ITEM # 8
Attachment E

From: Nicholas Petredis [mailto:nicholas@petredis.com]
Sent: Friday, September 23, 2016 12:41 PM
To: Palacherla, Neelima <Neelima.Palacherla@ceo.sccgov.org>; Noel, Dunia <Dunia.Noel@ceo.sccgov.org>
Cc: Brian Loventhal (BLoventhal@cityofmontesereno.org) <BLoventhal@cityofmontesereno.org>; Vladimir Rubashevsky (vlad@reincloud.com) <vlad@reincloud.com>
Subject: Monte Sereno -- Lucky Road Annexation

Hello Neelima and Dunia,

Attached please find a letter we submit in support of the above captioned application. If you wish to discuss before the hearing, I am very happy to do so.

Thanks,
Nick

Nicholas P. Petredis, Esq.
PETREDIS LAW OFFICES
50 W. San Fernando Street, Suite 1415
San Jose, California 95113
408.521.4532 (T) | 408.521.4533 (F) | 650.533.5010 (M)
Nicholas@Petredis.com | www.Petredis.com | Skype: NPPLAW

NICHOLAS P. PETREDIS
ATTORNEY AND COUNSELOR AT LAW

Via E-mail

September 23, 2016

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

Re: *Proposed Annexation of APN 510-31-066,-076, -077 and a portion of -023*

Dear Chairperson Wasserman, Vice Chairperson Martin-Milius and Commissioners:

I represent the owners of the above captioned properties on Lucky Road. The properties, contiguous to the City of Monte Sereno (not an island), are 80% ± surrounded by the City's Sphere of Influence ("SOE"), and the Urban Service Area ("USA") boundary is literally on the other side of the street in the front of the properties. I attach maps showing the location of the properties and the current SOE and USA boundaries for your convenience.

Some Commissioners are familiar with the previous application made for the same properties and the decision made at the December 4, 2013 LAFCO hearing. At that hearing, the application was viewed favorably and approved contingent on the City annexing its three islands within one year. Unfortunately that timeline proved to be unrealistic given the resistance to annexation by property owners in the unincorporated areas. The property owners submit this new application in the sincere belief that given the balance of interests between LAFCO and the City, discretion to deviate briefly and lightly from LAFCO's policy on annexations and islands is warranted. Our argument falls under three broad categories – sound planning, environmental considerations and a collaborative approach.

Sound Planning: For all intents and purposes, the properties are incorporated into the fabric of the City. When you look at a map of the location you see the properties actually sit in a deep pocket between other parcels already within the City's SOI, and the USA line is on the other side of Lucky Road in front of the existing house. Why these particular parcels were carved out when the SOI and USA lines were drawn is lost in history. The next closest properties further up Lucky Road are geographically removed from what is a contiguous uninterrupted neighborhood of homes. A larger curiosity you see on the maps is a peninsula of an adjoining property that is *already in the City's limits*

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WWW.PETREDIS.COM

(APN 510-31-023) that protrudes into the unincorporated area. If annexation occurs, this would be an additional benefit to have that entire property already within the City's boundaries to come under the City's zoning and building standards. The owner of that adjoining property supports the annexation for that reason. The end result of an annexation would be a more orderly boundary for the SOI and a logical extension of the USA to provide all of the City's services.

Environmental Considerations: My clients went to great effort and cost to remodel a historic house that has stood for decades on one of the parcels. The other parcel (-076) is now vacant but could be built on in accordance with County regulations. When my clients remodeled the existing house they of course had to follow the County's zoning and building standards. An unfortunate result of it being located outside the USA is it could not be tied into the sewer line across the street and instead, required installation of a septic system.

However, a net positive environmental benefit of an annexation of the properties is once the USA is adjusted, the owners are committed to running a main sewer line down Lucky Road to hook up to the sewer system. Once connected, the septic system at the house would be removed. Additionally, once the new line is in Lucky Road, other properties owners in the neighborhood along the sewer line, but now on septic systems, would have the opportunity to hook into the sewer system. The neighbors are aware of this possibility and not only are very supportive of the plan but have also expressed interest in connecting to this sewer line. The option to have multiple properties abandon old septic systems over time has to be viewed as a net beneficial impact for the environment. If the Commission were inclined to approve this application a condition of approval for this applicant to connect to the sewer system may be appropriate, but in any event the owners are committed to doing so. Another benefit supporting annexation concerns the future development on the remaining vacant parcel. If it is in the USA and SOI, it would also connect to the sewer line and we would avoid the environmental impact of another septic system.

From a planning perspective – use, delivery of services, character, and consistency with the surrounding neighborhood – annexation would recognize the obvious that these properties are uniquely situated (because of the arbitrary boundary lines) but completely part of the City. The adjustment of the SOI and USA will not promote urban sprawl and will in fact make for a more orderly border. By allowing these properties to be legally part of the City, the properties would become consistent with the surrounding existing uses, subject to the same City zoning and building regulations, and that makes for sound planning.

Collaborative Approach: Giving all deference to the policies and goals of LAFCO we should acknowledge without judgment that the County's residents have strongly opposed annexation. It should also be noted and credited that the City has tried twice, to second readings, to avail itself of the waiver of fees for annexation that LAFCO has offered. However at the end of those processes, the City Council had no real choice except to represent the will of its constituents as you Commissioners do for the LAFCO mandate.

It may seem obvious but it should be noted there is no fundamental disagreement between LAFCO and the City over the concept of annexation. The two public agencies can build on that meeting of the minds by also accepting there is a difference as to the timing of annexations. Please give keep in mind and give credit that the City is committed to annexation where property owners desire to be annexed, as it is in the case with this application. That is not an insignificant point and more importantly one that can serve to form a foundation on which the island annexation issue can be addressed and resolved over time. The friction between LAFCO and the City over islands does not have to remain a static, binary choice…why not give an alternative approach a try? By jointly agreeing to take an incremental view, a longer term approach to the stalemate we see now could actually move the ball to the goal? That is leadership, which is also is smart government.

As it stands now, clearly in writing and action, the City is on record that it will support a request for annexation. It is equally clear that LAFCO prefers the City exercise its ability to make that happen regardless what its future citizens prefer. So what will it take to make the record skip a groove? A middle ground worth exploring is a collaborative approach where approval of this application is used as a positive example of the benefits of annexation. The property owners are very happy to commit time and money to help "sell" the reasons why annexation into the City is net benefit. LAFCO publishes information on its web site about what it does and the reasons for annexation, but perhaps an outreach effort could be increased with the County and City collaborating to align the zoning codes in the County pockets. If this application were approved, the property owners could be used as a voice to explain why they wanted to be annexed. A team approach by the City and LAFCO that explains facts, corrects misinformation and most importantly explains why being in the City is preferable for many reasons to remaining in an unincorporated area. The positive example of three property owners who wanted their properties to be annexed by the City will hopefully influence property owners in the unincorporated areas to look positively on annexation.

To sum up, we believe the strongest reason for annexing the properties is they are logically and practically already a part of the City. And as was asked of this Commission back in December of 2013, consider the real-life impact on these individual property

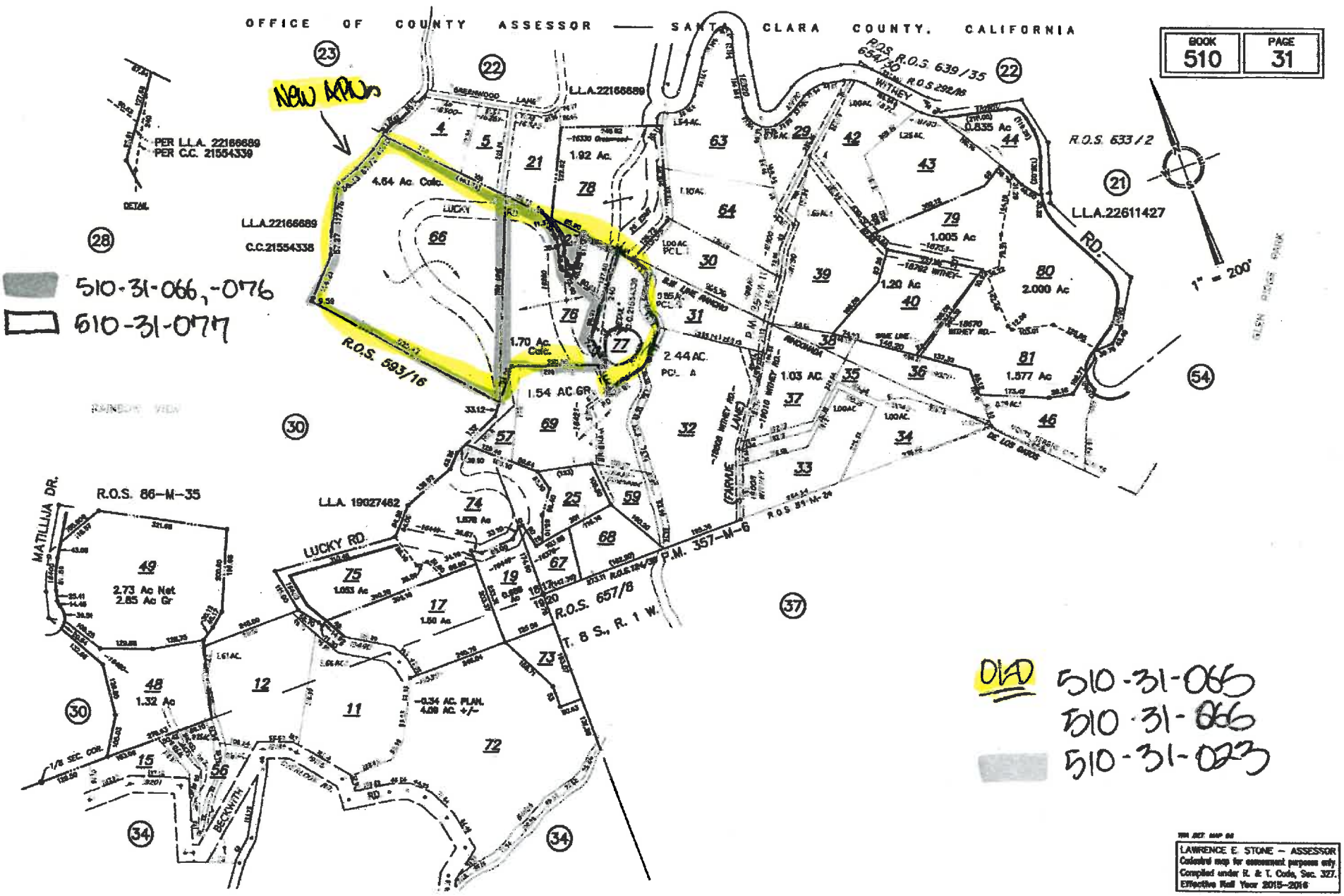
owners as you weigh approving this application. Please do not make this application a political football where, if denied, nothing is gained by LAFCO, the City or the property owners. You have the discretion to approve this application by choosing to weigh the facts and benefits of this application against an unrelenting application of the policy on annexations. The property owners sincerely believe the chance for some progress is preferable to the status quo. For these reasons and others, we believe annexation of this property, contiguous to and surrounded by the City's boundary, would be consistent with the policies and purpose of LAFCO.

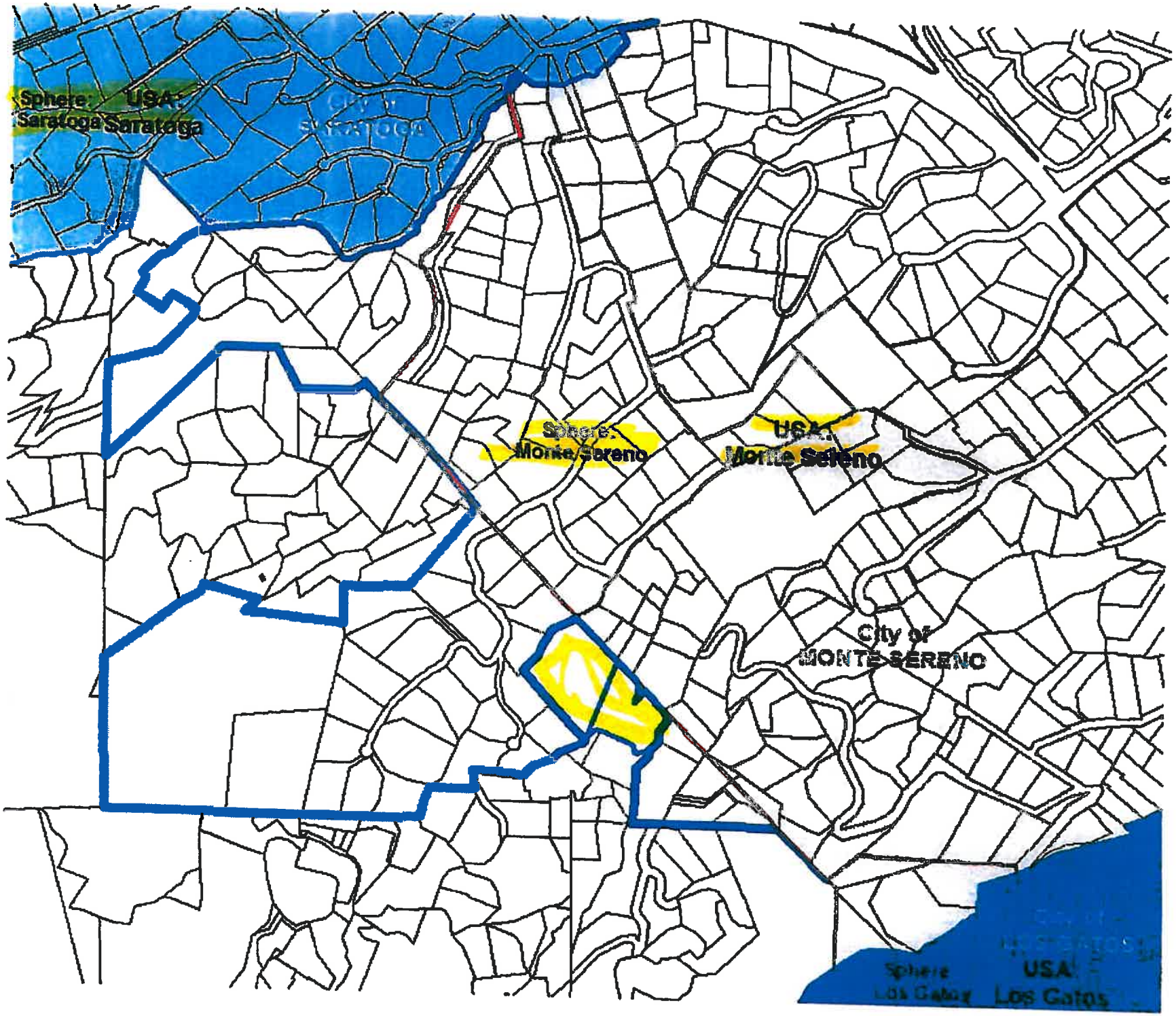
Thank you for your time and consideration.

