

**LAFCO MEETING AGENDA**  
Board Meeting Chambers, 70 West Hedding Street, First Floor  
San Jose, CA 95110  
October 4, 2017  
1:15 PM

**CHAIRPERSON: Sequoia Hall • VICE-CHAIRPERSON: Ken Yeager**  
**COMMISSIONERS: Sergio Jimenez, Rob Rennie, John L. Varela, Mike Wasserman, Susan Vicklund Wilson**  
**ALTERNATES: Sylvia Arenas, Cindy Chavez, Yoriko Kishimoto, Russ Melton, Terry Trumbull**

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**NOTICE TO THE PUBLIC**

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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](http://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](http://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](http://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, 777 North First Street, Suite 410, 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) 993-4705.

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777 North First Street, Suite 410 ▪ San Jose, CA 95112 ▪ (408) 993-4713 ▪ [www.santaclaralafco.org](http://www.santaclaralafco.org)

COMMISSIONERS: Sequoia Hall, Sergio Jimenez, Rob Rennie, John L. Varela, Mike Wasserman, Susan Vicklund Wilson, Ken Yeager  
ALTERNATE COMMISSIONERS: Sylvia Arenas, Cindy Chavez, Yoriko Kishimoto, Russ Melton, Terry Trumbull  
EXECUTIVE OFFICER: Neelima Palacherla

**1. ROLL CALL**

**2. PUBLIC COMMENTS**

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**3. APPROVE MINUTES OF AUGUST 2, 2017 LAFCO MEETING**

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**ITEMS FOR ACTION / INFORMATION**

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**4. PRESENTATION ON THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)**

For information only.

**5. PREPARATION & IMPLEMENTATION OF A COMMUNICATIONS AND OUTREACH PLAN**

**Recommended Action:**

1. Authorize staff to issue a Request for Proposals for a professional service firm to prepare and implement a communications and outreach plan for LAFCO.
2. Delegate authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$75,000 and to execute any necessary amendments subject to LAFCO Counsel's review and approval.
3. Appoint a LAFCO Commissioner to serve on the consultant interview panel.

**6. ANNUAL REPORT**

**Recommended Action:** Accept the 2016-2017 Annual Report (July 1, 2016 to June 30, 2017)

**7. LITTLE HOOVER COMMISSION REPORT: SPECIAL DISTRICTS – IMPROVING OVERSIGHT AND TRANSPARENCY**

For information only.

**8. EXECUTIVE OFFICER'S REPORT**

**8.1 UPDATE ON RECRUITMENT FOR NEW LAFCO ANALYST POSITION**

For information only.

**8.2 MEETINGS WITH APPLICANTS ON POTENTIAL LAFCO APPLICATIONS**

For information only.

**8.3 MIDPENINSULA REGIONAL OPEN SPACE DISTRICT'S MT. UMUNHUM SUMMIT OPENING EVENT**

For information only.

**8.4 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING**

For information only.

**8.5 BAY AREA LAFCO STAFF MEETINGS**

For information only.

**8.6 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING**

For information only.

**9. PENDING APPLICATIONS / UPCOMING PROJECTS**

**10. COMMISSIONER REPORTS**

**11. NEWSPAPER ARTICLES / NEWSLETTERS**

**12. WRITTEN CORRESPONDENCE**

12.1 Correspondence between Perry J. Woodward, Hopkins Carley, and Mala Subramanian, LAFCO Counsel, on the Proposed Motion for Reconsideration of Monte Sereno Urban Service Area/Sphere of Influence Amendment (Lucky Road)

12.2 Letters from the Special District Risk Management Authority Regarding President's Special Acknowledgement Awards

**12A. *ADDITIONAL ITEM*: RECONSIDERATION OF LAFCO'S ACTION ON MONTE SERENO USA/SOI AMENDMENT (LUCKY ROAD)**

**For the Commission's consideration/action.**

*Agenda item was added at the request of Commissioner Sergio Jimenez*

**13. ADJOURN**

Adjourn to the regular LAFCO meeting on December 6, 2017 at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.







**REVISED LAFCO MEETING AGENDA**  
Board Meeting Chambers, 70 West Hedding Street, First Floor  
San Jose, CA 95110  
October 4, 2017  
1:15 PM

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**For the Commission's consideration/action.**

*Agenda item was added at the request of Commissioner Sergio Jimenez*

**13. ADJOURN**

Adjourn to the regular LAFCO meeting on December 6, 2017 at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.



**LAFCO MEETING MINUTES  
WEDNESDAY, AUGUST 2, 2017**

**CALL TO ORDER**

The meeting was called to order at 1:15 p.m.

**1. ROLL CALL**

The following commissioners were present:

- **Vice Chairperson Ken Yeager**
- **Commissioner Sergio Jimenez** (arrived at 1:17 p.m.)
- **Commissioner Rob Rennie**
- **Commissioner John L. Varela**
- **Commissioner Mike Wasserman**
- **Commissioner Susan Vicklund Wilson**
- **Alternate Commissioner Yoriko Kishimoto** (voting in place of Sequoia Hall)
- **Alternate Commissioner Russ Melton**
- **Alternate Commissioner Terry Trumbull**

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 was none.

**3. MINUTES OF JUNE 7, 2017 LAFCO MEETING**

The Commission approved the minutes of the June 7, 2017 LAFCO meeting.

Motion: Wasserman                                        Second: Rennie

AYES: Kishimoto, Rennie, Varela, Wasserman, Yeager

NOES: None                                                ABSTAIN: Wilson                                        ABSENT: Jimenez

**MOTION PASSED**

4. **WEST VALLEY SANITATION DISTRICT 2017-01 (SHANNON ROAD)**

The Commission adopted LAFCO Resolution No. 2017-04, approving the annexation to the West Valley Sanitation District of approximately 13.88 acres located at 15215 and 15401 Shannon Road in Los Gatos.

Motion: Varela

Second: Kishimoto

AYES: Jimenez, Kishimoto, Rennie, Varela, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

5. **RESPONSE TO THE 2016-2017 CIVIL GRAND JURY REPORT ENTITLED, "LAFCO'S DENIALS: A HIGH SCHOOL CAUGHT IN THE MIDDLE"**

Ms. Palacherla presented the staff report. **Acting Chairperson Yeager** informed that LAFCO has no obligation to agree with the Civil Grand Jury (CGJ) Report's findings or to carry out its recommendations.

McKenzie Mossing, representative of the Sierra Club Loma Prieta Chapter and the Santa Clara Valley Audubon Society, stated that they are familiar with LAFCO's mission and appreciate how staff and commissioners evaluate proposals and receive input from stakeholders. She stated that they supported LAFCO's decision on the South East Quadrant (SEQ) and believed that it showed integrity in judgement and that it was based on sound evaluation. She expressed concerns with the CGJ Report because of its factual errors, lack of understanding of LAFCO law and its evident bias, and she described the draft LAFCO response as accurate, thoughtful, measured and respectful.