Sincerely,

Nicholas P. Petredis

NPP:tp
Cc: Client
Brian Loventhal, City Manager
Enclosure


OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA
BOOK 510 PAGE 31
NEW APNs
PER L.L.A. 22166689
PER C.C. 21554339
L.L.A.22166689
C.C.21554338
510-31-066,-076
610-31-077
R.O.S. 593/16
L.L.A.22166689
L.L.A.22611427
R.O.S. 639/35
R.O.S. 298/8
R.O.S. 633/2
1" = 200'
R.O.S. 86-M-35
L.L.A. 19027462
P.M. 357-M-6
R.O.S. 657/8
T. 8 S., R. 1 W.
OLD 510-31-065
510-31-066
510-31-023
LAWRENCE E. STONE – ASSESSOR
Cadastral map for assessment purposes only
Compiled under R. & T. Code, Sec. 327.
Effective Roll Year 2015-2016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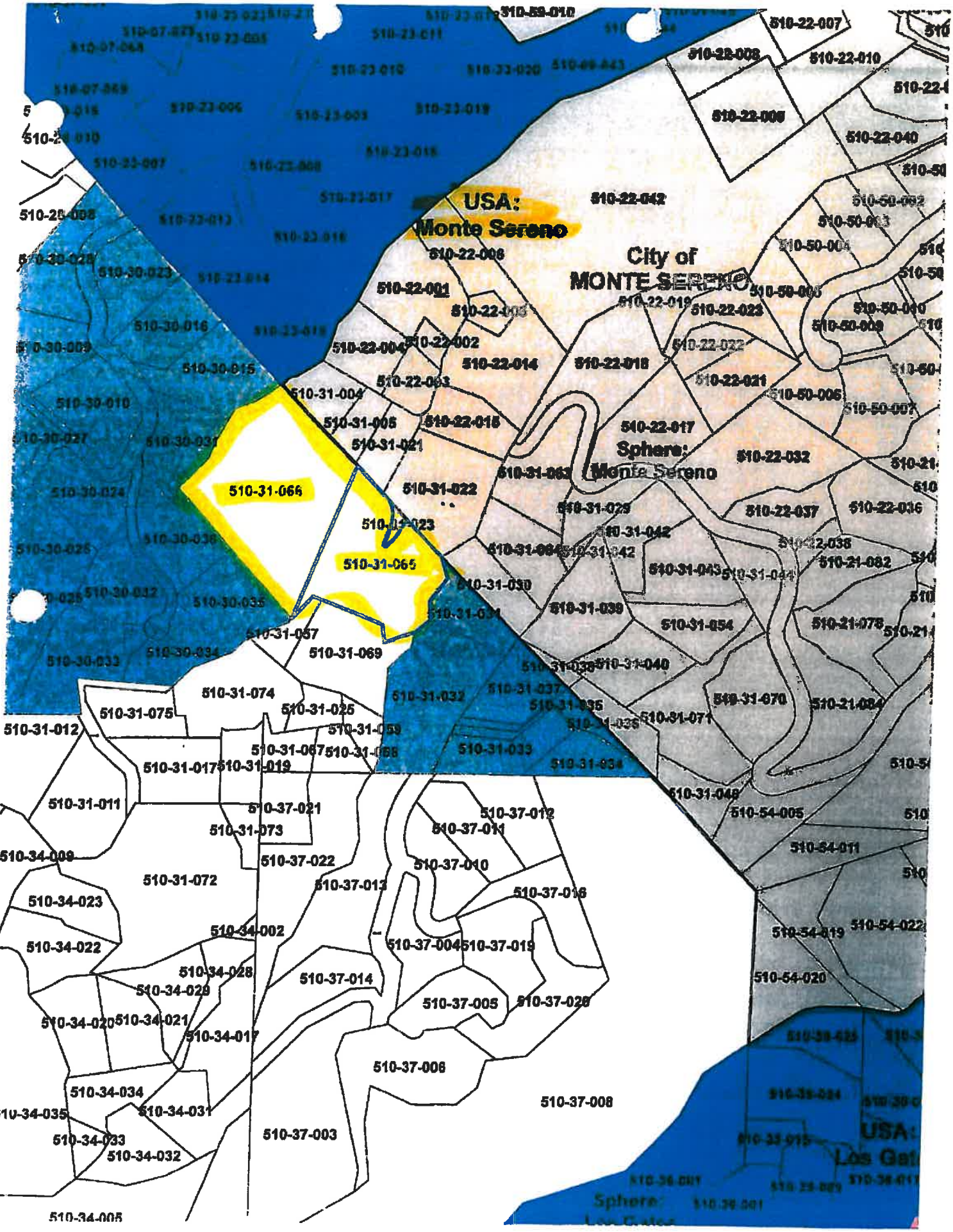
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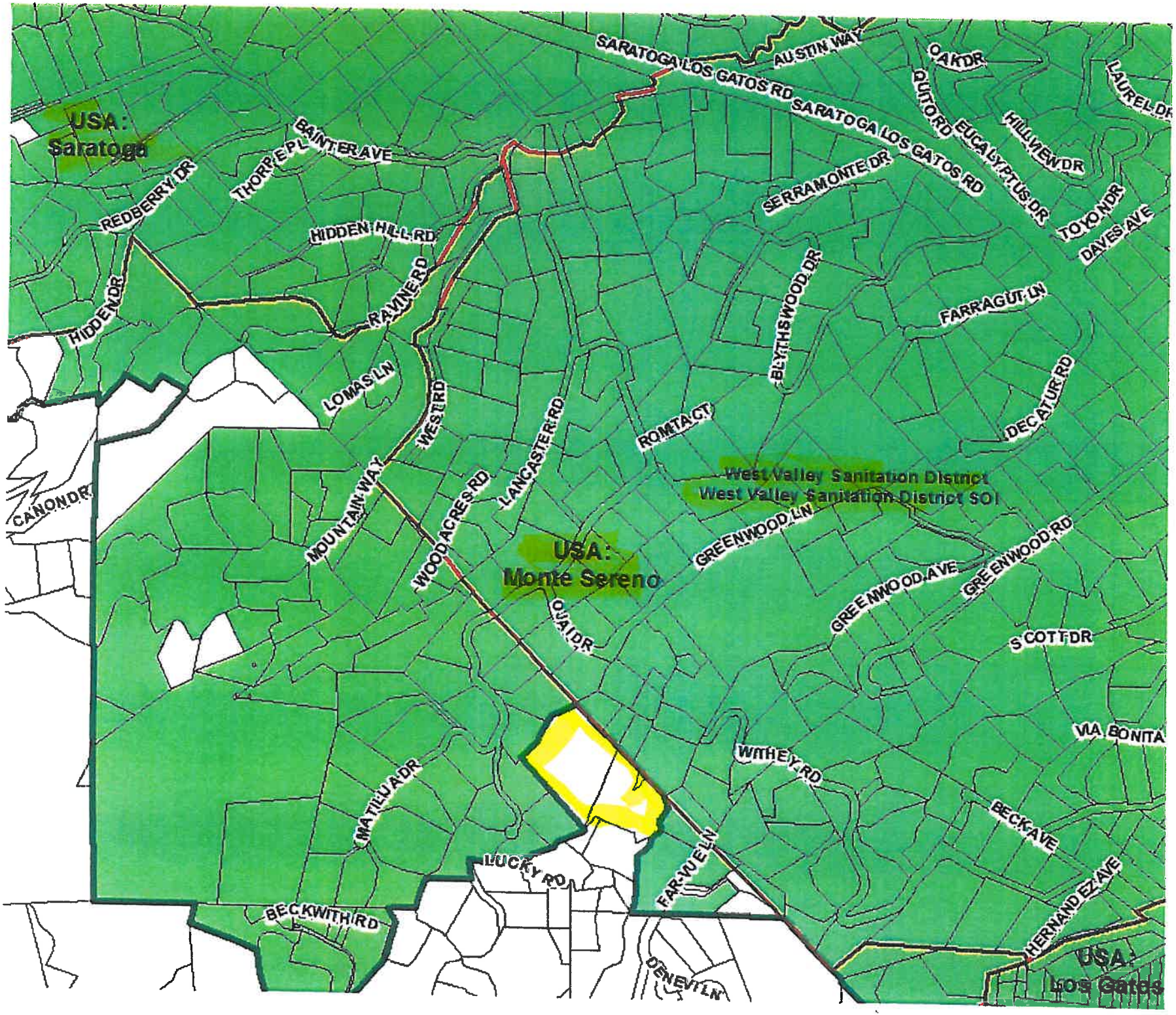
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OAK DR
QUITO RD
EUCALYPTUS DR
HILLVIEW DR
LAUREL DR
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SERRAMONTE DR
TOYON DR
DAVES AVE
BAINTER AVE
THORPE PL
REDBERRY DR
HIDDEN HILL RD
HIDDEN DR
RAVINE RD
BLYTHSWOOD DR
FARRAGUT LN
LOMAS LN
WEST RD
LANCASTER RD
ROMITA CT
DECATUR RD
West Valley Sanitation District
West Valley Sanitation District SOI
CANON DR
MOUNTAIN WAY
WOOD ACRES RD
USA:
Monte Sereno
GREENWOOD LN
GREENWOOD RD
GREENWOOD AVE
OJAI DR
SCOTT DR
VIA BONITA
WITHEY RD
MATILIJA DR
BECK AVE
LUCKY RD
FAR VUE LN
HERNANDEZ AVE
BECKWITH RD
DENEVI LN
USA:
Los Gatos

From: dturkus@aol.com
Sent: Tuesday, September 27, 2016 7:22 PM
To: Abello, Emmanuel; dturkus@aol.com
Subject: City of Monte Sereno's application to expand its SOI and USA to include 7.4 acres of land located along Lucky Road

Emmanuel Abello
LAFCO of Santa Clara County
70 West Hedding Street
11th Floor, East Wing
San Jose, CA 95110

Re: City of Monte Sereno's application to expand its sphere of influence (SOI) and urban service area (USA) to include approximately 7.4 acres (comprising APNs 531-31-066, 076, 023, 077, and a potion of 078) located along Lucky Road.

We are opposed to said annexation due to the following reasons:
1) Access to said parcels is Greenwood Lane which is a very narrow private road, nine (9) feet in some portions,
2) In the event of emergency, it is extremely difficult to exit the area, and any further development would compound the unsafe situation,
3) Large trucks have come into the area, and have taken several hours to negotiate a U-turn or a path back out,
4) We have personally had a retaining wall knocked over by a large truck, and fortunately for us our neighbor witnessed the incident. Other neighbors have had similar incidents with large trucks unable to negotiate these narrow roads,
5) The area is not consistent with those areas currently in Monte Sereno, as this is a wooded area with curvy, narrow one lane roads and no sewer system,
6) We attempted to get our parcel annexed in the 1987, 1988 time frame. The letter from the City, at that time, told us that they did not want to patrol those one lane roads. Which, still exist as narrow one lane roads.
7) The neighbors can already use Monte Sereno as a mailing address, as the zip code is shared with Los Gatos.

If it is the intension of the City of Monte Sereno by such annexation to do the following:
1) Annex all the properties along Greenwood Lane from Ojai to Lucky Road, so as not to have isolated parcels (not contiguous to other City parcels), which this annexation would create (some in the City, others not)
2) City to widen and maintain Greenwood Lane (currently a private road) from Ojai to Lucky Road, to County minimum standards of no less than sixteen (16) feet with three (3) foot shoulders, and
3) Pave the dirt portion of Lucky Road between Withey Road and Greenwood Lane, to create a safer emergency exit route.
4) Bring in sewer lines and laterals for the entire neighborhood,
5) Provide Los Gatos/Monte Sereno police service to the area.
If these four items are the intension of the City of Monte Sereno by such annexation, I would be in favor of said annexation.

Dan and Jeanette Turkus
16446 Lucky Road
Monte Sereno, CA 95030-3027
Phone: (408) 354-7626
Cell: (408) 313-1586

From: JoAnne Swing <joanne@swings.net>
Sent: Thursday, September 29, 2016 5:28 PM
To: Abello, Emmanuel
Subject: public hearing re: 510-31-066, etc.

Dear Mr. Abello,

We on Lucky Road and Greenwood Road are concerned that the owner of these parcels wants to incorporate them into Monte Sereno so that he can subdivide and build more houses. He advertised that the property could be subdivided into one acre lots after incorporation into Monte Sereno when he put it on the market last year.

Any more houses on Lucky Road and/or Greenwood Road would be problematic. Both roads are narrow. Lucky Road, involving seven neighbors, is only one lane for a half a mile, plus it's steep and curvy. Greenwood Lane, involving about 12 neighbors, narrows to a single lane for most of its upper half mile and parts of its lower mile. Both roads have 90 degree turns which make passage for large trucks difficult to impossible. We have had too many accidents on these roads already. More steady traffic (not to mention the traffic of construction equipment for the time it would take to build) would put us all at greater personal risk on the road.

A second problem is that both roads are privately maintained. In the past the people on Lucky Road were embroiled in a long standing legal battle concerning paving a section of the road. Sections of Greenwood Lane are in need of repair, and have been for quite some time.

Please consider this when you make your decision about allowing Monte Sereno to incorporate parcels: 510-31-066, 510-31-076, 510-31-023, 510-31-077, and a portion of 510-31-078, and DO NOT ALLOW THE ANNEXATION. The property is 16290 Lucky Road, Monte Sereno, CA, 95030.

Thank you very much for your time and consideration.

Yours truly, Brian and JoAnne Swing
16370 Lucky Road
Monte Sereno, CA 95030
C 408-202-1651

Supplemental Information No. 1
Agenda Item No. 8
Distributed: 10/05/2016

From: Palacherla, Neelima
Sent: Monday, October 03, 2016 2:50 PM
Cc: Velasco, Roland; Kelly, Kieran; Strickland, Scott; 'norma.gutierrez@sanjoseca.gov'; 'district2@sanjoseca.gov'; Malathy Subramanian (Malathy.Subramanian@bbklaw.com); Abello, Emmanuel
Subject: Monte Sereno SOI/USA Amendment 2016: Request for Continuance

Dear Commissioners,
Please see below. This is a heads up that the property owners/applicant are requesting a continuance for Agenda Item #8: Monte Sereno USA/SOI Amendment 2016.
Thank you.

Neelima Palacherla
Executive Officer
LAFCO of Santa Clara County
www.santaclaralafco.org

Mailing Address
70 W. Hedding Street, 11th Floor, East Wing
San Jose, CA 95110

New LAFCO Office Location
2310 N. First Street, Suite 106, San Jose

New Phone Number
(408) 993-4713

From: Nicholas Petredis [mailto:nicholas@petredis.com]
Sent: Monday, October 03, 2016 12:56 PM
To: Noel, Dunia <Dunia.Noel@ceo.sccgov.org>
Cc: Brian Loventhal (BLoventhal@cityofmontesereno.org) <BLoventhal@cityofmontesereno.org>
Subject: Monte Sereno SOI/USA Amendment 2016 -- Lucky Road Annexation -- Request for Continuance

Hello Dunia.

As we discussed, my client Vladimir Rubashevsky is out of the country this week and therefore will not be able to attend the meeting this Wednesday. For that reason, we respectfully request a continuance of the above captioned application until the December 7th meeting so that he may attend the hearing on the application. I conferred with Brian Loventhal, City Manager, on this request. He agrees and supports the request on behalf of the City. Brian is copied on this message and is available to discuss if you have any questions.

We very much appreciate I will be happy to attend the meeting this Wednesday.

Thank you,
Nick

Nicholas P. Petredis, Esq.
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50 W. San Fernando Street, Suite 1415
San Jose, California 95113
408.521.4532 (T) | 408.521.4533 (F) | 650.533.5010 (M)
Nicholas@Petredis.com | www.Petredis.com | Skype: NPPLAW

Supplemental Information No. 2
Agenda Item No. 8
Distributed: 10/05/2016

From: Mackenzie Mossing <mackenziescvas@gmail.com>
Sent: Monday, October 03, 2016 1:24 PM
To: Wasserman, Mike; TaraMilius@gmail.com; District2@sanjoseca.gov; Susan@svwilsonlaw.com; district3@openspaceauthority.org; board@valleywater.org; Yeager, Ken
Cc: Abello, Emmanuel
Subject: Please deny the proposed Monte Sereno Urban Service Area (USA) Amendment and Sphere of Influence (SOI) Amendment
Attachments: 161003_LAFCo_Amendments.pdf

Dear Chairperson Wasserman and Santa Clara LAFCO commissioners,

Please review the attached letter regarding the Santa Clara Valley Audubon Society's comments on the Monte Sereno Urban Service Area.

Sincerely,
Mackenzie Mossing
Advocacy and Conservation Intern
Santa Clara Valley Audubon Society

Santa Clara Valley
Audubon Society

October 3rd, 2016

Local Agency Formation Commission (LAFCO) of Santa Clara County

RE: Please deny the proposed Monte Sereno Urban Service Area (USA) Amendment and Sphere of Influence (SOI) Amendment

Dear Chairperson Wasserman and Santa Clara LAFCO commissioners,

Santa Clara Valley Audubon Society (SCVAS) is supporting staff recommendation to deny the proposed Monte Sereno Urban Service Area (USA) Amendment and Sphere of Influence (SOI) Amendment. Founded in 1926, SCVAS is one of the largest Audubon Society chapters in California. Our mission is to promote the enjoyment, understanding, and protection of birds by engaging people of all ages in birding, education, and conservation.

For decades, natural and agricultural landscapes in Santa Clara Valley have been consumed by urban sprawl. Habitat and water resources have been diverted to human use, resulting in adverse impacts to populations of many of our native species of birds and wildlife. SCVAS has advocated for frugal and compact use of land resources, and for conservation of open space and the natural environment. As stewards for avian species and their environmental resources, we are always concerned with any projects that may negatively affect birds, wildlife and habitat.

LAFCO is an independent agency with countywide jurisdiction, created by the State Legislature to encourage orderly boundaries, discourages urban sprawl, preserve agricultural lands and open space, and ensure efficient delivery of services. We believe that Santa Clara County can build sustainable communities and meet our population growth needs without encouraging sprawl. Instead, we must embrace nature and safeguard our natural resources to provide quality of life into the future as our climate changes and pressure on natural resources increases.

We support the staff's recommendation to deny the proposed Monte Sereno Urban Service Area (USA) Amendment and Sphere of Influence (SOI) Amendment.

Thank you,

Mackenzie Mossing
Advocacy and Conservation Intern

22221 McClellan Road, Cupertino, CA 95014 Phone: (408) 252-3748 * Fax: (408) 252-2850
email: scvas@scvas.org * www.scvas.org

LAFCO
Local Agency Formation Commission of Santa Clara County

AGENDA ITEM # 9

LAFCO MEETING: **October 5, 2016**

TO: **LAFCO**

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

SUBJECT: **PROPOSED REVISIONS TO LAFCO BYLAWS**

STAFF RECOMMENDATION

Adopt the proposed revisions (Attachment A) to the LAFCO Bylaws.

BACKGROUND

In April 2014, LAFCO adopted a set Bylaws, which have periodically been revised to provide further clarity. At the June 1, 2016 LAFCO meeting, Commissioner Hall requested that the Commission consider changing the LAFCO meeting time from 1:00 P.M. to 1:15 P.M. Since that time, staff has reviewed the Bylaws and identified additional sections which we believe should be revised for accuracy and clarity reasons. Therefore staff provides the following potential revisions to the LAFCO Bylaws for the Commission's consideration:

1. Revision of Bylaw #1 to remove the Commission's address information. .
2. Revision of Bylaw #11.1 to state that regular LAFCO meetings will be held at 1:15 P.M. instead of at 1:00 P.M.
3. Revision of Bylaw #20 will continue to provide first priority for regular LAFCO commissioners to attend the CALAFCO Annual conference but will allow attendance of alternates in any of the categories if the regular members are unable to attend. The current policy limits attendance to only alternates of the regular commissioners who are unable to attend. " As you know, over the last few years LAFCO has experienced much more frequent changes in its membership. This situation underscores the increased need to support and encourage interested commissioners to attend the CALAFCO Annual Conference, as a means of obtaining timely education on LAFCO matters. LAFCO's adopted budget

regularly includes funding for up to seven commissioners to attend the Annual Conference. The proposed revision of Bylaw #20 would clarify LAFCO's support of interested commissioners, including alternate commissioners, attending CALAFCO's annual conference and would have no additional financial impact for LAFCO.

NEXT STEPS

Staff will update the LAFCO website to include the adopted revised LAFCO Bylaws.

ATTACHMENT

Attachment A: Redline Version of Proposed Revisions to LAFCO Bylaws

AGENDA ITEM # 9
Attachment A

LAFCO OF SANTA CLARA COUNTY

BYLAWS

GENERAL

1. NAME AND ADDRESS OF COMMISSION

The Local Agency Formation Commission, established in Santa Clara County pursuant to Chapter 1 (commencing with Section 56000) of Part 1, Division 3, Title 5, for the Government Code, shall be known as the Local Agency Formation Commission of Santa Clara County ("LAFCO of Santa Clara County"), and hereinafter referred to as the "Commission." ~~The address of the Commission shall be 70 West Hedding Street, 11th Floor, East Wing, San Jose, CA 95110.~~

2. AUTHORITY

LAFCO of Santa Clara County is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Sections 56000 et seq. of the California Government Code, as amended, and hereinafter referred to as the "CKH Act." The provisions of these bylaws are not intended to preempt State law. In the event of a conflict between the provisions set forth in these bylaws and those set forth in the CKH Act, the provisions of the CKH Act shall prevail.

3. MISSION

The mission of LAFCO of Santa Clara County is to promote sustainable growth and good governance 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 accountability and transparency of local agencies.

LAFCO of Santa Clara County will be proactive in raising awareness and building partnerships to accomplish this through its special studies, programs and actions.

THE COMMISSION

4. COMPOSITION

The Commission shall consist of seven (7) regular commissioners and five (5) alternate commissioners.

5. SELECTION / APPOINTMENT OF COMMISSIONERS

5.1 County. The Board of Supervisors shall appoint two regular commissioners and one alternate commissioner from the Board's membership to serve on the commission. GC §56327(a)

5.2 San Jose. The City of San Jose shall appoint one regular commissioner and one alternate commissioner to serve on the commission. Each appointee shall be the mayor or city council member. GC §56327(b)

5.3 Cities. The City Selection Committee shall appoint one regular commissioner and one alternate commissioner to serve on the commission. Each appointee shall be a mayor or city council member from one of the County's other 14 cities. Such appointments shall be made in accordance with the procedure established by the City Selection Committee and described in the rules and regulations of that body. GC §56327(c)

5.4 Special Districts. The Independent Special Districts Selection committee shall appoint two regular commissioners and one alternate commissioner to serve on the commission. Each appointee shall be elected or appointed members of the legislative body of an independent special district residing in the county but shall not be members of the legislative body of a city or county. Such appointments shall be made in accordance with the procedure established by the Independent Special Districts Selection Committee. GC §56327.3 and §56332

5.5 Public Member. The other six commissioners shall appoint one public member and one alternate public member to serve on the commission. Each appointee shall not be a resident of a city which is already represented on the commission. GC §56327(d)

6. TERMS OF OFFICE OF COMMISSIONERS

The term of office of each commissioner shall be four (4) years, expiring on May 31 in the year in which the term of the member expires. Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the body that originally appointed the member whose office has become vacant.

7. ROLE OF COMMISSIONERS

7.1 While serving on the Commission, all commissioners shall exercise their independent judgment on behalf of the interests of the public as a whole in

furthering the purposes of the CKH Act and not solely the interests of the appointing authority. GC §56325.1

7.2 In each member category, the alternate member shall serve and vote in place of a regular member who is absent or who disqualifies herself or himself from participating on a specific matter before the Commission at a regular/special commission meeting or in closed session.

7.3 All alternate members are expected and encouraged to attend and participate in all Commission meetings, even if the regular member(s) is (are) present. Alternate members may attend and participate in closed session meetings of the Commission. However, alternate members may not vote or make a motion when the regular member is present.

7.4 The Brown Act allows an exception from its requirements for the attendance of a majority of the members of the Board of Supervisors at noticed meetings of the Commission, provided that a majority of the members of the Board of Supervisors do not discuss among themselves, other than as part of the Commission's scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the Board of Supervisors.

7.5 No person may disclose confidential information that has been acquired by being present in a closed session meeting authorized pursuant to the Brown Act to a person not entitled to receive it, unless the Commission authorizes disclosure of that confidential information.

8. APPOINTMENT OF OFFICERS

8.1 The Commission shall annually appoint a Chairperson and Vice Chairperson for the next calendar year at the December meeting. The Chairperson and Vice Chairperson shall be appointed based on the following rotation schedule unless otherwise determined by the Commission:

- Cities member
- County member
- San Jose member
- Special Districts member
- County member
- Public member
- Special Districts member

8.2 The Chairperson shall preside at all meetings of the Commission and the Vice-Chairperson shall preside at meetings in the absence of the Chairperson.

9. EXECUTIVE OFFICER

9.1 The LAFCO Executive Officer shall be designated in accordance with the terms of the Memorandum of Understanding between the Commission and the County of Santa Clara.

9.2 The Executive Officer shall carry out all orders as instructed by the Commission. The Executive Officer shall prepare or cause to be prepared an agenda for each meeting and maintain a record of all proceedings as required by law and these bylaws, and as instructed by the Commission. The Executive Officer shall set all hearing dates, publish notices and shall oversee the performance of all other clerical and administrative services required by the Commission. In addition, the Executive Officer shall by direction of the Commission and in accordance with the terms of the Memorandum of Understanding between the Commission and the County of Santa Clara, hire other staff of the Commission.

10. LEGAL COUNSEL

10.1 LAFCO Counsel shall be appointed by the Commission and shall serve at the pleasure of the Commission.

10.2 LAFCO Counsel shall attend all meetings of the Commission, give all requested advice on legal matters and represent the Commission in legal actions unless the Commission specifically makes other arrangements.

CONDUCT OF MEETINGS

11. MEETINGS

11.1 Regular Commission meetings are held on the first Wednesday of February, April, June, August, October, and December at 1:00~~1:15~~ P.M., in the Board Meeting Chambers at 70 West Hedding Street, San Jose, California, or in another designated location.

11.2 The Commission shall establish a schedule of meetings for the following calendar year at its regular meeting in December.

12. QUORUM AND ACTION OF COMMISSION

12.1 Four commissioners entitled to vote shall constitute a quorum.

12.2 The Commission shall act by resolution or Commission order. All final determinations of the Commission on change of organization or reorganization proposals shall be taken by resolution. The Commission minutes shall reflect the vote on all resolutions. The records and minutes of the Commission shall be signed by the Chairperson and LAFCO Clerk.

12.3 Commissioners are strongly encouraged to vote and not abstain from voting unless they are disqualified by law or because there is an appearance of conflict.

13. ORDER OF BUSINESS

The order of business at Commission meetings shall typically include the following items, unless otherwise directed by the Commission.

- Roll Call
- Public Comment – An opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No action may be taken on off-agenda items unless authorized by law. Speakers are limited to three minutes. All statements that require a response will be referred to staff for reply in writing.
- Consideration of Minutes
- Consent Calendar – Consent calendar consists of those items recommended for approval, not requiring public hearing, and in the opinion of the staff, not involving major issues or problems. A commissioner, staff or member of the public, may request that an item be removed from the Consent Calendar for public discussion.
- Public Hearings
- Items for Action/Discussion
- Executive Officer's report
- Pending Applications/Upcoming Projects
- Commissioner Reports – An opportunity for commissioners to comment on items not listed on the agenda, provided that the subject is within the jurisdiction of the Commission. No action or discussion by a quorum of the Commission may be taken on off-agenda items unless authorized by law.
- Newspaper Articles/Newsletters
- Written Correspondence
- Adjournment

14. MEETING MINUTES

The Executive Officer shall cause a member of his/her staff to prepare the draft minutes of each meeting which will be included on the agenda of the following meeting, for approval by the Commission.

15. DEADLINES FOR SUBMISSION OF APPLICATIONS

15.1 Deadlines for submitting proposals/applications will be no later than 5:00 P.M. on the Thursday immediately following a LAFCO meeting in order to be considered at the next LAFCO meeting. Applications shall be submitted with correct fees on the appropriate forms and in the quantities required,

15.2 The Commission will not consider proposals/applications which have been submitted in violation of the deadline unless an emergency situation exists within the territory relating to the proposal which would affect the health and safety of citizens.

15.3 The Commission shall establish a schedule of application deadlines for the following calendar year at its regular meeting in December.

16. CLARIFICATION OF MOTIONS

Commissioners shall state motions in such a manner as to assure understanding of all parties as to the content of any terms and conditions to be placed on the Commission's action. It shall be the responsibility of the Chairperson to verify the wording of any motion with staff.

17. ROSENBERG'S RULES OF ORDER

Except as herein otherwise provided, the proceedings of the Commission shall be governed by "Rosenbergs's Rules of Order" on all matters pertaining to parliamentary law. No resolution, proceeding, or other action of the Commission shall be invalid or the legality thereof otherwise affected by the failure of the Commission to observe or follow such rules.

TRAVEL AND EXPENSE REIMBURSEMENT

18. AUTHORIZED EXPENSES

18.1 LAFCO funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized LAFCO business. In addition to the day to day business activities of LAFCO, expenses incurred in connection with the following types of activities generally constitute authorized expenses (LAFCO Policy adopted on June 1, 2006):

A. Communicating with representatives of local, regional, state and national government on LAFCO business

B. Attending educational seminars designed to improve skills and information levels

C. Participating in local, regional, state and national organizations whose activities affect LAFCO's interests

D. Recognizing service to LAFCO (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost)

E. Attending LAFCO or CALAFCO events

18.2 All other expenditures incurred will require prior approval by the Commission.

18.3 Any questions regarding the propriety of a particular type of expense should be resolved before the expense is incurred.

19. MEETING PER DIEM / STIPEND

Consistent with LAFCO Resolution # 2006-06, LAFCO commissioners including alternate commissioners will receive a $100 per diem for attendance at LAFCO meetings. This compensation is in lieu of reimbursement for travel and other expenses incurred in attending the LAFCO meetings.

20. LAFCO COMMISSIONER ATTENDANCE AT CALAFCO CONFERENCE

Regular LAFCO commissioners will be given first priority for attending the CALAFCO Annual Conference. If ~~a~~ regular commissioners are~~is~~ unable to attend, ~~the~~ alternates ~~for that commissioner~~ may attend.

21. TRANSPORTATION, LODGING, MEALS, AND OTHER INCIDENTAL/ PERSONAL EXPENSES

21.1 Reimbursement for authorized transportation, lodging, meals and other incidental expenses shall be provided in conformance with the current Travel Policy of the County of Santa Clara.

21.2 Registration and travel arrangements including airline reservations must be coordinated through the LAFCO Office.

22. EXPENSE REPORTING

Within 14 calendar days of return from a LAFCO business trip or event, a final accounting of all expenses must be submitted to the LAFCO office. Original receipts are required for processing reimbursement. LAFCO staff will then fill out the necessary forms and submit to the appropriate County department in compliance with the County Travel Policy.

23. AUDITS OF EXPENSE REPORTS

All expenses are subject to verification that they comply with this policy.

24. REPORTS TO LAFCO

At the following LAFCO meeting, a report shall be presented on meetings attended at LAFCO expense.

25. COMPLIANCE WITH LAWS

Some expenditures may be subject to reporting under the Political Reform Act and other laws. LAFCO expenditures, expense report forms and supporting documentation are public records subject to disclosure under the Public Records Act.

26. ETHICS TRAINING

LAFCO is not a local agency whose officials are required to comply with the requirement of ethics training pursuant to Government Code Section 53235. Since LAFCO provides reimbursement for expenses, LAFCO commissioners, Executive Officer and Analyst are encouraged to receive ethics training. LAFCO commissioners who are County supervisors, city council members or special districts board members will receive this training in their respective roles as county, city or special district officials. LAFCO staff will advise the public members of opportunities to receive the training.

Revised on: ~~June 4, 2014~~October 5, 2016

LAFCO
Local Agency Formation Commission of Santa Clara County

AGENDA ITEM # 10

LAFCO MEETING: **October 5, 2016**

TO: **LAFCO**

FROM: **Neelima Palacherla, Executive Officer**
Mala Subramanian, Counsel

SUBJECT: **TOLLING AGREEMENT BETWEEN LAFCO AND THE CITY OF MORGAN HILL**

FOR INFORMATION ONLY.

On August 25th, LAFCO and the City of Morgan Hill entered into a tolling agreement to toll the statute of limitations for LAFCO to bring a challenge to the City of Morgan Hill's Environmental Impact Report (EIR) for its 2035 General Plan. The parties have been engaged in discussions regarding the means by which to address LAFCO's concerns with the EIR without proceeding with litigation. On September 29th, the parties agreed to extend the period for which the statute of limitations is tolled until December 31, 2016.

The City of Morgan Hill identified LAFCO as a responsible agency in its EIR for the Morgan Hill General Plan 2035 as it may choose to utilize the EIR to seek approval for future annexations. As a responsible agency, LAFCO submitted extensive comments on the EIR. Morgan Hill responded to LAFCO's comments, however, LAFCO did not feel its comments were adequately addressed. Morgan Hill certified the EIR and approved the General Plan on July 27, 2016.

ATTACHMENTS

Attachment A: Tolling Agreement and First Amendment to Tolling Agreement

AGENDA ITEM # 10
Attachment A

TOLLING AGREEMENT

This Tolling Agreement ("Agreement") is made this 25th day of August 2016 by and between the Local Agency Formation Commission of Santa Clara ("LAFCO") and the City of Morgan Hill ("Morgan Hill") (collectively "the Parties").

RECITALS

This Agreement is entered into with reference to the following facts:

A. On or about August 2, 2016, Morgan Hill filed a Notice of Determination regarding its adoption of the Morgan Hill 2035 General Plan pursuant to the certified Environmental Impact Report ("EIR") for the 2035 General Plan. Pursuant to Public Resources Code Section 21167, this August 2, 2016 Notice of Determination began a 30-day statute of limitations for bringing an action to set aside certification of the EIR, a statute of limitations that, therefore, expires September 1, 2016.

B. The Parties have been engaged in discussions regarding the means by which to address LAFCO's concerns with the EIR without proceeding with litigation.

C. As these discussions have not been resolved, the Parties desire to toll the statute of limitations to allow additional time to work through outstanding issues and thereby avoid litigation.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the Parties agree as follows:

1. Each recital set forth above is incorporated herein by this reference and made a part of the Agreement between the Parties.

2. The Parties agree that the statute of limitations for LAFCO to bring a challenge pursuant to Public Resources Code section 21167 is tolled until October 7, 2016.

3. The Parties hereby waive any defense they may have based on statute of limitations, laches, estoppel or waiver, that the passage of time, or action or inaction, between August 3, 2016, and the termination date of this Tolling Agreement as defined in Section 2 above, unless earlier terminated pursuant to Section 4, prevents and precludes any claim that the Parties may have, but preserves any other non-time related defenses.

4. This Agreement may be terminated by either party upon the provision of 10 days notice to the other party. Such notice shall be given in writing and shall be personally delivered or mailed by prepaid registered or certified mail to the addresses below:

Donald A. Larkin, City Attorney
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Telephone: (408) 779-7271
Fax: (408) 779-1592

Mala Subramanian, General Counsel
Best Best & Krieger LLP
2001 North Main Street, Suite 390
Walnut Creek, CA 94596
Telephone: (925) 977-3303
Fax: (925) 977-1870

5. This Agreement may be executed in counterpart originals.

6. The individuals signing this Agreement represent and warrant that they are authorized to sign on behalf of the agreeing Parties hereto.

7. This agreement is for the benefit of the Parties, and there are no intended third-party beneficiaries.

8. This Agreement constitutes the entire agreement between the Parties hereto regarding tolling of the statute of limitations. There are no other such agreements warranties or representations regarding the tolling of the statute of limitations, other than those expressly set forth in this Agreement.

9. The invalidity of any portion of the Agreement shall not invalidate the remainder and the remaining provisions of this Agreement shall be enforced to the fullest extent permitted by law.

10. The individuals representing the Parties have had the opportunity to discuss this Agreement with their respective counsel and understand its terms and implications.

DATED: August 22, 2016

City of Morgan Hill

By: _____

Donald A. Larkin
City Attorney

DATED: August 25, 2016

Local Agency Formation Commission of Santa Clara

By: _____

Mala Subramanian
LAFCO Counsel

FIRST AMENDMENT TO TOLLING AGREEMENT

This First Amendment to Tolling Agreement ("First Amendment") is made this 29th day of September 2016 by and between the Local Agency Formation Commission of Santa Clara ("LAFCO") and the City of Morgan Hill ("Morgan Hill") ("collectively "the Parties").

RECITALS

This First Amendment is entered into with reference to the following facts:

A. On or about August 2, 2016, Morgan Hill filed a Notice of Determination regarding its adoption of the Morgan Hill 2035 General Plan pursuant to the certified Environmental Impact Report ("EIR") for the 2035 General Plan.

B. On August 25, 2016 the Parties entered into the Tolling Agreement ("Agreement") to toll the statute of limitations for LAFCO to bring a challenge to the EIR.

C. The Parties desire to amend the Agreement to extend the period for which the statute of limitations is tolled.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the Parties agree as follows:

1. Section 2 of the Agreement is revised in its entirety as follows:

> "2. The Parties agree that the statute of limitations for LAFCO to bring a challenge pursuant to Public Resources Code section 21167 is tolled until December 31, 2016."

2. Except as specifically set forth in this First Amendment, all recitals and sections of the Agreement shall remain unchanged and in full force and effect.

DATED: September 29, 2016

City of Morgan Hill

By: _____
Donald A. Larkin
City Attorney

DATED: September 29 2016

Local Agency Formation Commission of Santa Clara

By: _____
Mala Subramanian
LAFCO Counsel

Supplemental Information No. 1
Agenda Item No. 10
Distributed: 10/05/2016

From: D. Muirhead <doug.muirhead@stanfordalumni.org>
Sent: Monday, October 03, 2016 10:22 AM
To: Abello, Emmanuel
Subject: LAFCO Meeting Oct 05, 2016 Item #10: tolling agreement with Morgan Hill

Comments for the Public Record submitted by Doug Muirhead, a resident of Morgan Hill, for:
Local Agency Formation Commission (LAFCO)
Meeting Oct 05, 2016
Item #10: tolling agreement with Morgan Hill

Dear Local Agency Formation Commission (LAFCO),

This is a request that you, when speaking to the general public (who are mostly not lawyers), provide understandable direction.
A report out from Closed Session, to the effect that litigation was authorized and the details will be provided to any party that asks after the suit has been filed, provides no help as to how to find out when an action has occurred or any other change in status.

At your August 3 meeting, you announced that you would be filing suit.
After waiting three weeks, I asked LAFCO staff how I could find out the status of the suit. I received by return email the first tolling agreement with Morgan Hill.

At your October meeting, you are hearing that LAFCO and the City are extending the period for which the statute of limitations is tolled until December 31, 2016.

My concern is that the tolling agreement contains this option:
This agreement may be terminated by either party upon the provision
of 10 days notice to the other party.

Since you do not provide a status on your web site, it appears that my only choice is to send a weekly email asking if the status has changed.
I want to follow this court case. Consider making this easier for the public.

Thank you for your consideration,
Doug Muirhead, Morgan Hill

LAFCO
Local Agency Formation Commission of Santa Clara County

AGENDA ITEM # 11

LAFCO MEETING: October 5, 2016

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst

SUBJECT: LAFCO OFFICE SPACE: AUTHORIZATION TO LEASE PRIVATE OFFICE SPACE

STAFF RECOMMENDATION

Authorize the Executive Officer to execute a lease agreement for office space at 675 North First Street for a five year lease term not to exceed a total cost of $213,000 and authorize an expenditure of up to $64,000 to address Life Safety improvement issues and permit / plan check fees, after coordinating with the Ad Hoc Office Space Committee and subject to review and approval by LAFCO Counsel. The executed lease agreement will be placed on the next LAFCO agenda for information purposes.