Alice Kaufmann, Legislative Advocacy Director, Committee for Green Foothills, informed that the CGJ Report contains omissions and misstatements, including an unattributed mention that two County employees indicated that the County supported the SEQ expansion despite the County's letter urging the City to deny the proposal due to numerous concerns. She stated that the CGJ Report's finding that Morgan Hill lacks representation on LAFCO demonstrates the CGJ's lack of understanding about LAFCO since the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires commissioners to represent the interests of the public as a whole and not just that of the appointing authority. She informed that the California Association of LAFCOs (CALAFCO) recognized Santa Clara LAFCO and Commissioner Wilson multiple times for their work to preserve agricultural lands and open space, and to curb urban sprawl, but the CGJ Report appears to fault them for carrying out that mission.

**Acting Chairperson Yeager** determined that there are no members of the public who wished to speak.

**Commissioner Wilson** stated that she will refrain from discussing Finding #8 which involves her. She proposed that the phrase, "including the private high school," be added to the last sentence of LAFCO's response to Recommendation #5 in order to indicate that LAFCO has approved many Morgan Hill urban service area (USA) amendment proposals, including the high school and that there is no bias. Regarding the CGJ's Recommendation #6, she noted that she is accessible and that complaints against staff could have been voiced to her when she met with the public or the city on numerous occasions. She stated that she found the two emails from Mr. Muirhead regarding the dynamics between Morgan Hill and LAFCO enlightening. She questioned why the CGJ did not interview any of the LAFCO commissioners before issuing the report on LAFCO. She expressed concern that the proposed response to the CGJ Report does not address the issue of Mr. Tanda's potential conflict in his position as foreperson of the CGJ. She suggested that LAFCO's response should factually identify the potential conflict in order to inform Judge Patricia M. Lucas, and attach the joint letter. Lastly, she recognized staff for being professional and ethical and stated that the CGJ's criticism of staff is unwarranted.

**Commissioner Varela** informed that he met with staff to understand the CGJ Report since he was not on LAFCO at the time of the Morgan Hill application. He informed that he also met with Mayor Tate and City staff; with Mr. Muirhead, a member of the public who is familiar with the issues; and with the Farm Bureau. He indicated that he suggested that the Farm Bureau invite the LAFCO Executive Officer to make a presentation on LAFCO and its mission to preserve farmland. He also suggested that LAFCO work to resolve issues with Morgan Hill, Gilroy and San Martin at a workshop and recommended that LAFCO, in addition to submitting a response to the CGJ Report, send a separate letter to the judge informing her about this collaborative approach.

**Acting Chairperson Yeager** proposed that the Commission act on the draft LAFCO response first, and then consider further action regarding collaboration efforts.

**Alternate Commissioner Kishimoto** informed that she did not vote on the SEQ proposal but reviewed all the materials. She expressed support for the draft response. She noted that as a former council member she is familiar with land use issues and observed that given the land values in Santa Clara County it is rare to find a large piece of land earmarked for schools. She stated that schools must amass land and compete with other uses and that most cities do not have the luxury of expanding into adjacent lands.

In response to her inquiry, Ms. Palacherla informed that cities are not allowed to change the zoning for two years after annexation unless they make certain findings. **Alternate Commissioner Kishimoto** then stated that since cities are free

to rezone lands after two years it is not good land use planning to make decisions based on the worthiness of a particular institution or applicant.

**Commissioner Rennie** stated that he is in an unbiased position since he was not involved in LAFCO's action on the Morgan Hill proposal. He stated that he expected the CGJ Report to be well-informed, unbiased and thoroughly researched but was offended that such a poorly prepared report was made available to the public. He indicated that the CGJ as an institution could be hurt by this kind of a report. He expressed his support for a strong response which could send a message that we need a better report.

**Commissioner Jimenez** expressed his appreciation for staff noting that while he was not on LAFCO when the decisions were made, as a new commissioner, he found staff to be very accessible, honest in their dealings and responsive to commission's requests for information. He expressed agreement with Commissioner Varela regarding a collaborative approach and stated that there is value in building relationships. In response to an inquiry by **Commissioner Jimenez**, Ms. Palacherla advised that LAFCO's work plan calls for a comprehensive review of its policies in order to clarify and strengthen them. She stated that staff will bring back a report to the commission with a proposed timeline and process for the review. In response to a follow-up inquiry, she informed that a comprehensive review of policies was conducted in 2002 and included service review and sphere of influence policies. She stated that LAFCO later adopted island annexation policies and agricultural mitigation policies which involved a year-long stakeholder participation process. In response to further inquiry, she advised that staff does not envision a major change in policies as they are consistent with state law and longstanding countywide policies. She indicated that the revisions will be more explanatory and clarifying in nature to communicate the policies' intent more clearly. **Commissioner Jimenez** suggested that staff bring back a workplan for the review soon.

In response to **Commissioner Jimenez's** inquiry as to how the CGJ decides on what issues or agencies investigate, **Acting Chairperson Yeager** informed that he served on the CGJ many years ago and that its members are selected by a judge to serve for a year and that generally the members have little knowledge about government. He informed that the panel spends the first few months figuring out their role, deciding on topics to investigate and creating a workplan. He stated that it is his experience that a member will suggest a topic based on his interest or information and a committee of two or three members will write the report which the remaining members of the CGJ see towards the year's end, and at which point they generally accept it to meet the deadline. He explained that because the report is published under the name of the CGJ, and because it may draw media attention agencies under investigation get nervous. **Commissioner Jimenez** thanked Acting Chairperson Yeager and expressed his support for the



draft LAFCO response, including the proposed revisions and a suggestion to work more collaboratively.

**Commissioner Wasserman** stated that he agrees with some points in the CGJ Report and with some points in the draft response and that he believed that, in general, LAFCO could do better on some things. He expressed respect for his peers even though he disagreed with them and indicated that he cannot vote in favor of the draft response because he cannot support it in its entirety. He noted that he is looking forward to an open discussion and to some potential changes through the upcoming policies review. He expressed appreciation to the CGJ for their work on the CGJ Report, as well as to the staff for the draft LAFCO response, and he stated that each entity has made some valid points.

**Acting Chairperson Yeager** expressed satisfaction with the draft LAFCO response and noted that the CGJ Report contained factual errors and omissions, and missed the point that LAFCO's work is mandated by state law. He applauded staff for stating that items 1A, 1B and 2 require further analysis which will take place during the comprehensive review of its policies that are already part of LAFCO's work plan prior to the CGJ Report. He expressed his surprise that the CGJ Report focused on and criticized staff for LAFCO's decisions rather than focusing on the Commission, and noted that it is the Commission that makes the decisions and provides direction which staff carries out. He informed that his actions reflect his own beliefs and are based on LAFCO's guiding principles.

The Commission:

- Approved the draft LAFCO response with the following revisions: (1) a minor change on page 11, as state previously; (2) a paragraph with factual information on the potential conflict for the CGJ foreperson; and (3) include as an attachment, the joint letter from the American Farmland Trust and various other organizations.
- Authorized Acting-Chairperson Yeager to sign response letter and directed staff to forward LAFCO's response to the Presiding Judge of the Santa Clara County Superior Court.

Motion: Wilson

Second: Jimenez

AYES: Jimenez, Kishimoto, Rennie, Wilson, Yeager

NOES: Varela, Wasserman

ABSTAIN: None

ABSENT: None

### **MOTION PASSED**

**Commissioner Varela** restated his suggestion for a workshop that would be attended by staff, two or three LAFCO commissioners and representatives from South County cities. Citing Google's plans for downtown San Jose as an example,

he explained that as a result of the jobs growth and the increased demand for housing there will be increased pressure for south county communities to expand. He suggested that LAFCO form a committee to discuss with the cities and work through issues and find solutions before any future applications are presented to LAFCO. He stated that he would not want to serve on the committee because he lives in Morgan Hill and wants to avoid any conflicts of interest. He proposed that LAFCO send a letter to the presiding judge about the workshop to demonstrate LAFCO's intent to collaborate with the south county cities.

In response to the inquiry by Acting Chairperson Yeager, Ms. Palacherla indicated that even though for five years prior to the city submitting its application, staff provided multiple comment letters to the city explaining LAFCO's concerns, those concerns were not adequately addressed by the city. She described how LAFCO, along with the County and Open Space Authority, formed a working group with the city staff to work on an alternative plan that is more consistent with mutual goals, and noted that after a few months of meetings, the city decided to move forward and submit an application to LAFCO based on its original plans despite the time and resources that the three agencies put into the effort. She explained that once staff received an application, staff processed and analyzed it as it was proposed. Acting Chairperson Yeager observed that while he sees the value in understanding the community's needs and constraints, he questioned if the landowners and elected officials in the South County understand LAFCO's role and whether there is any benefit to dialogue if it does not have any impact when the proposals are brought to LAFCO.

**Commissioner Varela** clarified that his proposal is for a single event rather than an ongoing series of meetings. He explained that such an event could help expand the community's understanding of LAFCO and what LAFCO does. In response to an inquiry by **Acting Chairperson Yeager**, **Commissioner Varela** indicated that his original proposal was for an ongoing committee but based on the experience that Ms. Palacherla shared, which indicated that a series of meetings among LAFCO, the County, OSA and Morgan Hill were not helpful, he revised it to a one-time, open dialogue with the community. **Commissioner Wilson** expressed support for the idea of collaboration and recalled LAFCO's process for adopting agricultural mitigation policies which involved several workshops in South County. She also recalled the success of the Agricultural Summit that LAFCO co-hosted, and which was attended by farmers, ranchers, County supervisors and city representatives; and suggested that LAFCO host another similar event geared towards LAFCO and what it does.

**Alternate Commissioner Kishimoto** stated that even though LAFCO is not a land use authority, it can convene the various players for discussion purposes. She expressed support for a LAFCO initiated workshop and suggested that LAFCO include Plan Bay Area in the discussion regarding land use patterns within cities

in the county. **Commissioner Varela** informed that Morgan Hill is one of the few cities in the state to have adopted an ordinance in the 1970s limiting the number of residential units each year. He observed that LAFCO and the cities should discuss future pressures for boundary expansion and the applications that LAFCO will receive. **Acting Chairperson Yeager** noted that there appears to be a consensus for a community meeting and requested ideas ahead of the next meeting.

**6. EXECUTIVE OFFICER'S REPORT**

**6.1 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING**

The Commission noted the report.

**6.2 UPDATE ON RECRUITMENT FOR NEW LAFCO ANALYST POSITION**

The Commission noted the report.

**6.3 BAY AREA GREENPRINT LAUNCH AND WORKSHOP**

The Commission noted the report.

**6.4 MEETING WITH COUNTY OF SANTA CLARA PARKS DEPARTMENT STAFF**

The Commission noted the report.

**6.5 MIDPENINSULA REGIONAL OPEN SPACE DISTRICT LEGISLATIVE PICNIC**

The Commission noted the report.

**6.6 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING**

The Commission noted the report.

**7. CALAFCO RELATED ACTIVITIES**

**7.1 2017 CALAFCO ANNUAL CONFERENCE ON OCTOBER 25-27**

The Commission authorized commissioners and staff to attend the Annual Conference and directed that associated travel expenses be funded by the LAFCO Budget for Fiscal Year 2018.

Motion: Jimenez

Second: Varela

AYES: Jimenez, Kishimoto, Rennie, Varela, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

## 7.2 NOMINATIONS TO THE 2017/2018 CALAFCO BOARD OF DIRECTORS

The Commission nominated Commissioner Wilson as the Public Member representative of the Coastal Region to the 2016/2018 CALAFCO Board of Directors.

Motion: Yeager

Second: Kishimoto

AYES: Jimenez, Kishimoto, Rennie, Varela, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

### MOTION PASSED

## 7.3 DESIGNATE THE VOTING DELEGATE AND ALTERNATE

The Commission designated Commissioner Rennie as the voting delegate and Alternate Commissioner Melton as the alternate.

Motion: Wilson

Second: Rennie

AYES: Jimenez, Kishimoto, Rennie, Varela, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

### MOTION PASSED

In response to an inquiry by **Alternate Commissioner Kishimoto**, Ms. Palacherla advised that there is no information about the report except that the Little Hoover Commission would meet later in August.

## 8. PENDING APPLICATIONS / UPCOMING PROJECTS

There was none.

## 9. COMMISSIONER REPORTS

**Commissioner Varela** proposed that LAFCO reconsider its action of June 7, 2017 to deny the Monte Sereno USA and SOI Amendment 2016 (Lucky Road).

In response to an inquiry by **Commissioner Wilson**, Ms. Subramanian advised that there are legal constraints to reconsideration of the application and proposed that she can briefly discuss or agendaize for the next meeting. At the request of **Acting Chairperson Yeager**, she explained that while the commissioners may be familiar with Rosenberg's Rules of Order, LAFCO law has provisions for reconsideration of the Monte Sereno application which require that such a request be made within 30 days of LAFCO adopting its resolution. She stated that the 30-day period for the reconsideration has passed. In response to inquiries by **Commissioner Wasserman**, Ms. Subramanian noted that the resolution was adopted on June 7<sup>th</sup> and that LAFCO does not have the authority to change the

reconsideration rules since it is state law. Upon further enquiry by **Commissioner Wasserman**, Ms. Subramanian indicated that even if the item was placed on a future agenda she would note that LAFCO would not have the authority to reconsider it. She confirmed that if the commission wishes to hear the item again, the applicant must resubmit the application. Ms. Palacherla and Ms. Subramanian explained that the City of Monte Sereno may resubmit the USA amendment application and pay the LAFCO fees. In response to **Commissioner Jimenez**, EO Palacherla stated that USA applications are charged on a time and material basis and that the application fee is approximately \$11,000. Ms. Palacherla expressed agreement with Commissioner Jimenez that the processing cost would likely be lower than the deposit if the information remains the same in the resubmittal.