Discussion

In August the Commission authorized staff to pursue a lease agreement with either 675 North First Street or 777 North First Street properties.

Following the LAFCO meeting, staff toured office space at 777 North First Street and revisited the office space at 675 North First Street. Staff then began working with the agent and the architect to finalize the floor plan modifications necessary for the LAFCO office space at the 675 North First Street suite. Staff has been informed that the necessary modifications may trigger some Life Safety issues and the space may require upgrading of HVAC/ sprinkler system through the permitting / plan check process. It is estimated that these improvements could cost approximately $64,000. As a public agency, it is important to maintain a safe and secure work environment.

Staff has also been working with the County and its vendors to develop a space and furniture plan and to prepare a needs assessment and obtain cost estimates to address IT / network connections.

LAFCO
Local Agency Formation Commission of Santa Clara County

AGENDA ITEM # 12

LAFCO MEETING: **October 5, 2016**

TO: **LAFCO**

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

SUBJECT: **EXECUTIVE OFFICER'S REPORT**

12.1 UPDATE ON THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)

For Information Only.

The County and the Santa Clara Valley Open Space Authority (OSA) recently held two kick-off events for their joint project, "Santa Clara Valley Climate & Agriculture Protection Program" (CAPP), previously known as the "Sustainable Agricultural Lands Policy Framework for Southern Santa Clara County" or 'SALC."

On August 19th, EO Palacherla attended a 1-hour webinar which introduced the project to its various advisors. As a member of the CAPP's Land Use Policy Advisory Group, she also attended a social / workshop for the project that was held in Morgan Hill on August 30th. At the workshop, panelists discussed the unique opportunity that Santa Clara County has to preserve its remaining farmland, given the high quality of our farmlands, and the close proximity of these lands to a population that desires fresh foods and recognizes the importance of these lands for its ecosystem services.

In early summer, the County proposed that EO Palacherla attend the County's meeting with OSA staff in order to keep abreast of the project. On September 14, 2016, staff met with Rob Eastwood (Planning Manager, County of Santa Clara) in order to understand the County's plans for engaging LAFCO more closely in the CAPP. The County has invited staff to attend its bi-weekly meetings with OSA. Staff will keep the Commission informed on the status of the CAPP as it proceeds.

LAFCO has a major stake in ensuring a successful outcome for the CAPP given LAFCO's unique regulatory authority over future city boundaries and its basic mandate to preserve farmland and curb urban sprawl.

12.2 MEETING WITH TOWN OF LOS GATOS AND RESIDENT RE: POTENTIAL EFFORT TO ANNEX AN UNINCORPORATED ISLAND

For Information Only.

On September 8, 2016, staff met with Joel Paulson (Community Development Director, Los Gatos) and an interested resident of one of the unincorporated islands in the Blossom Hill Manor neighborhood to discuss a potential community led effort to annex the island. The island is greater than 150 acres in size and is therefore not currently eligible for the streamlined annexation process. LAFCO staff advised the attendees on recommended steps for a successful annexation process, such as the need to gain a strong understanding of annexation impacts before beginning community outreach, and the importance of obtaining visible support from the community for the proposed annexation before the Town takes steps to formally initiate the annexation process. Staff also provided information on the incentives that LAFCO and the County have provided to cities for annexing an entire unincorporated island.

12.3 MEETING WITH CITY OF LOS ALTOS STAFF RE: JARDIN DRIVE PROPERTY OWNERS' REQUEST FOR DETACHMENT FROM MOUNTAIN VIEW AND ANNEXATION TO LOS ALTOS

For Information Only.

On September 20th staff met, via conference call, with David Kornfield (Planning Services Manager, City of Los Altos) to discuss the City's final plans and preparations for submitting a fairly complex application to LAFCO in order to facilitate Jardin Drive property owners' request for detachment of their properties from the City of Mountain View and annexation to the City of Los Altos. The application will involve changes in the urban service area, sphere of influence, and city limit boundaries of Los Altos and Mountain View; and of the County Library Service Area. Staff reviewed the LAFCO application filing requirements and review process with City staff and discussed potential ways in which the two Cities' conditions of approval for the boundary changes can be recognized by LAFCO and enforced. This is one in a series of meetings that staff has had with the cities and property owners over the period of a year. Such pre-application discussions between LAFCO staff and City staff help to facilitate an efficient and smooth application submittal and review process.

12.4 MEETING WITH REPRESENTATIVES OF THE SAN MARTIN NEIGHBORHOOD ALLIANCE (SMNA)

For Information Only.

On September 20, 2016, staff met with Trina Hineser (San Martin Neighborhood Alliance President) and Teresa Pereira (People Protecting Rural Integrity Representative) regarding what they described as a growing concern among San Martin community members that the scale, quantity, and type of development projects approved in the unincorporated San Martin area are in conflict with the long-standing rural vision, guidelines, and plans for the area. They noted that the area lacks the necessary reliable

infrastructure (e.g. sewer and water) and public service levels (e.g. fire, police, emergency services) to support such developments in the long-term. They stated that many in the community are concerned about such decisions and are seeking ways to ensure that these concerns are communicated to and addressed by the County. They requested information about the recent San Martin incorporation effort. Staff informed them of the complexities and costs associated with that effort and provided Ms. Hineser with electronic copies of key documents relating to that incorporation effort.

12.5 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING

For Information Only.

On September 12, 2016, Executive Officer Palacherla attended the quarterly meeting of the Santa Clara County Special Districts Association (SDA). The meeting included a presentation by Dane Wadle (CSDA Public Affairs Field Coordinator) on the California Special District Association's outreach campaign for special districts called "Districts Make the Difference", and an update on the Little Hoover Commission's August 25th public hearing on special districts. The meeting also included a presentation by guest speaker, Jeff Rosen, Santa Clara County District Attorney. EO Palacherla provide an update on LAFCO activities and informed the group about the CAPP and LAFCO's interest in the program. Special district members/staff in attendance at the meeting provided updates on current projects / issues of interest to the group.

12.6 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS (SCCAPO) MEETING

For Information Only.

Staff attended the September 7, 2016 meeting of the SCCAPO that was hosted by the County of Santa Clara. The meeting included a presentation by Matt Maloney (MTC Planning Principal) and Adam Noelting (MTC Senior Planner) on MTC/ABAG's Plan Bay Area 2040 Draft Preferred Scenario, specifically an overview of the growth pattern and investment strategy. County Planning Department staff also led a group discussion on best practices for providing preliminary feedback to applicants and on planner duties and planning office organization. Staff from the various other cities provided updates on current and anticipated planning and development projects in their jurisdiction.

12.7 BAY AREA LAFCO CLERKS MEETING

For Information Only.

On September 22nd, Clerk Abello attended the Bay Area LAFCO Clerks meeting, which is a semi-annual meeting of Clerks from several of the Bay Area LAFCOs. The group discussed various current and upcoming projects at each LAFCO, including various website improvements, records digitization efforts, changes in staff resources and hours, and data updates and information collection for municipal service reviews. The group appointed the Alameda County LAFCO Clerk as their representative on the planning

committee for CALAFCO's next staff workshop and agreed to provide recommendations to her on potential workshop sessions for LAFCO clerks.

12.8 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING

For Information Only.

Analyst Noel attended the September 14th meeting of the Inter-Jurisdictional GIS Working Group that includes staff from various county departments that use and maintain GIS data, particularly LAFCO related data. At the meetings, participants shared updates on current GIS and boundary change activities within their department or agency.

Supplemental Information No. 1
Agenda Item No. 12.1
Distributed: 10/05/2016

From: D. Muirhead <doug.muirhead@stanfordalumni.org>
Sent: Monday, October 03, 2016 10:02 AM
To: Abello, Emmanuel
Subject: LAFCO Meeting Oct 05, 2016 Item #12.1: Executive Officer Report: CAPP

Dear Local Agency Formation Commission (LAFCO),

Who gets to know what and when?

This is both a thank-you to LAFCO staff for being the only agency who are providing general information on the CAPP framework and a criticism of County Planning and the Open Space Authority for neither informing nor engaging the general public.

At the January 21, 2016 meeting of the Housing, Land Use, Environment, and Transportation Committee (HLUET), County Planning and Development asked for concurrence on this statement:

Maintain an extensive public outreach program during the Framework preparation process.

Staff said that over the next two calendar years (through 2017), preparation of the Framework is anticipated to be a high profile, multi-jurisdictional project that is a leadership opportunity for the County.
Staff also said that preparation of the Framework would include a strategy; for example, a Collective Impact Model of community engagement, to solicit participation of all those with interests in the outcome.

This has not been high profile for the general public, who will live with and hopefully benefit from this regional approach for preserving agricultural lands and sustaining a strong farming industry in southern Santa Clara County.
We are half-way through the two-year grant timeline (July 2015: grant award; December 2015: Board of Supervisors approved agreement with State).
CAPP phases:

Phase 1 - Mapping - August / September 2016
Phase 2 - Draft Program - February 2017
Phase 3 - Final Program - September 2017

As reported by LAFCO staff, at an August 30 workshop, panelists discussed the unique opportunity that Santa Clara County has to preserve its remaining farmland. There is no public summary of this workshop.

County Planning has a web page devoted to this project:

Sustainable Agricultural Lands Policy Framework
Published on: 8/19/2016 4:07 PM

This should be noted in any staff report from any agency discussing CAPP.

As reported by LAFCO staff, there was an on-line "Webinar for Advisors" on August 19. The slides are on the County Planning web page.
The advisory groups are:

Agricultural Easement Implementation; Moderator: Andrea Mackenzie
Farming Economics and Vitality; Moderator: Joe Deviney
Land Use Planning and Policy; Moderator: Rob Eastwood

A subset of the webinar slides were used in a presentation requested by the Morgan Hill City Council on September 21, 2016. Planning Director Girard commented that the Working Groups and Advisory Groups have been provided some questions to be answered and have been given some deliverables.
Creation of those groups were done without any public notice and we do not know what questions and deliverables have been tasked. The questions you ask often determine the answers you get.
Also out of public view are ideas being considered. In response to questions from Council Member Carr, we learned that there are "lots of record" whose uses need not be agriculture. Solutions might include lot mergers to conform to County standards, as well as new standards for residential development to still allow agriculture by design. The Farm Bureaus are asking for demand- side changes, noting that permits are expensive; should agriculture processing be treat as commercial processing? I asked how SCC/OSA were dealing with state- regulated entities like PGE SCPC and HSR; neither Mr.Girard nor Ms. Mackenzie responded. Parenthetically, at the OSA Board meeting the next night, neither the General Manage in her report, nor the South County Board member in his report, mentioned the Morgan Hill presentation.

May I recommend the section Challenges of Engagement in the "Gene Drives on the Horizon" report issued by the National Academies of Science in 2016.

* The first challenge is determining who should be engaged among the many possible experts, stakeholders, community members, and publics.
* A second primary question is what are the goals of engagement?
* A third area of challenge emerges from the complexity of organizing people. Pitfalls of engaging public audiences late in the innovation process: make the engagement irrelevant or force opinions into binary "pro" or "anti" positions.

Thank you for your consideration,
Doug Muirhead, Morgan Hill

AGENDA ITEM # 13

2015-2016 ANNUAL REPORT




LAFCO of Santa Clara County

Promoting Sustainable Growth and Good Governance

Commissioners

Mike Wasserman, Chairperson
Tara Martin-Milius, Vice-Chairperson
Sequoia Hall
Ash Kalra
Linda J. LeZotte
Susan Vicklund Wilson
Ken Yeager

Alternate Commissioners

Cindy Chavez
Yoriko Kishimoto
Raul Peralez
Rob Rennie
Terry Trumbull

Staff

Neelima Palacherla
Dunia Noel
Emmanuel Abello

www.santaclaralafco.org

Mission

The Local Agency Formation Commission (LAFCO) is a state mandated local agency established to oversee the boundaries of cities and special districts.

The mission of LAFCO is to promote sustainable growth and good governance 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 accountability and transparency of local agencies.

LAFCO will be proactive in raising awareness and building partnerships to accomplish this through its special studies, programs and actions.

Contents

Message from the Executive Officer

Santa Clara County continues to experience increasing growth pressures. The recently completed Cities Service Review report examined some of the complex issues that our communities are tackling such as housing shortages, aging infrastructure, fiscal stress, climate change, and lack of quality public transit or transportation choices. Through its actions to encourage infill development within existing urban boundaries, LAFCO can play an important part in addressing these challenges – studies have shown that compact development patterns are easier to serve, offer better mobility, result in lower greenhouse gas emissions, allow more farmland and open space to be preserved and result in an overall better quality of life for residents.

This past year has been a truly exceptional year for LAFCO— highlighting the vital role that it continues to play in promoting sustainable growth within the county, and meeting the demands given the breadth and complexity of its activities and the level of effort exerted by staff and commissioners. The commission has had to make difficult, politically challenging decisions and take unprecedented actions in the interest of upholding LAFCO's goals of curbing sprawl, protecting open space and agricultural lands and promoting efficient service delivery. I take this opportunity to recognize the commission's leadership and commitment to LAFCO's mission.

Neelima Palacherla
Executive Officer

Service Review Recognizes Cities' Successes & New Opportunities

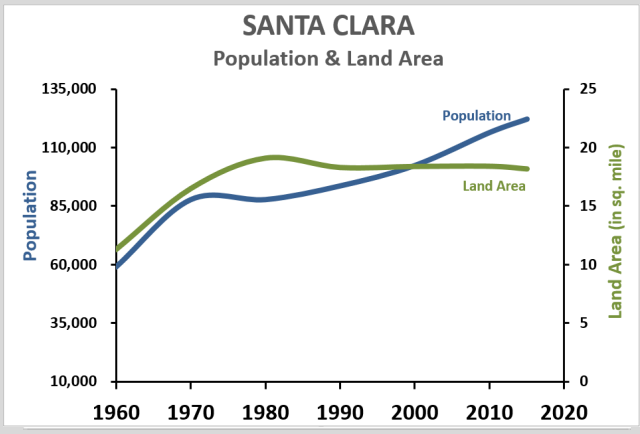
In December 2015, LAFCO completed the Cities Service Review that analyzed a range of services in the 15 cities and some unincorporated areas within Santa Clara County. The Service Review focused on cities' efforts related to shared services, sprawl prevention, and preservation of agricultural lands.

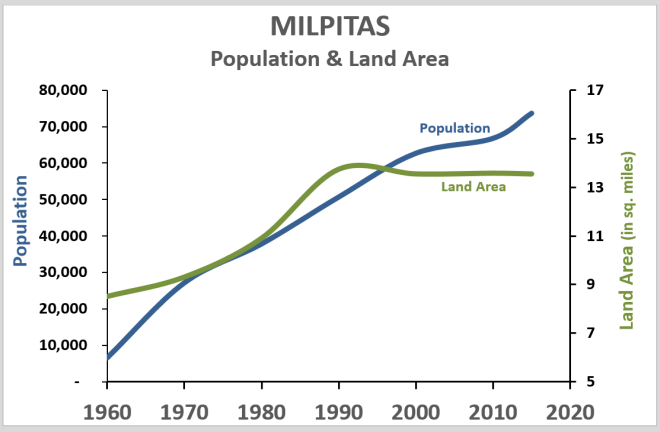
The Report found that many cities are already involved in a wide range of shared services; and provided a useful guide for addressing further shared service opportunities in areas such as animal control and shelter services, law enforcement dispatch, recreation services and facilities, solid waste management and recycling programs, storm-water management, and wastewater treatment / recycled water, among others.

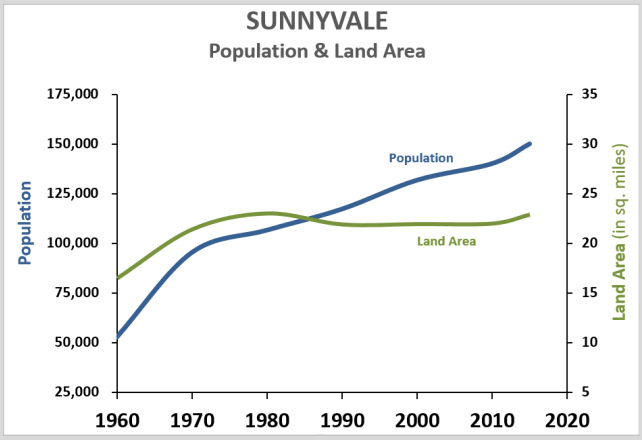
The Report found that many cities in the county have successfully limited their geographic expansion, particularly over the last 20 years, while continuing to build vibrant communities by using smart growth and infill-oriented policies.

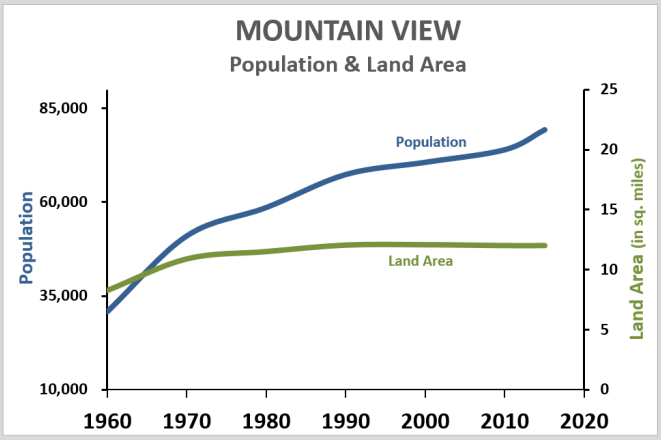
The Report also found that over the last 15 years, relatively little of the loss of "Important Farmland" in the county was directly due to urban expansion. The loss that did occur points to the need for public policies that support farming, discourage conversion to other uses, and encourage re-establishment of farming on fallow prime farmland.