**Acting Chairperson Yeager** concluded that the Commission has taken no action.

**10. NEWSPAPER ARTICLES / NEWSLETTERS**

There was none.

**11. WRITTEN CORRESPONDENCE**

There was none.

**12. CLOSED SESSION  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

The Commission adjourned to Closed Session at 2:25 p.m., and reconvened to an open meeting at 3:05 p.m.

**Acting Chairperson Yeager** announced that there is no report from the Closed Session.

**13. ADJOURN**

The Commission adjourned at 3:06 p.m., to the regular LAFCO meeting on October 4, 2017 at 1:15 p.m., in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

Approved on \_\_\_\_\_.

\_\_\_\_\_  
Ken Yeager, Acting Chairperson  
Local Agency Formation Commission of Santa Clara County

By: \_\_\_\_\_  
Emmanuel Abello, LAFCO Clerk



**LAFCO MEETING: October 4, 2017**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Analyst**  
**SUBJECT: PRESENTATION ON THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)**

### **FOR INFORMATION ONLY**

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On September 22<sup>nd</sup>, staff met with Rob Eastwood (County Planning Manager) to receive an update on the Santa Clara Valley Climate & Agriculture Protection Program (CAPP). The County and the Santa Clara Valley Open Space Authority (OSA) are currently finalizing the draft CAPP Action Plan which proposes a suite of policies and programs intended to sustain and grow a regional agricultural economy in Santa Clara Valley. The draft Action Plan will be presented to the County Board of Supervisors in December for their approval and authorization to begin implementing elements of the plan.

Attached for the Commission's information are a draft project schedule for the CAPP, and notes from the most recent meetings of the CAPP's two technical panels (i.e. municipal sector panel and agricultural sector panel). The Commission will receive a presentation at the meeting from Mr. Eastwood on CAPP and the proposed elements of the CAPP Action Plan. Staff will review the draft Action Plan when it is publicly available and provide comments, as necessary.

The County will also be submitting a grant request to the State for funds to support the creation of a Regional Agricultural Conservation Easement (ACE) purchasing program which would be administered by the County, in partnership with the OSA.

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 core mandate to preserve farmland and curb urban sprawl. Staff will continue to keep the Commission informed, accordingly.

### **ATTACHMENTS**

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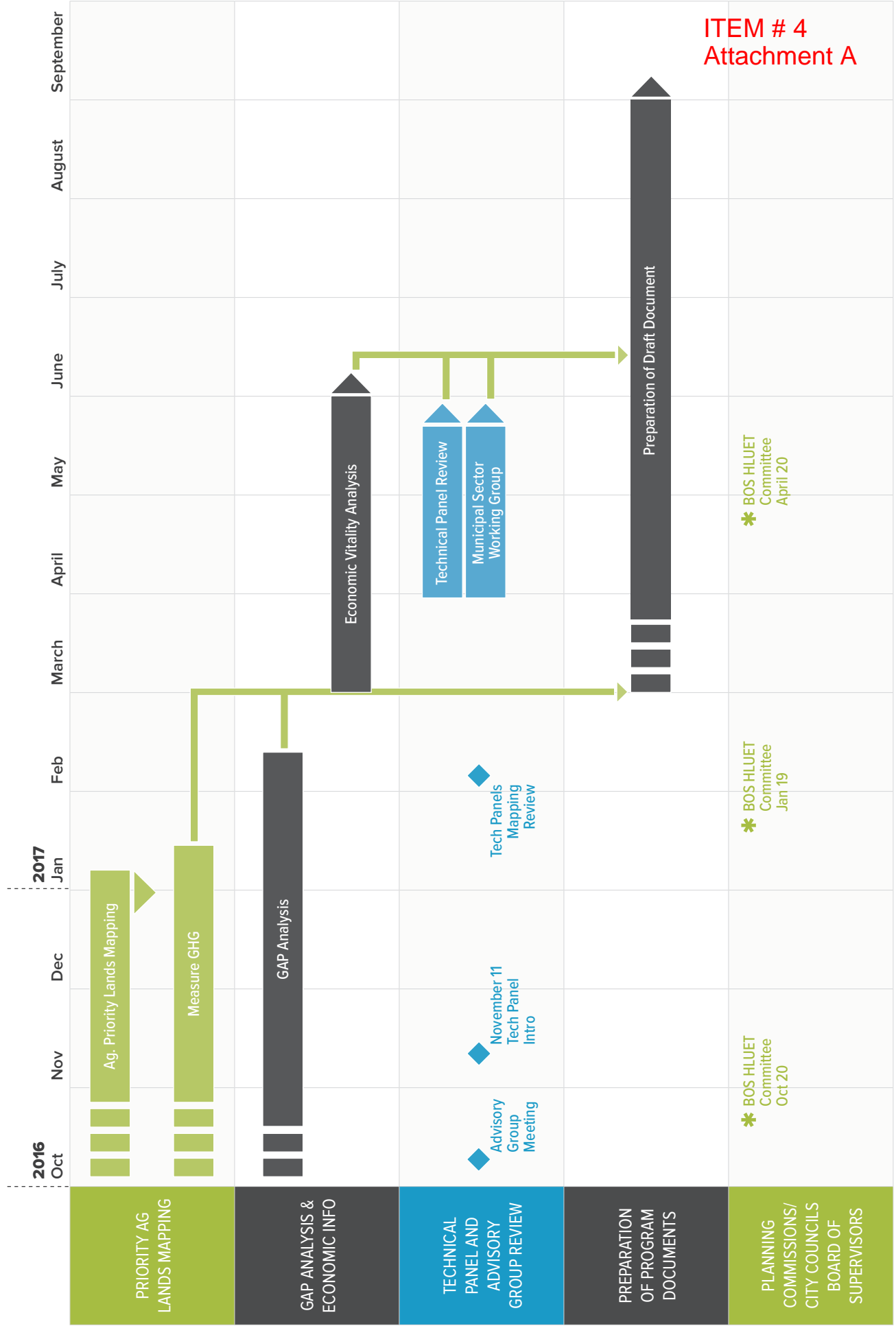
Attachment A: CAPP Timeline  
Attachment B: Composition of Technical Panels  
Attachment C: Technical Panels Meeting Notes: Municipal Sector & Agricultural Sector





# DRAFT ROADMAP - SANTA CLARA CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)

Approximate Timeline as of October 31, 2016



ITEM # 4  
Attachment A

Note: Dates and durations are approximate and may be changed due to public and agency input



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# THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM [CAPP]