Integrating Development and Conservation

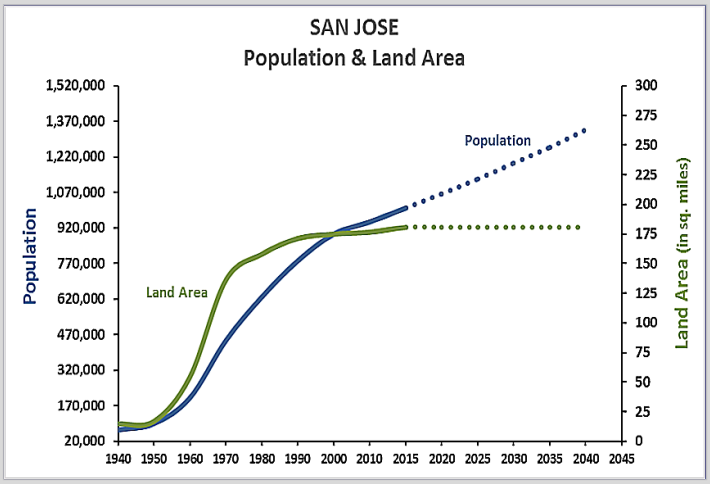






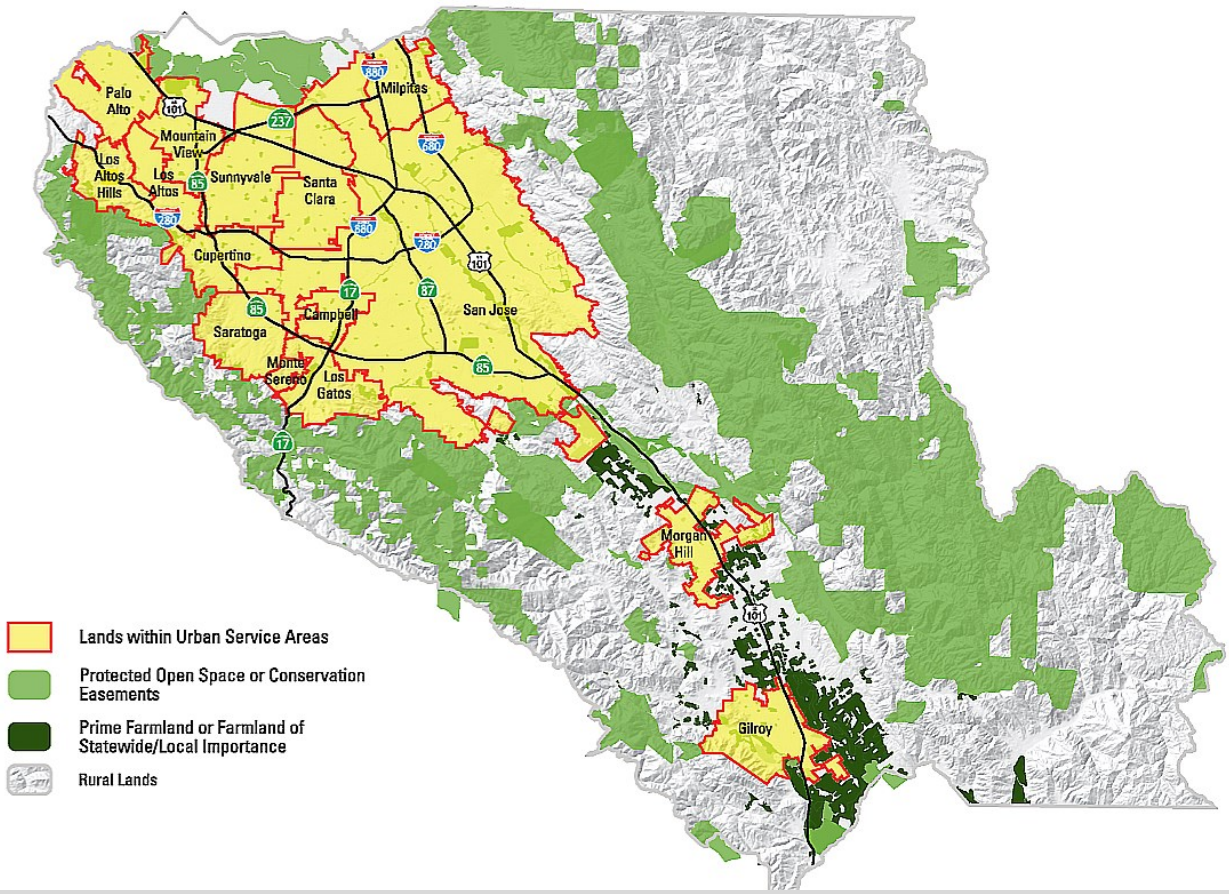


Between 1990 and 2015, many cities, through infill development of vacant, underutilized lands, have added tens of thousands in population with little to no increase in land area.



San Jose's current General Plan does not anticipate outward expansion of its boundaries to accommodate growth through 2040.

Limiting Urban Sprawl and Conserving Resource Lands



When LAFCO was created in 1963, the county was facing great pressure to convert its farmlands to accommodate its growing population. Working together, LAFCO, the County and the 15 cities, developed a countywide policy framework for making land-use decisions that promote orderly growth and development. The implementation of these policies has enabled the county to continue to grow and prosper economically while also supporting the availability of farmland and open space lands in close proximity to urbanized areas. We should recognize the significant benefits of this policy framework and even more importantly, the role it will continue to play in ensuring and enhancing the livability of our communities.

Preventing the Conversion of over 200 acres of Prime Farmland in the Southeast Quadrant of Morgan Hill

The 2015 Morgan Hill Urban Service Area Amendment proposal to convert 229 acres of prime farmland – in one of the county's last agricultural areas – to urban uses, including a school, sports complex, recreational facilities, retail and commercial uses, was the largest request for urban development that LAFCO has considered in nearly two decades. Staff had been following this project for more than 5 years, and has provided several comment letters and extensive feedback to the City on the project and its associated EIR.

Staff also spent a significant amount of time working with the City and other affected local agencies in hopes of jointly developing an alternative plan that would be more in alignment with local policies and plans.

As advance preparation for the Commission's consideration of the City's proposal, staff arranged presentations by guest speakers (Joe Deviney, County Agricultural Commissioner and Don Weden, retired Santa Clara County Principal Planner) on topics related to agricultural preservation, enabling the Commission to learn about and engage with this important issue without the pressure of considering a specific application.

Because this was a complex and controversial proposal of great local and regional significance, the 500 plus-page report prepared by LAFCO staff included a rigorous, reasoned analysis of the proposal as well as various possible options for the Commission's consideration.

The staff report was published 25 days prior to the LAFCO hearing in order to allow the Commission, City, public and various stakeholders sufficient review time.

The Commission received over 500 comment letters and emails, many in favor of and the majority opposed to the proposal, and took extensive public testimony while carefully considering the proposal at a 6-hour special meeting. After intense deliberations, the Commission made the difficult decision and voted overwhelmingly to deny the request. The Commission received nearly a hundred letters of appreciation from various entities and community members for its action on the proposal and its commitment to LAFCO's mandate.

Successful Legal Challenge to Ensure Adequate CEQA Analysis for the North Gilroy Neighborhood Districts

As a Responsible Agency pursuant to CEQA, LAFCO provided detailed comment letters to the City of Gilroy concerning the EIR for the North Gilroy Neighborhood Districts Urban Service Area Amendment, identifying several significant deficiencies in the EIR, in order to encourage the City to conduct adequate environmental analysis for this potential LAFCO project. Prior to this, staff met with the City and developer regarding the proposed project and LAFCO policies. However, the City certified the EIR without addressing the identified deficiencies.

As a result, LAFCO initiated litigation against the City to challenge the adequacy of the EIR. In taking such an action that is unprecedented in the history of our LAFCO and possibly LAFCOs statewide, we set an example for how a Responsible Agency may assert its rights under CEQA to ensure an adequate environmental document on which it must rely. The litigation resulted in the City rescinding its certification of the EIR and entering into a settlement agreement with LAFCO to cover the attorney fees incurred by LAFCO.

Comment Letter on Draft EIR for City of Morgan Hill's General Plan Update (Morgan Hill 2035)

As a potential Responsible Agency pursuant to CEQA, we provided a comment letter to the City of Morgan Hill concerning the Draft EIR for its General Plan Update (Morgan Hill 2035) which identified several deficiencies in the environmental document in order to encourage and ensure that adequate environmental analysis is conducted for potential LAFCO projects.

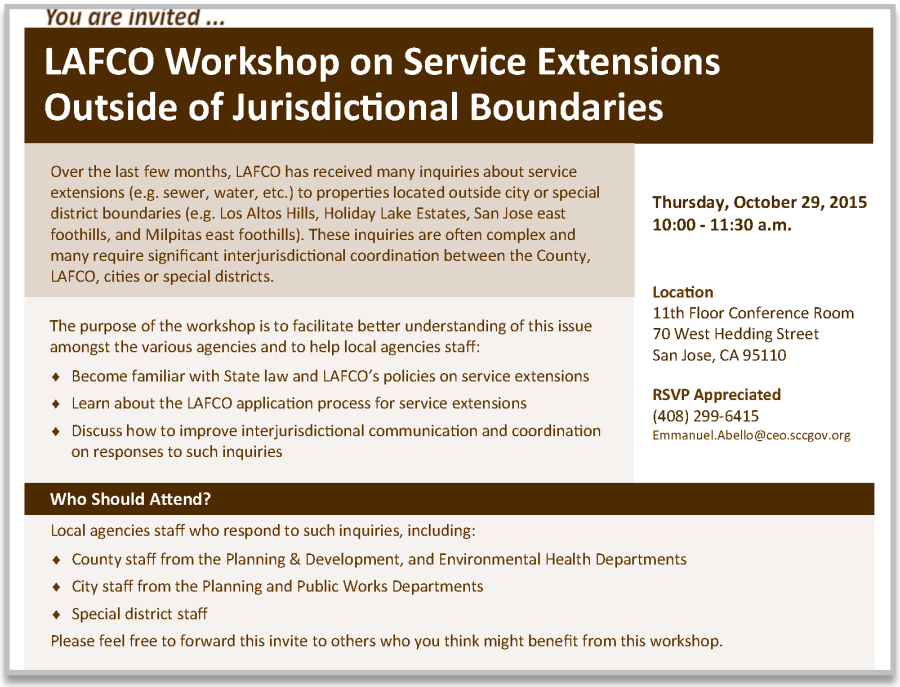
Providing Guidance to Potential Applicants on Projects Small and Big

Over the past year, staff has responded to numerous general inquiries and provided guidance to potential applicants on LAFCO policies and procedures. While guidance and responses on some inquiries can be sufficiently provided via a single phone call or e-mail, others, such as the following, required additional research and meetings between LAFCO staff and local agencies and applicants.

- Cities (Sunnyvale, Mountain View, Los Altos Hills, Los Gatos), County departments, and property owners regarding annexation of unincorporated islands
- Loma Prieta Resource Conservation District regarding the District's potential annexation of lands within Morgan Hill, Gilroy, and San Martin
- Cities of Mountain View and Los Altos, and Jardin Drive property owners, regarding property owners' request to detach from Mountain View and annex to Los Altos
- City of Monte Sereno, landowner, and landowner's attorney regarding an Urban Service Area and Sphere of Influence Amendment proposal
- County Planning Department and County Environmental Health Department and Cities (Los Altos Hills, San Jose) regarding various requests, from unincorporated property owners, for sewer and water extensions outside of jurisdictional boundaries
- County, San Mateo LAFCO, Town of Portola Valley, Woodside Fire Protection District, West Bay Sanitary District (WBSD), and the unincorporated property owner's representatives regarding request to annex to WBSD for sewer service

Workshop on Service Extensions Outside of Jurisdictional Boundaries

We conducted a well-received workshop for cities, County and special districts staffs on service extensions outside of jurisdictional boundaries. Over thirty people attended the workshop. The workshop was in response to a significant increase in inquiries to LAFCO about service extensions (e.g. sewer service and water service) to properties located outside of city or district jurisdictional boundaries. The workshop has helped to increase local agency staffs' knowledge of State law and LAFCO policies on this issue and to foster greater communication and coordination between local agencies and LAFCO staff on inquiries, which will enable the agencies to provide more consistent information to potential applicants/public. Workshop materials are available on the LAFCO website.



You are invited ...

LAFCO Workshop on Service Extensions Outside of Jurisdictional Boundaries

Over the last few months, LAFCO has received many inquiries about service extensions (e.g. sewer, water, etc.) to properties located outside city or special district boundaries (e.g. Los Altos Hills, Holiday Lake Estates, San Jose east foothills, and Milpitas east foothills). These inquiries are often complex and many require significant interjurisdictional coordination between the County, LAFCO, cities or special districts.

Thursday, October 29, 2015
10:00 - 11:30 a.m.

Location
11th Floor Conference Room
70 West Hedding Street
San Jose, CA 95110

RSVP Appreciated
(408) 299-6415
Emmanuel.Abello@ceo.sccgov.org

The purpose of the workshop is to facilitate better understanding of this issue amongst the various agencies and to help local agencies staff:

- Become familiar with State law and LAFCO's policies on service extensions
- Learn about the LAFCO application process for service extensions
- Discuss how to improve interjurisdictional communication and coordination on responses to such inquiries

Who Should Attend?

Local agencies staff who respond to such inquiries, including:

- County staff from the Planning & Development, and Environmental Health Departments
- City staff from the Planning and Public Works Departments
- Special district staff

Please feel free to forward this invite to others who you think might benefit from this workshop.

Orientation for New LAFCO Commissioners

Staff conducted three separate orientation sessions for new Commissioners which were attended respectively by Alternate Commissioner Rennie and Commissioner Martin-Milius; by Alternate Commissioner Peralez; and by Denelle Fedor, City Council Assistant to Commissioner Khamis.

California Association of LAFCOs (CALAFCO)

- Executive Officer Palacherla serves on CALAFCO's Legislative Committee which meets regularly during the legislative session to propose new legislation to help clarify LAFCO procedure or to address LAFCO issues, and to discuss and take positions on proposed legislation affecting LAFCOs.
- Staff and Commissioners Martin-Milius and Tucker attended the Annual CALAFCO Conference which provides an opportunity for LAFCOs across the state to share some of their best practices and learn new techniques and approaches from other LAFCOs. Executive Officer Palacherla was a panelist on a session entitled "Urban Growth Boundaries and LAFCOs."
- Staff attended the Annual CALAFCO Staff Workshop which provides an opportunity for LAFCO staff across the state to share best practices and learn new techniques and approaches to address the various issues facing local agencies across the state.

Countywide Associations & Working Groups

- Executive Officer Palacherla attended the quarterly meetings of the Santa Clara County Special Districts Association and provided updates to the Association on LAFCO activities that are of interest to special districts.
- Staff periodically attended the meetings of the Santa Clara County Association of Planning Officials and provided updates to the Association on activities that are of interest to cities.
- Analyst Noel participated in the monthly meetings of the Inter-Jurisdictional GIS Working Group which includes staff from County Planning, County ISD, County Surveyor, County Assessor, County Communications and Dispatching, County Registrar of Voters, and County Road and Airports. The Group reviewed and resolved various, city, special district, and tax rate area discrepancies that affect various county departments, LAFCO, and those that rely on the accuracy of the County's GIS data.

Changes in LAFCO Membership

This year saw several changes in LAFCO's membership.

In January 2016, the County Board of Supervisors appointed Supervisor Ken Yeager, who was an alternate member on the Commission, as the regular LAFCO member; and Supervisor Cindy Chavez, who was the regular member on the Commission, as the alternate member.

In April 2016, the Santa Clara County Cities Selection Committee appointed Alternate Commissioner Tara Martin-Milius (Councilmember, City of Sunnyvale) as Commissioner, and Rob Rennie (Councilmember, Town of Los Gatos) as Alternate Commissioner on LAFCO. Commissioner Martin-Milius replaced Commissioner Cat Tucker, whose term on LAFCO concluded on May 31, 2016.

In May 2016, the City of San Jose appointed Alternate Commissioner Ash Kalra as Commissioner, and Raul Peralez as Alternate Commissioner on LAFCO. Commissioner Kalra replaced Commissioner Johnny Khamis, whose term on LAFCO concluded on May 31, 2016.

LAFCO Office Relocations

LAFCO successfully relocated and reassembled the LAFCO Office twice in less than one year, during a time when we were conducting some of our most challenging work to date. These moves were necessitated by a potential floor remodel and a growing scarcity of office space at the County Government Center.

LAFCO Applications 2015-2016

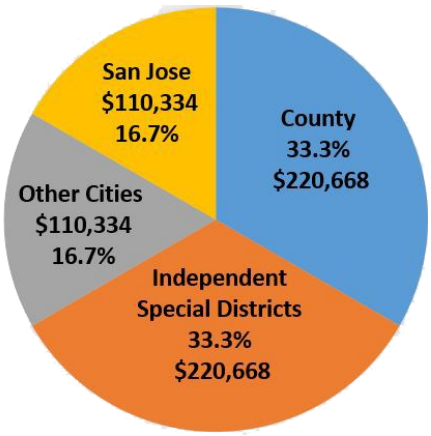
TYPE OF ACTION	NUMBER OF PROPOSALS	ACREAGE APPROVED
City Conducted Annexations		
Los Gatos	3	1.45
San Jose	3	2.78
Total	**6**	**4.23**
Island Annexations		
Sunnyvale	1	5.50
Total	1	**5.50**
Annexations to Special Districts		
Cupertino Sanitary District	2	115.11
West Valley Sanitation District	1	2.48
Total	**3**	**117.59**
Urban Service Area Amendments		
Morgan Hill	1 (2 areas)	0
Morgan Hill Reconsideration	1 (Catholic HS)	0
San Jose	1	2.68
Total	**3**	**2.68**

A detailed 2015-2016 LAFCO Application Processing Record is attached.

2015-2016 Financials (Actuals)

Expenditures	
Salary & Benefits	$ 484,216
Services & Supplies	$ 202,827
Total	**$ 687,043**
Revenues	
Application Fees	$ 146,168
Interest	$ 6,073
Total	**$ 152,241**
Savings from FY 2015	**$ 187,310**
Reserves	**$ 150,000**

Cost Apportionment



LAFCO APPLICATION PROCESSING RECORD

JULY 1, 2015 TO JUNE 30, 2016

CITY CONDUCTED ANNEXATIONS

CITY	PROPOSAL NAME	DATE RECORDED	DOCUMENT #	ACREAGE APPROVED
Los Gatos	Hilow Road No. 6	05/10/16	23300846	0.27
	Linda Avenue No. 4	01/27/16	23207568	0.23
	Marchmont Drive No. 3	03/17/16	23247891	0.95
			City Total	**1.45**
San Jose	Alum Rock No. 15	12/11/15	23170699	1.78
	Evergreen No. 202 Reorganization	09/09/15	23076639	2.68
	Story No. 65	03/29/16	23258801	1.00
			City Total	**2.78**
			Total City Conducted Annexations Acreage	**4.23**

ISLAND ANNEXATION

CITY	PROPOSAL NAME	DATE RECORDED	DOCUMENT #	ACREAGE APPROVED
Sunnyvale	Sunnyvale Pocket Annexation No. 2 (Butcher's Corner)	01/20/16	23200174	5.50
			City Total	**5.50**
			Total City Conducted Annexations Acreage	**5.50**

ANNEXATIONS TO SPECIAL DISTRICTS

AGENCY	PROPOSAL NAME	LAFCO ACTION	DOCUMENT # DATE RECORDED	ACREAGE APPROVED
Cupertino Sanitary District	Cupertino Sanitary District 2015-02	Approved 02/03/16	23272642 04/11/16	96.28
	Cupertino Sanitary District, Lands of Develco	Approved 12/13/00	23014703 07/13/15	18.83

ANNEXATIONS TO SPECIAL DISTRICTS (Continued)

AGENCY	PROPOSAL NAME	LAFCO ACTION	DOCUMENT # DATE RECORDED	ACREAGE APPROVED
West Valley Sanitation District	West Valley Sanitation District 2015-01 (Overlook Drive)	Approved 10/07/15	23119098 10/19/15	2.48

URBAN SERVICE AREA AMENDMENTS

AGENCY	PROPOSAL NAME	LAFCO ACTION	DOCUMENT # DATE RECORDED	ACREAGE APPROVED
San Jose	San Jose USA Amendment 2014 and Evergreen No. 202 Reorganization	Approved 04/02/14	23076639 09/09/15	2.68
City of Morgan Hill	Morgan Hill USA Amendment 2015: Areas 1 (Tennant-Murphy, Southeast Quadrant) and Area 2 (Monterey-Watsonville)	Denied 03/11/16	None	0.00
	Request for Reconsideration to the March 11, 2016 LAFCO Action to Deny Morgan Hill USA Amendment 2015 – Catholic High School	Denied 06/01/16	None	0.00

LAFCO
Local Agency Formation Commission of Santa Clara County

AGENDA ITEM # 14

LAFCO MEETING: **October 5, 2016**

TO: **LAFCO**

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

SUBJECT: **CALAFCO TESTIMONY AT LITTLE HOOVER COMMISSION HEARING ON SPECIAL DISTRICTS**

FOR INFORMATION ONLY.

On August 25th, the Little Hoover Commission (LHC) held its first of two hearings on special districts. Pamela Miller, Executive Director of CALAFCO, attended the meeting and testified on behalf of CALAFCO. Please see **Attachment A** for the CALAFCO testimony. According to LHC staff, the second hearing in October will focus on how special districts are including climate change considerations into their long range plans, especially those districts with large infrastructure needs such as sanitary and water districts. The LHC is conducting a roundtable workshop in November on healthcare districts, at which CALAFCO will again be represented.

ATTACHMENTS

Attachment A: CALAFCO testimony at the August 25, 2016 LHC hearing on special districts

AGENDA ITEM # 14
Attachment A

State of California

LITTLE HOOVER COMMISSION

July 15, 2016

Pamela Miller
Executive Director
California Association of Local Agency Formation Commissions
1215 K Street. Suite 1650
Sacramento, CA 95814

Dear Ms. Miller,

The Little Hoover Commission invites you to participate in its public hearing on special districts in California on **Thursday, August 25, 2016, at 9:30 a.m. in Room 437 of the State Capitol**. This hearing provides an opportunity for the Commission to follow up on issues it raised in its May 2000 report, *Special Districts, Relics of the Past or Resources for the Future?*

In its May 2000 report, Commission recommendations included empowering Local Agency Formation Commissions to help them consolidate districts, finding ways to make special districts more transparent and accountable to the public, requiring more prudent management of their financial reserves and making it tougher for special districts to simultaneously collect fees and property taxes.

In this review, the Commission aims to gauge progress made in addressing concerns raised in its 2000 report and in implementing its recommendations. The Commission also aims to understand newer and emerging challenges, as well as models, best practices and potential directions for special districts within the current governing landscape. Finally, it seeks insight into how the state can best continue its role in overseeing special districts.

Because of your extensive work with Local Agency Formation Commissions within California – and your position as executive director of the Association of Local Agency Formation Commissions – the Commission welcomes your participation. The Commission is particularly interested in your perspective on trends in formation and dissolution of special districts, responses to concerns raised by citizens and county grand juries about special district reserve funds and simultaneous receipt of property taxes and fees and also the emerging challenges faced by districts as they provide varied services to nearly 40 million Californians.

Specifically, the Commission is interested in:

- A history and overview of the role of Local Agency Formation Commissions (LAFCOs) in promoting orderly growth and development within California. Please describe the variety of sizes and staffing models of LAFCOs in California's 58 counties, their roles and purposes, types of services provided, sources of revenues and how LAFCOs have evolved over time. As the Commission is primarily interested in independent special districts run by elected or appointed officials and professional staffs, please describe in particular the role of LAFCOs in working with them. Please, in particular, describe the fundamentals of the Municipal Service Review process in relation to the reorganizations of districts.

- An overview of what has changed in the governing landscape of LAFCOs in California since the Commission's May 2000 report, which featured extensive discussion and recommendations regarding the role of LAFCOs. What is the Association's assessment 16 years later of the Commission's 2000 recommendations? What did the Commission get right in your opinion and where

might you continue to have a different outlook? What are obstacles to addressing some of the recommendations in which significant changes have not occurred?

- An overview of emerging challenges to the operations of LAFCOs in California. Please especially address a recent increase in legislation to bypass the LAFCO process in addressing special district issues throughout California, particularly with healthcare districts. What are the implications of increasing legislative interest in directly addressing local issues that are subject to LAFCO processes? Given that the Legislature has expressed concerns about the length of time it takes a county LAFCO to perform its mission in assessing special districts and reorganizations are there actions that LAFCOs can take to ease those concerns?

- What recommendations might you offer the Commission as its studies special districts in California? What new tools or financial resources could the state provide in its oversight role to help LAFCOs perform their roles more effectively? What challenges might call out for new legislation or policies for LAFCOs as they perform their responsibilities regarding the organization of special districts?

These are the general topics the Commission would like to explore during the hearing and it welcomes any additional information that you believe will contribute to its analysis.

The Commission is requesting written testimony from all witnesses to give Commissioners an opportunity to review comments prior to the hearing. I would appreciate receiving written testimony by **Monday, August 8, 2016.** Guidelines for testimony are attached, and my staff and I would be happy to work with you on the details of your testimony.

Please contact me or project manager Jim Wasserman regarding your availability to participate in this hearing or to address any questions you might have. We can be reached by phone at (916) 445-2125 or by email at carole.d'elia@lhc.ca.gov or jim.wasserman@lhc.ca.gov. Thank you for your consideration of this important project. The Commission looks forward to your participation.

Sincerely,

Carole D'Elia
Executive Director

State of California
Little Hoover Commission

Hearing on Special Districts
August 25, 2016

Written Testimony Prepared by
Pamela Miller, Executive Director

California Association of Local Agency Formation Commissions
(CALAFCO)

CALAFCO
1215 K Street, Suite 1650
Sacramento, CA 95814
916-442-6536
www.calafco.org

CALAFCO

August 25, 2016

Chair Nava, Vice Chair Flanigan and Honorable Members of the Commission;

Thank you for the opportunity to address your Commission during your August 25 public hearing on special districts in California as a follow up to the Commission's May 2000 report, *Special Districts, Relics of the Past or Resources for the Future?* We appreciate the opportunity to share our viewpoint on the unique relationship between local agency formation commissions (LAFCOs) and special districts.

In the following testimony you will learn much progress has been made in the past sixteen years in the evolution of LAFCOs and their respective relationships with special districts. LAFCOs have worked diligently to keep pace with the changing California landscape and there are many success stories to tell. Like other local government agencies throughout the state including special districts, LAFCOs also face a number of challenges. This testimony will highlight the progress, challenges and opportunities for the future for LAFCOs and their relations with special districts.

The California Association of Local Agency Formation Commissions

The California Association of Local Agency Formation Commissions (CALAFCO) proudly represents all 58 LAFCOs in the state. While LAFCOs have existed since 1963, the state association more formally organized itself in 1971. We are a non-profit statewide association with a mission to provide educational opportunities and be a conduit for information sharing and technical support for our members. We do this by serving as a resource for, and by 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.

As the Executive Director for the past four years, I lead the organization in these efforts and support our sixteen-member Board of Directors.

A Brief Review of LAFCO History

LAFCOs were created by the state Legislature in 1963 (under the provisions of the Knox-Nisbet Act; AB 1662, Knox combined with SB 861, Nisbet) as a result of recommendations from then Governor Pat Brown's Commission on Metropolitan Area Problems. The Commission was charged with studying urban sprawl and its statewide effects and was formed by the Governor out of growing concern for the post-WWII population and housing boom in California. This boom led to a large number of problems, not the least of which included poorly planned cities due to rapid growth and a scramble to finance and extend government services to meet the increased service demands, the proliferation of freeway suburbs, city annexations wars, and the hasty conversion of agricultural land.

The original charge of LAFCO was very limited in scope: to review and approve or disapprove proposals for incorporations and the creation of special districts.

Today, Government Code section 56001, which serves as a statement of LAFCO's mission, memorializes the Legislature's acknowledgement of the need to balance competing state interests. Government Code Section 56001 states in part, *"The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly*

development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services."

Over the years, a number of major changes have occurred in the statute governing LAFCOs. It is clear the scope of responsibility for LAFCO has grown considerably since 1963. The opportunities and challenges of this evolution are discussed later in this testimony. Below is a snapshot of the major statutory changes.

Year	Action
1971	LAFCOs were required to establish Spheres of Influence for each city and special district within their respective county. This was a huge shift of responsibility beyond merely reacting to individual boundary changes. (A Sphere of Influence, as defined in Government Code Section 56076, is a plan for the probable physical boundaries and service area of a local agency, as determined by the commission.)
1972	Special Districts were added to the composition of the LAFCO Commission.
1985	The Knox-Nisbet Act, along with District Reorganization Act of 1965 and the Municipal Organization Act of 1977, were consolidated into the Cortese-Knox Local Government Reorganization Act of 1985.
1992	Added a revenue neutrality provision providing the amount of revenues a new city takes from a county once incorporated must be substantially equal to the amount of savings the county would realize as a result of no longer providing the service.
1993	LAFCO given the authority to initiate proposals for consolidation of special districts or the dissolution, merger or creation of a subsidiary district.
1997	The ability of a city to veto a simultaneous detachment and incorporation proposal was repealed.
2000	The Cortese-Knox-Hertzberg Reorganization Act of 2000. (See below for details)

The most recent overhaul of LAFCO law occurred in 2000 (AB 2838, Hertzberg). The Legislature took parts of the recommendations from both the Little Hoover Commission's 2000 Special Districts report and the Commission on Local Governance for the 21st Century's report, *Growth Within Bounds*, and incorporated them into AB 2838. These changes are highlighted throughout this testimony. Specific to the Commission's 2000 report recommendations, those are discussed in the Evolution of LAFCO section.

The Role of LAFCO and Services Provided

The role, scope and scale of services provided by LAFCO have evolved over the past 53 years. As noted above, the original mission of LAFCO was narrow in scope to review and approve or disapprove proposals for incorporations and the creation of special districts.

Today, in addition to the original narrow directive, LAFCOs are responsible for:

- Processing city and district annexations and detachments (including annexations of territory being served by a mutual water company), district consolidations, dissolutions and mergers, city consolidations and disincorporations;

- Addressing the activation and/or divestiture of district latent services or powers (latent services or powers are defined in Government Code Section 56050.5 as meaning those services, facilities, functions, or powers authorized by the principal act under which the district is formed, but that are not being exercised, as determined by the commission pursuant of subdivision (i) of Section 56425);
- Conducting sphere of influence (SOI) updates and municipal service reviews (MSRs) of special districts and cities;
- Reviewing and authorizing the extension of services by special districts and cities outside existing jurisdictional boundaries;
- Complying with the California Environmental Quality Act (CEQA), which was enacted after LAFCOs were established;
- Determining property tax revenue exchange amounts for affected agencies in connection with changes of organization or reorganizations such as special district annexations and detachments;
- Mapping and planning for disadvantaged unincorporated communities (DUC); and
- Conducting special studies, among other things.

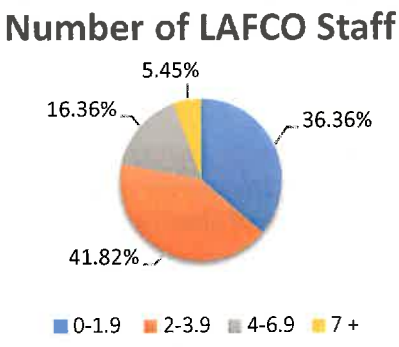
Many local agencies look to their LAFCO to facilitate discussions on things like shared services opportunities, property tax exchange agreements, or, more recently, the formation of Sustainable Groundwater Management Agencies (SGMA). Overall, the complexity of local land use issues and service delivery options have exploded along with the state's rapid population growth.

Staffing Models and Level of Independence of LAFCOs Throughout the State

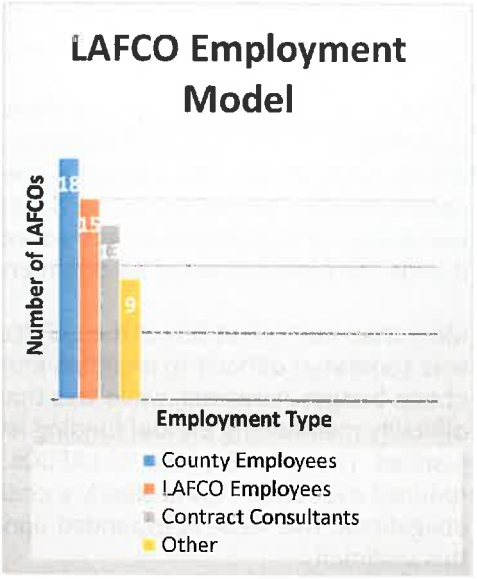
Staffing Models

The size and staffing models of LAFCOs throughout the state greatly vary depending on several factors. First, the activity level of a particular LAFCO is a primary driver of their resource needs. Next, the smaller more rural LAFCOs tend to have fewer financial resources and therefore staff accordingly. It is also apparent to CALAFCO that the level of acceptable government oversight varies greatly between regions of the state.

In a 2015 membership survey in which 55 of the 58 LAFCOs participated, CALAFCO found that 78% (or 43 of the 55) of LAFCOs have less than four staff members. In fact over 36% (20 of the 55) have less than two staff members, if there is even a dedicated LAFCO staff office presence. Over 16% (9 of 55) indicated they have four to six staff members. Only three LAFCOs indicated having seven or more staff members.



The reality of LAFCO staffing is that a large percentage of LAFCOs use either part-time contractual relationships or county personnel to fill the primary staffing roles. Many LAFCOs hire part-time staff, by contract, to perform the responsibilities of the Executive Officer (EO). Three of the more rural LAFCOs in the northern part of the state contract with the same person to fulfill EO responsibilities; another seven rural LAFCOs contract with a different person to fulfill EO responsibilities. So between these ten LAFCOs, there are two part-time contractual EOs to guide a very large geographic region that is experiencing ever increasing development pressures and demands for new services. Other examples of LAFCOs that have low staffing resources include one that has the County Administrator acting as the EO; another uses the County Board of Supervisors' Clerk of the Board as EO; and several use the County's Planning Director or the Community Development Director as the EO.



On the flip side of these models are the larger and higher-resource LAFCOs that employ four or more staff members (only 9 of 55 fall into this category). The largest LAFCO in the state employs nine full-time positions and one-part time position, as well as having nine part-time contractors.

A Matter of Independence

The need for greater LAFCO independence has long been debated. And while many LAFCOs operate independently from the County (with more moving in that direction), the reality is that many of the smaller LAFCOs still operate with some level of dependence on the County.

In the 2015 CALAFCO Survey, we found that over 32% (or 18 LAFCOs) of the 55 respondents have staff that are employees of the County. Over 27% (15 of 55) have staff that are fully independent and employed by the LAFCO. Contract consultants as lead staff make up over 24% (or 13 of the 55), and over 16% (9 of 55) are a hybrid or some other form of staffing.

Revenue Sources

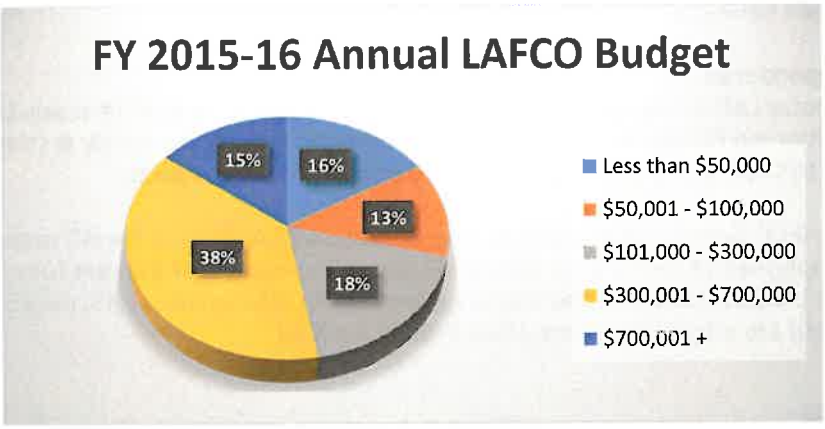
LAFCO funding sources are extremely limited both externally by arbitrary restrictions on state funding sources (Strategic Growth Council grants for example) and internally by political reluctance of a local commission to "grow" government functions. Government Code section 56831 establishes the formula for funding LAFCOs' budgets requiring the categories of local agencies sitting on the particular LAFCO's commission to fund the LAFCO budget. In 30 of the 58 LAFCOs cities, counties, and special districts contribute to the LAFCO budget. The statute (Government Code Section 56381) calls for an equal apportionment of one-third share for those LAFCOs in which there is county, city and special district representation. However, the statute allows for individual LAFCOs to modify this statutory budget funding allocation. (For example, Butte LAFCO has special district representation and all parties involved agreed that special districts shall pay less than the one-third apportionment.) The cities' share is apportioned in proportion to each city's total revenue, and the special districts' share is apportioned in proportion to each district's total revenue as a percentage of the combined total district revenues within the county.