ITEM # 4  
Attachment B

## TECHNICAL PANELS

### FARMING & FOOD SECTOR PANEL

Name	Title and Agency
Aparna Gazula	UCNAR - Small Farms Advisor
Bill Chiala	
Erin Gill	Grass Farm Business Owner; President, Santa Clara County Farm Bureau
Greg Leonard	Santa Clara County Food Systems Alliance
Janet Burbach	Owner/operator - Tilton Ranch ; VP Santa Clara County Farm Bureau
John Telfer (Morgan Hill)	Realtor, South County farmland (Southeast Quadrant)
Julie Hutcheson (FSA)	Santa Clara County Food Systems Alliance
Pete Aiello	Usegi Farms Owner/President
Sam and Nick Thorp	
Sheila Barry	UCNAR - Livestock and Natural Resources Advisor

### MUNICIPAL PANEL

Name	Title and Agency
Anthony Eulo	Program Administrator City of Morgan Hill
Brian Mendenhall	Project Manager Water Resources Planning and Policy Unit
Jared Hart	Supervising Planner - Long Range Planning City of San Jose
Kristi Abrams	Community Development Director City of Gilroy
Rebecca Tolentino	Interim Planning Manager City of Gilroy
Steve Rymer	Morgan Hill City Manager





# Technical Panel 2 Meeting Notes: Municipal Sector

Santa Clara Valley Climate & Agriculture Protection Program  
Monday, June 19th, 2017 | 9am-12pm  
Morgan Hill City Hall | Morgan Hill, CA

ITEM # 4  
Attachment C

## Meeting Objectives

1. Introduce proposed framework for creating and sustaining a vibrant agricultural economy in south Santa Clara valley.
2. Receive tech panel feedback on the draft goals and strategies, tools, and agricultural core area.
3. Municipal Tech Panel specific goals:
  - a. Get input on how to make this framework successful in cooperation with local jurisdictions.
  - b. Identify potential policy and political barriers and opportunities.
  - c. Explore potential next steps in engaging municipalities.

## Links

- [Presentation: CAPP Action Plan Outline](#)
- [CAPP Elements Handout](#)
- [Detailed Descriptions of Elements in Handout](#)

## Welcome

- Rob Eastwood welcomed the group and let them know the key objective today was to get the municipal perspective on how the CAPP plan is coming together.
- He noted, there's already a sign of success here: the County, Open Space Authority, and Morgan Hill partnered and added the Chiala Family property for an easement acquisition grant. This is sort of a pilot for what might be a regional effort.
  - It proves we can get in a room together and work towards common goal.

## What we have learned/key findings

(Rob Eastwood and Jake Smith)

Rob and Jake presented slides 6-10 in the [CAPP Action Plan Outline](#). Members of the technical panel asked clarifying and programmatic questions and made comments including:

- Did you discover instances of Silicon Valley corporate kitchens contracting for local produce?
  - There are some instances of this. Will be covered in the elements.
- Density of development and how that relates to ag land.
  - It would be helpful to state approximate **acreage of lands considered for municipal development**, so that we know what's at risk here.
  - This map represents a case where all policies and build out potential are realized.
- Did you think about where the **tipping points** are? If we're losing 8k acres, it's actually more because of associated infrastructure, etc.
  - Not sure how to quantify that? We'll see if we can put some rough numbers to that.
- What is the impact for **greenhouse gas reduction** of losing this acreage?
  - This is something we need to provide more data on in the final plan.
- This does not look at large scale **transportation infrastructure programs/expansion**.
  - We will need to look at this. An Environmental Impact Review for this will be out around the time we launch this.
- Are we expecting **regulation on new growth** here? This could apply to converted land to help mitigate some of negative impacts, such as on groundwater storage/runoff?
  - Our focus has been more on prevention. A bit out of context for this project.
  - **Water resources as co-benefit** is rising as a major benefit for this project.
- Can we **quantify the economic loss** of the loss of ag land? (Effects on economy, jobs, water, etc.)
  - We would have to characterize it as "If we did nothing, what exactly would this mean economically?"

- **For investors it looks like these parcels are ideal for purchase-** they can wait and it's just a matter of time before the land use changes and the parcel is more valuable.
- In Morgan Hill is it safe to assume that **converted land would be used for housing?** In other places could land be used for **industrial purposes** that would **add jobs**?
- What are comments from [LAFCO](#) around this project? At some point this needs to happen.
  - They are being briefed in the background. Haven't reached out to them explicitly to get their perspectives on the work.
  - More important for us to get on same page as counties and cities.
- What is the particular role for LAFCO, ideally?
  - If the four jurisdictions come to an agreement I would like to see them say "Good for you, we're behind it". There's some risk they wouldn't say this, though.

## Introducing the Draft Framework for Creating and Sustaining a Vibrant Agricultural Economy in South Santa Clara Valley

(Andrea Mackenzie)

Andrea Mackenzie presented slides 11 to 13 in the [CAPP Action Plan Outline](#). Her presentation highlighted:

- The three parts of the framework: Goals, Tools, and Ag Core.
- At heart of why state is interested: more conversion = more greenhouse gas emission and that makes it difficult for State and counties to achieve climate change goals.
- Some say ag is dead in SCV, but no other place with same climate and soils. This is why we added regional branding and marketing here. South County can't connect w North County. Public awareness of farming industry is needed here.
- High priority for state of CA. This is a prerequisite for a grant from the state- where we want to go with this. CAPP provides foundation for policy agenda.

### Panel feedback

- Could we develop **product labels tiered by how local** they are?
  - In terms of marketing and building brand- many familiar with IPM: Begin with organic, and then increase use of pesticides. Similarly, maybe set up a tiered system of rating products beginning with local?
  - Local to you, local to somebody and expands out from there.
  - *There's always someplace else you can go to get the food you want. At the same time, we have a shrinking footprint of agricultural land globally. Some of places we get food have nowhere near same standards for labor/human condition, pesticide use, water stewardship, etc. This means **not supporting agriculture doesn't lead to long term viability for the quality of living in SCV.***
    - *This is a food security issue.*
- **Highlighting co-benefits** gives the CAPP program an extra push.
  - The program goals might consider highlighting these?
  - Great point- making it more explicit would be helpful.
- Talk to farmers about SCV region and you'll hear that the **climate is unique, the soil is great, and we have a water well managed water district.**

## Establishing the Agricultural Core

(Rob Eastwood and Jake Smith)

Rob and Jake presented slides 14 to 17 in the [CAPP Action Plan Outline](#). In their presentation, they emphasized:

- The Ag Core is intended to designate an area that helps to focus conservation efforts and priorities
- There are options to add "Ag Enterprise Districts/Areas" within the Core to focus on distinctive local ag opportunities with their own custom tools if needed.
- The data behind the Ag Core map is FMNP combined with soil characteristics database. The FMNP State level map didn't consider land that had fallen inactive. It also includes the county's GIS database on pesticide use- this shows what sort of crops, mixture of crops, harvesting schedule, and change over time. We combined these data sets to look at, within an area: how the land was used last 30 years, what soil characteristics, and what crops have been grown. Combined with high resolution development information- this is open source, comprehensive info. From this we began teasing out opportunity areas.
- We can relate this map data to **co-benefits**, such as groundwater aquifers, trails, scenic roads, historic ecology (wetlands), riparian corridors, etc.

- Also similar levels in **development**: type, density, and relating **GHG avoided if areas not converted**.
- This is a starting point- it's broad. **We're trying to identify a resource and where it hasn't been fragmented, and put resources in ag preservation in those areas.**

### Panel feedback

What's the **viability of these smaller parcels**?

- If you've got a small 5 acre, CSA kind of farm it's generally less of a problem for neighbors than larger operation- is this true?
  - It depends on the specific scenarios- can't generalize this.
  - **Integrate a study coming out of the food system alliance with this study.**
    - There is an effort by the food system alliance to provide tools to promote ag and their assessment is on same timeline as ours- we could integrate with our study and incorporate lessons?
  - Specialty crops are viable at this smaller scale.
  - If we keep going at the rate we're going 5-10 acre parcels will be left in the dust. Yolo county food distribution network has made **2 acre farms viable with direct sales.**
  - An **aggregation center** would be great for the area.
- The real value of an ag core is focusing people's vision on one area. We don't want to dilute this, and need to focus on areas that we really need to save. We can't do everything. Not to minimize urban agriculture - they'll benefit from program - but we need to **focus on prime farmland.**
  - As one farmer said, it should be highway robbery to develop prime farmland.

## Mechanisms to Protect the Agricultural Core

Rob Eastwood

In this section Rob presented slides 18 to 30 of the [CAPP Action Plan Outline](#). This section covers the tools to support long-term ag viability and GHG reductions in the Ag Core.

- Rob asked: What tools can move the needle on preserving ag? Our list was narrowed down from ~50 tools after discussion with experts.
- Four key elements emerged: Land use ordinances and policy, regional agricultural easement program and voluntary incentives, agriculture economic development strategy, and regional branding and awareness strategy.

The discussion of each element is captured below.

### Panel feedback on element one: land use ordinances and policy

- Farmers are for preserving farmland, but also keep land as "401K". **Will they be angry you're eating into their 401k?** Have we talked about balancing this?
  - If we downzone property it will devalue the property today and that's a heavy lift.
  - If farmers keep doing this it's not a sustainable model.
  - Giving them another option to get investment out of the land. Separate property and development right (and look at co-benefit incentives). But yes, we need to give them another option besides selling land to get some cash. **A good plan will include options for farmers to maintain the value of their land.**
  - **Absentee landowners** in foreign countries comes up a lot, too.
    - It's expensive to farm on **leased land** in the area. Lease rates are very high (10-14k/acre).
- *This historic conundrum is shifting over time: look at the **Farm Bureau** policy on ag land and land preservation: it has had a shift towards the concept that "we're committed to keeping CA in ag". This means many are willing to consider other options to maintain **ag viability**.*
- This may be the tallest order of the program. **Speculative value** is already in lands here. **Difference in use for farming vs development is around 70k/acre.** The market is paying for it as though it's going to be converted. In the case of an easement, it says we need to strip that value off the land. If we were successful in using rules to preserve 8k acres this would be more than half a billion dollars in value. This money in someone's actual or perceived bank account right now. The fourth element is having **public interest** rise up at that point and **express what value that land means for society.**
  - Also, what are we leaving on the table in terms of jobs, and the **economic value** created by the ag industry? It's what they made the case for in Yolo. Have to keep this economic value in the conversation.
  - We have investors that are in no hurry and are in it for the **long term investment.**
- Would like a better understanding of how **farming infrastructure** is factored into this plan. Different types of ag use.
  - Can we **liberalize true uses for ag** (ag worker housing, packing, etc.)? Distinguishing that from non-ag use.

- Did something like this with wineries- liberalizing events and receptions. Has helped out.
- If you had an **ag distribution center** on boundary with urban area- could cause conflict?
  - Joint planning opportunity around buffers- habitat corridors, etc.

#### Panel feedback on element two: regional agricultural easement program and voluntary incentives

- ACE: Land Trust Partners ask if this is **centralized or decentralized**?
  - Not there yet. Want to look at this and build on strengths of those building on this already.
- FSZ: next level of Williamson Act. 66% below property tax of Williamson Act, for 20 years.
- TAC: Plan has to acknowledge where we want growth/development to happen, and where we want to grow food. **Needs to be consistent regionally.** These are “balance sheet solutions” - can help reduce the cost needed to purchase easement properties. There’s not enough money to go buy asset value on all of the land.
  - In North Coyote Valley how few acres would we have to **allow to develop** that isn’t slated for development that would **fund protection of ag land**?
  - **Describe this in a way that resonates with city planners (units v ag credit).**
- Why should farmers bear the brunt of preserving ag? How about a fee or subsidy that we all have to pay into? A county wide ballot measure?
  - Like what OSA gets for open space.
  - Sonoma county is the best example of this.
  - **Voters** in the county have shown to be progressive- in addition to tapping development, would voters be willing to tax themselves to preserve ag?

#### Panel feedback on elements three and four: ag economic development and regional branding

- **Corporate investment**
  - Can we get big corporate companies in urban areas to come down to rural areas and invest?
  - Making this **urban:rural connection** is the bigger picture.
- Rob: we have already started on the branding work with a consultant.

#### General Feedback from the Municipal Tech Panel

- **San Jose:** In brief, this doesn’t seem to have major inconsistencies with **San Jose general plan.** **Coyote Valley** is politically controversial. **Mid Coyote Valley** sees no development over the lifetime of the general plan, and there’s a push to preserve it longer. **Farmland would be good use**, so I think this would align from our standpoint.
  - *What about tools?*
    - We take a strong stance toward **promoting infill development.** We advocate for **urban growth boundary.** If we’re talking about a change in the general plan to support ag and not sprawl, we could support that.
  - *What about Ag credits? Could we see even higher density with a density transfer?*
    - It depends on where. We have **defined growth areas** outside of urban growth areas and business areas, and we want to keep neighborhoods in tact, so it would need to be within these defined boundaries.
    - Other concern: the SJ general plan is a jobs first plan. TDR’s if adding housing capacity not sure how much- if adding additional housing would it be compromising our job growth in any way?
    - **Would be good to know the volume of TAC’s that would come out of this, and what capacity exists to absorb this transfer.**
  - When **north Coyote Valley** was set aside, the hope was high for a tech campus opportunity. Fast forward 13 years and Google is negotiating with the city around Diridon. Salesforce says they’re not going to do low rise development- this makes the Coyote Valley plan archaic. Do you think it could reopen the north Coyote Valley plan?
    - Not on our plates any time soon. North Coyote Valley is not an area we’re actively seeking to promote- the focus is on downtown and north San Jose as employment centers. Just did 4 year review of the General Plan- told to keep jobs in North CV there. We don’t see political will to address this. **Mid CV is more open..**
    - City of San Jose has imbalance of jobs:housing. Takes affordable housing very seriously. Don’t see TAC program as politically viable if it’s put as preserving south county by promoting housing in SJ. **We’re looking more at incentivizing jobs in SJ.**
    - **Food works report: jobs growth in food.**
      - Sweet spot could be **ag oriented economic development.**