For LAFCOs with no special district representation, the cost is split equally between the cities and county. For LAFCOs in which there are no incorporated cities within the county (Alpine, Mariposa and

Trinity), the cost is to be split equally between the county and the special districts. In two of these instances, however, (Alpine and Mariposa) there is no special district representation, and therefore the county pays 100% of LAFCOs' budget. Ten counties have only one incorporated city. In these instances, the sole city is responsible for the city apportionment of the LAFCO budget allocation.

LAFCOs also adopt fee schedules allowing LAFCOs to recover the cost of certain proceedings including but not limited to processing of applications, amending or updating SOIs and other LAFCO proceedings. By law, fees cannot exceed the estimated cost of providing the service, so, as is the case with other governmental services provided by other types of public agencies, there is no percentage of net profit built into adopted fees. A LAFCO has the authority to reduce or waive fees if it finds the payment would be detrimental to the public interest.

More than half (27 of 55) of the LAFCOs responding to the 2015 Survey indicated to CALAFCO that it was somewhat difficult to maintain annual funding levels and that they are unable to successfully obtain budget increases, while less than half (25 of 55) of LAFCOs reported that they have little difficulty maintaining annual funding levels or seeking budget increases when increases can be justified. The other 3 of the 55 LAFCOs indicated that their budgets are kept flat or have been reduced over time. This is clearly a challenge for the majority of LAFCOs in meeting statutory obligations. This issue is expanded upon in the Lingering Challenges and Opportunities section of this testimony.



Based on the Survey, CALAFCO learned that budgets for LAFCOs around the state vary widely. As you can see, less than 15% of them (8 of 55) have a budget larger than $700,000 annually, and over 16% (9 of 55) have an annual budget of less than $50,000.

To help put this into better perspective, here are some examples of FY 2016-17 adopted budgets from LAFCOs as compared to their adopted FY 2015-16 budget:

LAFCO	FY 2016-17 Adopted Budget	+/- from Adopted FY 2015-16 Budget	% of Change
Mono	$11,582	+$49	+0.5%
Tuolumne	$36,283	-$2,538	-7%
Kings	$57,126	+$5,672	+10%
Los Angeles	$1,405,530	+$34,530	+2.5%
San Diego	$1,984,064	+$163,253	+8.3%

All of Mono LAFCO's staff, for example, are contracted through the County, including the EO who also serves as the County's Planning and Community Development Director. Mono's budget accounts for revenue from the county, only one city and no independent special districts. All of Tuolumne LAFCO's staff are contracted through the County and the EO also serves as the County's Community Resources Agency Director. Their budget also reflects revenue from the county, only one city and no independent special districts. Kings LAFCO staff are also County employees, with the LAFCO EO also serving as the Community Development Director. Their budget reflects revenue from the county, four cities and no independent special districts.

In contrast, both Los Angeles and San Diego LAFCO have full and part-time staff who are employed directly by LAFCO. Los Angeles receives revenue from 88 cities, 53 independent special districts and the county. San Diego LAFCO's revenue is derived from 18 cities, 60 independent special districts and the county.

The Role of LAFCO and Special Districts

The nature of relationships between LAFCOs and special districts vary across the state from one of mutual respect, to a fear and contempt of LAFCO, and many places in between. Many LAFCOs are proactive in their efforts to stay connected with the special districts in their area, while others could improve these efforts. For those LAFCOs with special districts seated on their LAFCO, staying connected with special districts is a much easier task.

It is important to note that LAFCO has no direct regulatory authority over special districts. The MSR conducted by LAFCO is only as good as the information received from the entity being studied or other resources (as needed). In this respect, the LAFCO must rely primarily on the district to provide the necessary information. In many instances this is accomplished with great efficiency. However, in some instances this is not the case.

Following are two extremely different examples. First, one LAFCO in the central valley, while working to complete a series of MSRs, provided a particular district a request for information in January of this year. Despite four months of repeated follow up by the LAFCO, which was then followed up with a more formal request for information, the request and follow up requests went unanswered for several months. Despite the LAFCO's attempt to communicate to the district the purpose, importance and statutory requirement for the MSR, the district remains a strong resistant to providing the necessary information. As a result, this LAFCOs completion of the MSR has been substantially delayed.

On the other extreme, in the southern part of the state, a different LAFCO and the district being reviewed work so cooperatively together that a draft MSR was completed with relative ease and in a much more timely manner than as described above.

As you will see in the section below, MSRs are evolving into documents that are increasingly designed to assist special districts (and other municipal service providing entities) to improve the efficiency and effectiveness with which they provide the service. LAFCOs and special districts would both benefit greatly if a cooperative relationship and a mutual understanding of the benefits of the MSR process existed. CALAFCO has begun conversations with the California Special Districts Association (CSDA) to facilitate local discussions about these benefits.

CALAFCO

Municipal Service Reviews

Purpose

In 2000, there was a substantial change in LAFCO responsibility when the requirement of conducting MSRs was added (Government Code Section 56430). The requirement at the time Section 56430 was enacted, was to conduct a MSR in order to establish or update a SOI and the LAFCO was required to comprehensively review all agencies providing municipal services in the prescribed geographic area. The law prescribed that by January 1, 2008, LAFCOs were to have all SOIs updated, and done, as necessary, and every five years thereafter.

Over the years the frequency with which the MSR is to be conducted and the factors to be considered in a MSR have changed. Today, the statute indicates LAFCO shall, as necessary, review and update each SOI every five years. Should there be a change in the SOI, then the appropriate MSRs must be revisited. The "as necessary" clause allows for adopt local policies based on local circumstances and conditions.

MSRs today must include LAFCOs' determinations on seven areas, including: growth and population projections for the area being studied; location and characteristics of any DUC within or contiguous to the SOI; present and planned capacity of facilities, adequacy of public services, and infrastructure needs and deficiencies; financial ability of the agency to provide the services; identification of opportunities for shared services; accountability for community service needs (including governance and operational efficiencies); and any other matters the LAFCO deems relevant in the provision of services.

LAFCOs have discretion in how to conduct MSRs. For example, some LAFCOs choose to conduct MSRs on all service providers (regardless of service type) in a particular geographic region or area. Others prefer to study the entire county by category of service (one MSR will study all fire service providers while another MSR will study all water service providers). Still others may choose to conduct MSRs based on the type of special district, or they may be done on an individual agency.

LAFCOs also have the discretion to conduct MSRs with in-house staff or hire consultants. More often than not, the amount of financial and human resources available to the LAFCO dictates how an MSR will be completed and more importantly, affects the depth and quality of the prepared MSRs and any potential resulting determinations for future corrective actions that may be deemed necessary. Given that the MSRs are a critical component of LAFCOs oversight of local agencies, this great disparity in MSR resources directly impacts LAFCOs ability to identify deficiencies and take corrective measures.

The current language of the MSR statute leads many LAFCOs to conclude that the Legislature intended that MSRs be conducted only when it was necessary to establish a new or update an existing SOI (hence the use of the term "as necessary"). However, it is becoming increasingly clear to CALAFCO that somehow the initial intent has been lost and a new paradigm has been created regarding MSRs. There is growing dialogue among some that the expectation is for LAFCOs to conduct MSRs on all municipal service providers every five years, regardless of whether or not the SOI is being updated.

This expectation is a growing concern for LAFCOs and CALAFCO for a number of reasons. First, it is misaligned with the express language of the MSR statute and its original intent. Second, a comprehensive MSR can take many months if not years to complete and requires a great deal of resources (both human and fiscal). This may mean that a LAFCO is unable to apply the proper amount of attention to an agency in need of improvement because there is just not the time. Third, and perhaps the most daunting for many LAFCOs is that the requirement for MSRs was added to the LAFCO plate without the addition of any resources to conduct them. As a result, many of the lower

resource LAFCOs are finding it difficult to complete comprehensive MSRs, so they are completed in a minimal way. LAFCOs that have a large number of agencies providing municipal services in their area clearly have a large number of MSRs to conduct. However, given all of this, a great majority of LAFCOs are completing MSRs regularly or on a schedule that is locally acceptable.

I will use Monterey LAFCO as one example to demonstrate the resources and time required to complete a comprehensive MSR. Monterey has 12 cities and 42 independent special districts. In a snapshot of their MSR schedule in March 2016, they reported having completed 14 MSR/SOI studies in December 2015; another 5 that had the administrative draft under review or hearing set; and another 4 for which information collection was under way. This means that in the latter portion of 2015, Monterey LAFCO was studying no less than 23 municipal service providers simultaneously. This is in addition to all of the other work being completed pursuant to the LAFCO's annual work plan. To accomplish these MSRs, Monterey LAFCO contracts out to a consultant approximately 1,000 hours of work per year at a cost of approximately $50,000. In addition, it supplements the consultant's work as needed with an existing full-time staff person at an average of 500 hours per year. All of this cost is included as part of its annual operating cost and absorbed by those paying into the LAFCO.

Another example is San Diego LAFCO and its review for four healthcare districts. In conducting this particular MSR, due to the complexity of healthcare district functions and financial operations, it took San Diego LAFCO 1 ½ years to complete the final MSR.

MSRs and Independent Special Districts by the Numbers

A recent poll of LAFCOs regarding MSRs found that most LAFCOs have conducted at least one if not two complete rounds of SOI updates and as a result, one or two rounds of MSRs. The sample size for this poll is 26 LAFCOs geographically spanning as far north as Del Norte; as far south as San Diego and Imperial; as far east as Inyo and as far west as Monterey and Santa Cruz. All 26 LAFCOs are diverse in their size, budget, staffing and type (urban, suburban and rural). What we found was that among these 26 LAFCOs, the number of independent special districts subject to review ranged from 9 to 105 (the average being 42.5) for a total of 1,150 independent special districts. Of these, an MSR had been conducted on 1,058 of them, at some point in the last ten years. This is an average completion rate of 92%, and does not account for all of the municipal services provided by cities that must also be reviewed. CALAFCO believes this number could have been greater if more emphasis was placed on agencies or services in need of review rather than a standard and arbitrary deadline to meet. Opportunities for change are discussed later in this testimony.

The Use of MSRs in the Reorganization of Districts

A point of great importance with respect to MSRs and the reorganization of districts is that ultimately LAFCO does not have the authority to mandate a district to take action. Through the MSR a LAFCO can make recommendations for changes of reorganization as described in more detail below. Additionally, a LAFCO can make recommendations that are more operational in nature (addressing governance, managerial or financial concerns). But in the end, for these types of recommendations, LAFCO lacks the authority to ensure implementation.

LAFCO has been described as the Legislature's "watchdog" to guard against wasteful duplication of services. *(City of Ceres v. City of Modesto (1969) 274 Cal. App. 2d 545 [79 Cal.Rptr. 168].)* To emphasize the point made above, the Legislature's "watchdog" is different from the Legislature's "enforcer." A watchdog identifies and alerts others to possible problems, and in rare instances, may actually be able to help solve the problem. But in most cases, the local agencies themselves must solve their own problems. When an agency seeks LAFCO approval (e.g., annexation), LAFCO can

impose terms and conditions on its approval. However, generally speaking, LAFCOs do not have legislative authority to "hold agencies accountable" and directly rectify issues or problems.

That said, LAFCOs do make strong recommendations and take the initiative to consolidate or reorganize districts. However, for as many opportunities as there are, there are a number of challenges. There are barriers to reorganization. In the Commission's 2000 report, it was stated few changes had been made in the structure of special district government. While this may be true statutorily, the report's subsequent statistics told a different story. The report cited in looking at six LAFCOs since 1994 (presumably to 2000), 22 special district reorganizations were submitted, of which 16 were approved, three were denied, and three were withdrawn. We view this is as significant action.

LAFCOs have been criticized for not doing enough when it comes to dissolving or consolidating districts. Simply reorganizing agencies does not necessarily improve services – ultimately LAFCO recommendations are designed to improve the provision of service. Each district has its own funding approach and some have distinctly different levels of service. Consolidation or dissolution for the sake of change is not as simple or logical a path as one presumes and often leads to unintended consequences. LAFCOs must always recognize and respect that a special district board is locally elected and is accountable to its constituents when making local decisions, even if in stark contrast to a LAFCO recommendation.

Many of the determinations and recommendations made in a MSR are operational in nature to address governance, managerial or financial concerns. Further, since MSRs and SOIs are considered long-term planning tools, many recommendations contained within them are not intended to be enacted immediately. Some recommendations have a timeframe exceeding the associated five-year cycle.

So What Has Been Accomplished?
A number of LAFCOs recently reported to CALAFCO taking action to consolidate, dissolve or otherwise reorganize districts, some successfully and others not. For example:

- Amador LAFCO reports in the last ten years it has completed two dissolutions.
- Los Angeles LAFCO reported the recent completion of one LAFCO-initiated dissolution.
- Yolo LAFCO indicated the successful dissolution of three districts with a fourth currently in process. Additionally, it just finalized a recommendation that a local Fire Protection District contract services through one of the local cities.
- Imperial LAFCO indicates it has dissolved two districts, are in the process of dissolving another, and looking at two additional districts for potential action.
- Lassen LAFCO reports it initiated a consolidation of two districts as a result of an MSR/SOI. Although the LAFCO initiated the process, under the guidance and leadership of the LAFCO the two districts ultimately agreed this was the best course of action and now are full partners in the consolidation.
- Orange County LAFCO reported since 2000 (when the mandate of MSRs took effect), it have processed nine complex special district consolidations, dissolutions and reorganizations.
- In a much publicized action, Contra Costa LAFCO undertook a full review of a healthcare district and despite political pressure to dissolve the district, and determined it was better to reorganize the district and create a subsidiary district within the City of Concord. Today this district is healthy and thriving.
- Butte LAFCO has conducted special studies of sewer districts prompting many changes to increase local cooperation and efficiencies related to shared services. Butte has also

reorganized special districts to remove powers no longer needed or add powers to increase constituent services.

- Santa Clara LAFCO reports conducting special studies to consider dissolving or consolidating certain districts and has facilitated several discussions amongst affected agencies. However, in the end, the inability to resolve the inherent complex issues relating to any of those actions, such as the transfer of assets and liabilities to successor agencies, the lack of community support, or the lack of political will to engage in a lengthy, expensive and uncertain process, all led to no action being taken by the entities involved or Santa Clara LAFCO.
- Marin LAFCO initiated the consolidation of six wastewater agencies as a result of a MSR. After several years of study, public hearings, and LAFCO commission approval, in the end the voters within the all four districts denied the consolidation.
- Santa Cruz LAFCO indicates in the last 36 years it has reduced the number of districts by seven, with almost all of them being a significant undertaking. It reported just completing a reorganization that took three years of work and was its main project for that time. This was known as the Lompico Reorganization, which involved the dissolution of one water district and the annexation of that area to another water district. As a result of the length of time and the amount of resources required to complete the reorganization, Santa Cruz LAFCO revised its priorities to allow enough time to facilitate the reorganization, resulting in it getting behind on other MSRs. Currently, it has identified four small districts as candidates for consolidation or dissolution. However Santa Cruz LAFCO notes that they are all functioning at the moment and it would take a crisis for an action to be initiated. This is due to the resources required to conduct a successful reorganization of any sort.

What are the challenges?

The last several examples highlight some of the challenges LAFCOs face in the reorganization of districts. The lack of community support to change which manifests through the protest provision process is a factor. Regardless of how logical the consolidation or dissolution may be, the voters in the district have the final say on the disposition of the district. The LAFCO can expend years of time and resources moving towards such an action, only to have it be turned down by the will of the people being served. This factor is often a consideration when a LAFCO decides whether or not to initiate such action.

Another challenge appears to be an inability of agencies to reach agreement on how to share the tax revenue, an action over which LAFCO has no authority to resolve.

It is important to note yet again that LAFCO can make determinations and recommendations that are operational in nature, addressing governance, managerial or financial concerns, and short of a recommended change of organization, has no authority to enforce them. Should the Legislature desire LAFCO to be more proactive and aggressive in this area, then CALAFCO suggests this be a topic that is moved forward for discussion in a forum of long-term roundtables or workshops with all affected stakeholders at the table.

The Evolution of LAFCO – What's Changed Since the Commission's 2000 Report

Looking Back at the Steps Forward

The governing landscape of LAFCOs has evolved considerably over the past 16 years. As mentioned previously, there were substantial changes in the laws in 2000, many of which were the outcome of recommendations from a report issued by the Commission on Local Governance for the 21st Century as well as the Little Hoover Commission's 2000 Report. Several of the recommendations found in

the Local Governance Commission's report (issued January 2000) parallel the recommendations of the report of this Commission issued in May 2000. Below are the most significant changes that have occurred:

Required LAFCo independence. One of the Commission's recommendations in the 2000 report was to enhance the independence of LAFCOs. The new statute provided that the county was no longer required to supply the LAFCO with all the necessary logistical resources required to do the job. Instead it created the opportunity for LAFCOs to become independent of the county. Many LAFCOs have transitioned to an independent model, although this remains a challenge for many due to a lack of financial resources or political will to expand LAFCO services. Examples of both existing dependent and independent models were provided elsewhere in this testimony and the challenges that remain in this area will be addressed in the next section.

Equal Funding. Both reports suggested equal funding would benefit LAFCOs. The statute changes provided for a formula of equal funding, thereby removing the entire financial responsibility from counties. Today this is the standard financial model with some local exceptions. Please refer to the Revenue Sources section of this testimony for details of how this formula works.

Special District representation. As a result of adding an option for special district representation on LAFCO (previously the requirements were limited, and in 2000 the law changed to allow for an automatic option to seat two special district representatives on LAFCO), 30 of the 58 LAFCOs now have this kind of representation (those counties represented in yellow on the adjacent map have special district representation on LAFCO). While this is substantial progress, CALAFCO and CSDA would like to see special district representation on all 58 LAFCOs. This is addressed further in the next section.

Review of special districts in the provision of services. The Commission's 2000 report recommended that LAFCO be required to conduct periodic and specific reviews of independent special districts. A substantial change in 2000, the law was updated to add MSRs as a required precursor to updating a SOI. MSRs are discussed in much greater detail in the above MSR section above, as requested by your Commission.