- **Water district:** this is well rounded. Would be supportive. What does this mean for water: it all means we'll need more water. Here we're not speaking about more ag, but saving what we have; so it **might be better than more development**. Don't see why we'd be opposed.
  - *Could you support?*
    - Yes. **BOD and chair are supportive of ag**, with consideration for water. **In favor of infill**, means not spreading out into areas where you're concerned with flooding, habitat, etc.
  - Water district could have an **open space credit** where you don't charge agriculture use the municipal rate for water. This could be something that lands that show up as the highest likelihood to provide ecosystem service would get lower rate in exchange for?
    - We could raise the issue- an open space credit idea is always in flux. Having a **stronger case for where it's applicable** makes a lot of sense. At this point I'd say the district would be supportive.
    - **Co-benefits** are really where we come into play.
  - As far as supply and cost: water is more affordable to farmers than in cities. One thing to keep in mind: there's still **water district cost in actively managing groundwater**.
  - *Is any portion of southern part of county under SGMA?*
    - Yes, the whole thing. Two more southern basins are being added this month.
    - **SGMA drives co-benefit analysis**. *It's the coordination of land use and groundwater planning - hard to get to where they want to go without managing these.*
      - We're now evaluating the **capture of stormwater**- working with farmers to create retention basins.
  - There's also an opportunity to improve **rangeland** management: Increased species diversity, amount of water, and quality.
- **Morgan Hill:** Very excited in terms of vitalizing ag economy. **Residents want ag to continue to be here** and we're actively wanting to preserve that. Cost wise, it's not easy. There are a **large number of 10 acre or smaller lots** currently under ag cultivation.
  - **Ag core** concept is great, but to Amie's point- can we agree on what that will be? That will be a much larger discussion. What we've got here is fine.
  - **Climate is a bit downplayed- not as explicit as should be given where this originated**. This would be an important concept to highlight if we're trying to get other jurisdictions to buy in **regionally** to realize benefits of ag in terms of climate and **GHG reduction**.
  - *How about the criteria for Ag Core properties: good soil, water access, outside of core developed area (urban service areas).*
    - **Urban growth areas** might be easier discussion. This urban service area vs urban growth needs negotiation.
    - **There are also large contiguous tracts (over 40 acres) with active operations.**
- **Gilroy:** where do we focus **initial efforts**? Strategically, do we have to capture smaller parcels first, before they start peeling away? In Gilroy, **existing large parcels are outside of urban growth boundary where they aren't of higher risk**. **Overall gilroy supportive of ag preservation and has program in place. I'd recommend prioritization by risk.**
  - How does our existing [agricultural mitigation program](#) fit? Do the two plans work together?
    - *JOSEPH: It's important that the plan talk about what you've already been doing.*
  - We're also concerned with not limiting our **future job growth**. A hard boundary might lead to fear that it would limit job/economic growth. **This would be key component in getting on board here.**
    - *We're exploring specific tools for specific areas. This is a useful point for this consideration of tools.*

## What do you all see as next steps?

- Gilroy: presentation to council would be a step. They're not aware of the work being done here, so far. Staff need to sit down together so we can share and learn from one another. We'll be the messenger for this information. **Great opportunity currently as we're reviewing our general plan now.**
  - *Present to staff then together go in and talk to the council.*
- SJ: Come back and update through the same group (CSA; community and economic dev). Our general plan was just updated, but it seems like the group is already on the right track.
  - *Could we make this an agenda item for subcommittee?*
    - Yes- this could work, too.
- *The future value is a key: the net present value of a permanent stream of income from property held in ag use vs the net present value from industrial use value which may or may not have a permanent value. The ability to grow food is a necessity and a permanent need.*

- Morgan Hill: create a work plan, and **implementation schedule**.
  - **When should we talk about details on the map? Specifically, for the ag program, who does what with what funding source?** These would be productive questions to answer.
  - Project staff and county staff need to sit down and work on this.
- LAFCO issue: counties are trying to shrink wrap cities while cities are saying we need room for urban growth. **How much urban growth do you need, and when?** <We're stuck in the past here: if you look at plan dev area framework of bay area 2025 and metro planning areas in ca for sustainable growth: you have to prove you have capacity to handle more than you did in the past and do detailed infilling analyses, and if it bears fruit will go ahead. What assumptions are we using?>?
  - Something that could move forward: hothouse work already done in <general plan>? and vacant land and what point you'd reach build up capacity and need to grow into resource areas.

## Closing Thoughts and Next Steps (Rob)

What is coming next—final report incorporating your feedback

Last meeting of Tech Panels

Community engagement

## Participants

<b>Municipal meeting at Morgan Hill City Hall</b>	
<b>Name</b>	<b>Department and Description</b>
Anthony Eulo	Program Administrator City of Morgan Hill
Kimberly Vacca	San Jose Planning
Rebecca Tolentino	Interim Planning Manager City of Gilroy
Brian Mendenhall	Project Manager, Santa Clara Valley Water District
Samantha Greene	Assistant Water Resources Specialist, Santa Clara Valley Water District
John Baty	Interim Principal Planner, City of Morgan Hill
Andrea Mackenzie	Open Space Authority
Matt Freeman	Open Space Authority
Jake	Open Space Authority
Joe Deviney	Agricultural Commissioner, Santa Clara County
Rob Eastwood	Santa Clara County Planning
Kirk Girard	Santa Clara County Planning
Manira Sandhir	Santa Clara County Planning
Charu Ahluwalia	Santa Clara County Planning, Associate Planner
Amie Macphee	Cultivate
Joseph McIntyre	Ag Innovations
Rob King	Ag Innovations



## Technical Panel 2 Meeting Notes: Agricultural Sector

Santa Clara Valley Climate & Agriculture Protection Program

Monday, June 19th, 2017 | 1pm-4pm

Santa Clara County Farm Bureau | Morgan Hill, CA

### Meeting Objectives

1. Introduce proposed framework for creating and sustaining a vibrant agricultural economy in south Santa Clara valley.
2. Receive tech panel feedback on the draft goals and strategies, tools, and agricultural core area.
3. Agriculture Tech panel specific goals:
  - a. Receive input on how the framework is likely to be received in the ag community.
  - b. Receive an assessment of how the proposed ag core and tools will impact ag economic viability.
  - c. Explore the needs of specific subregions within the core.

### Links

- [Presentation: CAPP Action Plan Outline](#)
- [CAPP Elements Handout](#)
- [Detailed Descriptions of Elements in Handout](#)

### Welcome

Rob Eastwood welcomed the tech panel back and presented slides 1 to 5 of the [CAPP Action Plan Outline](#) to reorient the group. He noted the main goal for today was to get candid feedback from the technical panel on the CAPP program. Due to technical difficulties with the presentation equipment, members of the technical panel grouped around laptops to view the presentation.