Allowance of local policies. While prior to 2000 LAFCOs were encouraged to create local policies to implement the law, the new statute declared the Legislature's intent that all LAFCOs shall adopt written policies and procedures by January 1, 2002 and that the policies include lobbying disclosure and reporting requirements, and all forms to be used by the LAFCO. Today virtually every LAFCO has adopted local policies and procedures based on local circumstances and conditions to guide them in their work.

Use of technology. The new statute required each LAFCO, by January 1, 2002, to establish and maintain a website on which access to notices and other LAFCO information is readily accessible to the public.

In today's world of ever-changing technology that allows for a higher level of information exchange and a statewide call for greater transparency, information is much more easily disseminated by LAFCO to the public and to other agencies. Further, LAFCOs now have greater access to information on special districts and other entities. Not only are those documents available directly through a district's website (if they have one), but also via the State Controller's website, where an annual report of special districts is published. These changes have most certainly increased the level of

transparency in which all public agencies operate, which was a recommendation of the Commission's 2000 report.

Greater collaboration. At the local level, there is more collaboration among local agencies today than ever before, and LAFCOs are increasingly at the hub of these collaborative dialogues. Good examples of this include (but in no way are limited to): Yolo LAFCO who gathers local leaders and facilitates discussions amongst the county and various cities on shared services opportunities; Orange County LAFCO's initiation of the South Orange County Governance Visioning Process, designed to provide a forum for stakeholders to identify viable future governance alternatives for the established and developing communities in the unincorporated territory of South Orange County; and San Diego LAFCO who coordinated and hosted a workshop on the 2016-17 San Diego County wildland fire season readiness, which brought together a number of local fire services providers.

Additionally at the state level, CALAFCO is doing increasingly more collaboration and coordination with other state associations such as CSDA, the League of California Cities, the California State Association of Counties (CSAC) and the Association of California Water Agencies (ACWA) on matters of joint interest.

Lingering Challenges and Opportunities

Independence and Funding

Although progress has been made in the areas of LAFCO independence and revenue sources, some challenges remain. As noted previously, the matter of LAFCO independence is still a struggle. The extreme variation in LAFCO staffing often creates a significant hurdle to managing the many complex governance issues facing the state and allows for many issues to remain unaddressed entirely.

Although revenue sources were expanded in 2000, this remains a challenge for at least half of the LAFCOs in the state. The variable funding schemes reported in the Revenue Sources section of this testimony create differential financial burdens among affected agencies that is not always proportional to the effort required by each LAFCO. It also creates a competitive dynamic that often results in LAFCO budgets being established based on the hardships to the smallest entities which often drive down the overall LAFCO budget and therefore the LAFCO's ability to meet its statutory requirements. Of the 55 LAFCOs who responded to CALAFCO's 2015 survey, only 30 reported their budgets allowed them to meet statutory responsibilities. Nineteen LAFCOs (34%) indicated their budgets were barely sufficient for them to meet the minimum statutory requirements and another 6 (or 11%) stated their budgets were not adequate to meet all of their responsibilities. As the Legislature creates additional responsibilities for LAFCO without providing additional funding resources, the gap will grow as LAFCOs will increasingly find it difficult to keep pace with the very limited budgets.

Political Pressure

There are political pressures and potential conflicts inherent in the very nature of the makeup of a LAFCO commission. The statute requires all LAFCO commission members to exercise their independent judgment as a whole in furthering the purpose of LAFCO rather than the interests of their appointing authority. Through the years CALAFCO has provided LAFCO commissioners throughout the state training on how this may be accomplished. The reality is that it is a difficult mandate. How reasonable is it to expect that a county, city or special district elected official will "check that hat" at the door and think only in terms of LAFCO? It is rare when an official can set all of the political pressures of their primary entity aside and think and act only in terms of LAFCO. And, when that is accomplished, there are often great consequences. For example, at the will of the entire County Board of Supervisors, or the City Selection Committee or the Special District Selection

Committee, an official appointed or elected to serve on LAFCO can easily be replaced by the entity that put them in that seat. A recent example can be found in the central valley when the City Selection Committee removed a commissioner from a LAFCO because the majority of those on the Committee disagreed with the vote of the elected official while acting as LAFCO commissioner. Arguably, this level of political or issue oriented intervention can significantly undermine any LAFCO attempt to remain neutral and independent of local agency influence.

This challenge could potentially be addressed by appointing LAFCO commission members to a fixed term regardless of their actions. This may create a better balance of the democratic appointment process with the empowerment of the official to act more independently.

Special District representation on all LAFCOs
Both CALAFCO and CSDA are working together on generating ideas and solutions to this opportunity. Today the path for special district representation on LAFCO is long, and we are collaborating on ways to make this process easier. The other challenge to having special district representation on all LAFCOs is a matter of cost. Many districts do not want to pay the cost associated with participating on LAFCO and are unable to see the significant benefits of that participation. LAFCOs are stronger when they are more diverse. When considering matters relating to special districts, it is always a broader and better balanced perspective with the views of special districts represented in the discussions. Without a special district voice on the LAFCO, those interests are left to other entities. CALAFCO and CSDA continue outreach and educational efforts with CSDA members on the benefits of being seated on LAFCO.

Emerging Challenges and Opportunities

Albert Einstein said, *"The world that we've made as a result of the level of thinking we have done thus far creates problems we cannot solve at the same level of thinking which created them."* The reality of our world today is the issues we are dealing with are more complicated than ever before.

The evolution of the role of LAFCO without the supporting resources
The evolution of the role and responsibilities of LAFCO through the years have not kept pace with the evolution of the resources available to LAFCO to meet the changing demands. In 1963 LAFCOs were designed to move boundaries. The level of scrutiny they had was light and authority was local. Over time, LAFCOs evolved to add responsibilities, to look at future growth areas and plan for where that future growth may logically occur. Then in 2000, the Legislature added the responsibility of conducting a MSR – evaluating functions, service delivery and governance of a service provider - in order to do a SOI update. A later addition required LAFCO to conduct SOI updates every five years or as necessary, which means conducting MSRs as part of that process. Today these MSRs are required to contain LAFCO commission determinations on seven primary categories. The structure and resources to implement these additional responsibilities has remained for the most part unchanged.

In 2012, as a result of SB 244 (Wolk, 2011), the Legislature added responsibility for LAFCO to identify and plan for the needs of all disadvantaged unincorporated communities (DUCs) that lie within or contiguous to an existing SOI. LAFCOs are experiencing increasing pressure from groups calling for more action to address the real needs of these communities. Not only does LAFCO lack the authority to address service deficiencies, recent legislative efforts lack addressing the root cause of many of these issues – a lack of water, lack of infrastructure, and a lack of financing for agencies to keep pace with the cost of infrastructure, operations and maintenance and regulatory compliance. LAFCOs welcome the partnership of the local communities, local, regional and state agencies to solve these very complicated and complex issues.

Increasing demands from the Legislature for LAFCOs to address local agency deficiencies without the authority and resources to do so, and the reluctance of local agencies to readily accept LAFCO assistance or intervention, combine to create a lose-lose for all. Ultimately, the LAFCO must still rely on the participating local agencies as their primary source of operational revenue (other than fees for services). These are the same agencies who are also critically reviewed by LAFCO and may not view a strong LAFCO as a helpful entity. This has become increasingly challenging as local agencies continue to grapple with their own fiscal shortages and desire to maintain local control in an era of increasing regional planning demands.

Unique new service entity structures
Joint Powers Authority and Joint Powers Agencies are becoming a more common form of local governance and in some cases the delivery of municipal services. Lacking the oversight in the provision of those services similar to those that special districts have is an increasing challenge for LAFCOs.

Recent legislative trend challenging LAFCO authority
During the 2015-16 legislative year, CALAFCO noticed an increase in legislation introduced that either bypassed established local LAFCO processes or divested LAFCO of authority in some way. Your Commission requested CALAFCO provide our thoughts on this trend. We believe there are several reasons for this trend.

First, as many of the legislative authors and sponsors have indicated, the LAFCO process is perceived as long, costly and does not guarantee the outcome they desire. To that, we say the Legislature intentionally created LAFCO processes to be deliberate, transparent and locally reviewed, especially when dealing with the dissolution or reorganization of an entity. Many factors must be considered and deliberated carefully. Several of this year's legislative efforts do not take into account all that must be considered by either dissolving or expanding a district.

We struggle with the notion that using the state legislative process is any less costly for tax payers than the local LAFCO process, and in fact argue that the local LAFCO process is more efficient and effective as local entities are better able to consider local circumstances and conditions. It has been CALAFCO's experience that while special legislation addresses an immediate concern, it often results in collateral long-term impacts to resolving local issues.

Another reason for this trend was present in several examples: the involved district previously worked with the LAFCO and was unhappy with the results of that interaction. Consequently, rather than going back and working through the issues, it sought remedy at the state level. In yet another example the local entities involved – all of which are in some way represented on their LAFCO – never discussed their issue with the LAFCO and instead went straight to their state Legislator to seek remedy. The more this scenario is embraced by individual legislators, the more frequently it is sought by special interests and others, thus moving an issue from a local public forum to Sacramento.

Finally, several of the bills introduced address entities over which LAFCOs have no authority. For example, SB 88 from 2015 gave the State Water Resources Control Board (SWRCB) the authority to mandate consolidation of water entities. It is worth noting the agencies under the SWRCB focus are primarily agencies that are not under LAFCO jurisdiction, such as mutual water companies and private providers. This particular piece of legislation was a last minute budget trailer bill on which LAFCOs were never consulted. The passage of SB 88 left CALAFCO and all LAFCOs holding the bag so to speak in figuring out how to make the new statute actually work. For the past year CALAFCO has been working with the SWRCB in the proper implementation of this bill.

There are long-term effects to the "chipping away" of the foundation of the Act. Not only does this kind of random pick-and-choose create the opportunity for conflicting sections in the statute, it can inadvertently create statutory loopholes with very serious unintended consequences. Furthermore, the continual passage of such legislation will only invite more of the same, and create a more top-down approach to local governance – which is in direct conflict with the reason the state Legislature gave LAFCO the authority it has had since 1963. The Legislature's willingness to pass these "one-off" bills undermines the LAFCO authority rather than empowering the LAFCO.

It was stated earlier that LAFCO processes were created by the Legislature to be local, thorough and deliberate. Allow me to expand on that for a moment and tie that concept to a lack of action (whether perceived or real). The peoples' voice is an important part of the LAFCO process. In most cases, voters decide on whether a district should be formed, and ultimately they can decide the fate of a district. The protest provisions in statute allow for that voice to be considered as part of the process.

Taking action to dissolve or reorganize a district requires thoughtful planning at the local level including the identification of a successor agency, the determination of what to do with the obligations, liabilities and assets of the district, and in many cases the agreement of tax revenue sharing. Many of these actions are reasons a LAFCO may choose not to initiate an action. While the applicant may pay the fees associated with the process of their application, if the LAFCO initiates the action, it is the LAFCO that absorbs all of the costs associated with that action. With already strapped budgets and staffing resources (as discussed above), the majority of LAFCOs today do not have the resources required to undertake such actions which, as noted before, can take several years to complete with no guarantee their recommended action is implemented.

So while it may seem like a simple and straightforward action, the reality is it is not.

Opportunities for the Future

As indicated in this testimony, there has been a substantial evolution of LAFCO over the past 16 years and overall LAFCOs have done a solid job meeting and in many cases exceeding their statutory requirements. Opportunities always emerge in the face of challenges. CALAFCO continues to work with our 58 member LAFCOs in support of strengthening their capacities as we see LAFCO as a vital and valuable part of the local governance landscape. CALAFCO offers the concepts below as potential future opportunities to address LAFCOs' challenges and to increase LAFCOs relevance. We stand ready to engage the Commission and its staff, stakeholders and our members in a meaningful and forward-thinking dialogue to address any viable opportunities as you narrow the scope of your special district review for your next hearing.

Increase Revenue Options for LAFCO.

In light of the increasing call for LAFCOs to conduct more in-depth studies of special districts and to consider options for improved local governance that may include actions such as reorganization, we suggest the state consider providing special funding to LAFCOs for local government reorganization studies. As stated previously, in-depth and value-added MSRs take a great deal of resources – human, fiscal and time. The outcomes can be critical to the overall health and long-term well-being of a community.

In its 2000 Report, as part of Recommendation Two, the Commission stated: "*The State should provide LAFCOs with the direction and resources necessary to make them a catalyst for the effective and efficient evolution of independent special districts.*" While several of the recommended actions outlined have been taken, funding special studies remains one unaddressed recommendation.

Perhaps with the Governor's Office of Planning and Research (OPR) as a partner, a certain dollar amount can be allocated to each LAFCO annually. Or, if the focus is to conduct specific studies, an allocation based on the number identified to be studied can be issued to the LAFCOs involved.

Another suggestion for the state to consider is allowing LAFCO to directly receive a certain percentage of property tax revenue in addition to the funding provided by the local entities participating on LAFCO. Perhaps the state can issue to LAFCO a fraction of the percentage of these agencies' portion of Educational Revenue Augmentation Fund (ERAF) funding that was previously taken away. Since the local agencies have a statutory obligation to financially support LAFCO, this seems like a logical connection.

With increasing unfunded mandates on local government, the State is setting up expectations that are harder and harder to meet. As LAFCOs are funded by local agencies, the more mandates these entities must deliver on the fewer financial resources are available for the LAFCO to call on to deliver their increasing mandates. It is a no-win cycle. CALAFCO urges the Legislature to consider the cumulative impact of all of the mandates being handed down to local entities.

Statutorily authorize LAFCO to dissolve inactive districts.
Although the total number of inactive districts statewide is currently unknown, CALAFCO suspects there are a number of districts that have not met in well over a year, not adopted an annual budget for a number of years, have not held elections in years, or have gone completely dark. We believe these districts are worthy of a closer look and may very well be the most obvious candidates for dissolution. We suggest the state grant LAFCO the statutory authority to dissolve these districts after the appropriate study has been conducted or certain determinations have been made by the LAFCO. Funding to conduct these studies and conduct the dissolution process should be considered along with the statutory authority.

Conduct a statewide study on the effectiveness of MSRs and make legislative recommendations accordingly.
It has now been 16 years since LAFCOs were authorized to conduct regular SOI updates and MSRs. Enough time has passed and enough LAFCOs have completed several "rounds" of these studies for there to be the kind of data needed to study and evaluate the effectiveness of the requirement. There are certainly lessons learned and best practices that exist as a result. It may be the right time to ask questions such as: (1) Are the right factors being reviewed; (2) Is the seemingly arbitrary timeframe of every five years the most appropriate interval; (3) What have been the MSR determinations and the subsequent actions; and (4) What do the entities involved see as the value in these studies? In partnership with CALAFCO, the state may want to consider funding a study of the effectiveness of updates and reviews based on the original intent of the law and local circumstances and conditions. CALAFCO can partner with any number of entities on this study.

Revisit and revise certain principal acts.
Over the past 16 years a number of principal acts have been updated thanks to the efforts of the former Senate Local Government Committee consultant staff. CALAFCO recommends all of the principal acts be reviewed and updated as necessary, perhaps starting with the one pertaining to healthcare districts. As this is a substantial undertaking in both time and resources, this would be a multi-year project requiring a detailed plan and timeline. As prior principal act reviews were led by local government committee staff, CALAFCO recommends either the Assembly Local Government Committee of Senate Governance and Finance Committee take the lead on this endeavor.

Keep LAFCO decisions local.
CALAFCO urges the Legislature to keep local LAFCO decisions local. While we understand there are certain situations in which the state must act (for example, if a unique governance structure is requested outside of that provided in the principal act, or granting powers of the district not provided for in the principal act), there are many instances in which legislation is introduced that is best dealt with locally. The more these kinds of legislation are passed, the more we will see introduced.

As an association, CALAFCO has adopted Legislative Policies that guide both our Board of Directors and our Legislative Committee when considering legislative matters affecting LAFCO. Primary among those policies is the preservation of the authority of LAFCO. CALAFCO supports legislation that maintains LAFCO's authority to condition proposals to address any or all financial, growth, service delivery, and agricultural and open space preservation issues. Further, we support legislation that maintains LAFCO's ability to make decisions regarding boundaries and formations, as well as to enact recommendations related to the delivery of services and the agencies providing them, including consolidations, reorganizations or dissolutions.

As all of these recent legislative efforts fly in the face of LAFCO authority, CALAFCO has opposed them in one form or another, while attempting to work with the authors and sponsors on acceptable middle-ground to create a win-win. From a CALAFCO perspective, some of those efforts have been successful while some have not.

CALAFCO has also increased efforts to educate state legislative staff on who LAFCOs are and what they do. In the fall of 2015 for the first time, we hosted a *Lunch and Learn with LAFCO* series and plan to repeat these sessions annually. In addition, CALAFCO continues to find new ways to educate our member LAFCOs on the importance of building strong relationships at the local level with their state Legislators.

Recommendation Three from the 2000 Little Hoover Commission Report.
The 2000 report was very broad in scope with a host of recommendations. One in particular, Recommendation Three, appeared to get little traction, despite the fact it contains a good foundation for discussion in improving and enhancing local governance.

CALAFCO agrees in concept with several of the specific actions outlined within this recommendation, and feels they are worthy of closer scrutiny. We see the opportunities cited therein have evolved over the past 16 years to:

- *Study the long-term effects of consolidations and reorganizations.* This could be done in partnership with CALAFCO, CSDA and the Institute of Local Government (ILG), or perhaps the Public Policy Institute of California.
- *Develop performance measures for special districts.* Standard industry measures could be created by service type for certain measures, and other measures would be standard across the board for things such as finance and governance. These can be collaboratively developed by CSDA, CALAFCO, the ILG and the Special District Leadership Foundation (SDLF). Once established these performance measures can be effectively used by LAFCO when conducting a MSR and SOI update.
- *Establish a cadre of trainers.* In conjunction with CALAFCO and CSDA, the ILG seems like the logical partner to coordinate and support this effort. Retired LAFCO EOs and special district General Managers from around the state who are willing to train as needed or be called upon to assist and advise in certain situations, might be used at the cost of a small stipend or even on a pro-bono basis.

CALAFCO

In closing, I want to again thank you for the opportunity to share our viewpoint on the special relationship between LAFCOs and special districts, to highlight the progress made by LAFCOs over the past 16 years, and to address challenges and opportunities we see for the future. CALAFCO is happy to make itself available as a resource to the Commission and the Legislature to improve the landscape of local governance in California.

Respectfully,

Pamela Miller
Executive Director