### What we have learned/key findings

Rob Eastwood and Jake Smith presented slides 6 through 10 of the [CAPP Action Plan Outline](#).

#### Panel feedback

- CAPP Team: Is there a sense of a tipping point? What happens if we lose 8k acres?
  - o Trends already show shrinking ag land at an alarming rate. If we lost 1/3 of total acreage, those lucky enough to grab some land could still operate, especially if larger areas were left untouched. Especially Coyote Valley. If there's still 16k acres left in a worst-case scenario, those would still be farmed and those of us operating would still find a way to make it viable to continue operating. It would certainly put a dent in things, though. Production would shrink. It would be troublesome.
- With urbanization extending to Watsonville, Gilroy, etc., transportation infrastructure isn't there. We end up with more traffic and higher traffic speeds on local roads. This is difficult with slow moving equipment. This becomes part of our operational program too— how much risk— operational cost/legal cost of operating slow moving vehicles. There's not a lot of signage and commuters are in a hurry and view these vehicles as an impediment. We're talking employee/growers/commuters lives as they make these decisions on the road. It raises stress levels. It's harder on the roadways too- talk to Santa Clara roads and airports.

### Establishing the Agricultural Core

Rob and Jake presented slides 14 to 17 of the [CAPP Action Plan Outline](#). They noted that the core was identified by four criteria: best soils, groundwater supply, outside of developed areas and urban use areas, and are contiguous. CAPP will ask the jurisdiction to use these if you all agree. *Does this core make sense?*

#### Panel feedback on Ag Core

- Water and the ability to have an ag well is important. A more nuanced approach to water access may be needed.
  - o In the Coyote Valley, the problem is water—there is a county ordinance on not drilling new wells. If it's not being farmed now, there's a reason why it's not, and regulations are getting tighter. You might have water with regular well, but not enough for an Ag well specifically. If you're on the county pipeline, a drought means they will off your use.
- This is macro, not site-level mapping so some of this nuance isn't there.

- I would add more resources to this core. How would loss of farmland impact labor availability? With decreasing agricultural land, would a labor crew even stop here before going to another region?
  - Good point: a lot of times we've had issues with contract labor coming and looking at the field in the morning and going somewhere else.
- For small farmers with smaller parcels, making the investment to have a successful operation will be a challenge
- I think you're in the right ballpark, but on the other side of coin there are capital expenses for irrigation wells, equipment, etc. This means a small farmer will never get out of starting gate. How do you make sure if someone decides to invest in this that they're successful? Subsidize them, or put it in a manner that they can't fail. This doesn't work well with a budgetary process.
- With smaller parcels, the grower has to move equipment from spot to spot. If people don't let you move it- it's an issue... you end up trying to do it at night.
- Labor/immigration is against you, too.
- Overall, we're In the right area in addressing what's possible, though.
  
- *CAPP Team: Just think about if money, resources weren't an issue; where in the county would you put an ag core? In this plan we would put it within these four criteria.*
  - Level San Jose and return it to farming. From practical standpoint, though, from my operation the last point on this slide is a very good one. There is a certain amount of fixed cost for an operation regardless of parcel size. That's important because we get more of a return on investment if larger parcels are available. Coyote Valley and southeast Gilroy is where I'd focus. We farm 300 acres in CV and we're lucky we have some ag wells that have been there. A lot of valley doesn't have that. Sometimes some farmers can rely on rain, but not for what I grow.
  - Yes, on basics this is right. Comfortable with baseline.
  - 30k foot level, looks good. But when we get more nuanced, there may be some problems (ie: infrastructure).
- *CAPP Team: Is there a cutoff for returns on an operation- how big would it need to be? Is it crop specific?*
  - It depends on what you're doing. Not all operations are the same and don't transpose evenly across a scheme. Until you do it, you don't know if it will work out for some of it. 5 acres, 2.5 acres: some of these growers can make it work.
  - I'm not sure what people want the ag community to look like in south county. You need community to support you. That's going to have to drive what the community wants to do.
- *There is a challenge in niche vs global scale agriculture. Those in between in scale is where it becomes dicey; does that match your experience? Say the 5-50 acre zone?*
  - It depends on market. Direct sale can make smaller parcels work. Spade and plow for example, looking at 40-acre purchase.
  - Success based on the size of a parcel depends because to be efficient and survive, you can't have a 6-foot disc and be efficient. You need larger tools- move up every time. I do 300 acres- I need to be able to get in and out easily. If there's a fence and it's one acre I won't do it.
  - The exception to this is hand labor on small acreage.
- *CAPP Team: How much clearance do you need for equipment?*
  - 40 ft. of headland.
- *CAPP Team: What do you need for a chemical application in terms of a buffer?*
  - Different depending on what you're using. Some are pretty wide.
  - 100-300 ft. for fumigants.
  - We have several fields that are entirely buffered. We get it done- nights/weekend and by communicating with neighbors. This is why contiguous tracts of land are important. With neighbors who are farming it's generally no problem if their place is the buffer. With a neighbor who doesn't care or understand agriculture, it's an issue.
- *Are these 4 principles a good starting place?*
  - Yes - general agreement.
- *CAPP Team: It sounds like the size of the parcel (contiguous) trumps almost everything else.*
  - Cost of land is increasing and affordability per acre is crop specific
  - Rent is in the range of \$500-600 acre/year. Has doubled in the last 5 years or so.
  - I've heard In the thousands?
    - Yes, and for fast crops you might be able to afford that. Peppers are one crop per year, so we can't afford that.

## Mechanisms to Protect the Agricultural Core

Amie MacPhee shared slides 17 to 23 of the [CAPP Action Plan Outline](#).

### Panel feedback

- If we had all ten of these (the bulleted points on slide 17) we'd be happy.



- On the planning side you've got regulations, zoning, market rate value. How does that fit into this program? These are things that aren't popular in private property ownership.
- *Andrea/Amy: One thing that links the tools together: marry smaller footprint for a home on ag parcel with ability to put remaining land into "Super Williamson Act", combined with a neighbor that stacks across parcels. Building a contiguous zone piece by piece.*
- General verbal/visible positive reaction to the idea of an ag ombudsperson, specifically from farmers in the room.

*Michael Meehan, branding contactor was invited to make some general comments on his ag branding work to date in the County. He shared:*

- *We're coming up with pathway for a branding campaign to work: creating narrative, identity.*
- *Also on the investment side: we see a positive feedback loop between training programs and an agricultural identity and seek to create cohesion there. For example, you drive into town and see signage highlighting agriculture in the region.*
- *We're also working through more direct B2B marketing- facilitating institutional purchasing. Universities and tech are desperate to get local food into their cafeterias.*

## Feedback from the Municipal Tech Panel

*We're working towards keeping land in ag, preventing conversions, building on legacy, and crafting a unified framework. The core concept here is that there's a core space of ag land that deserves our special attention: the ag core. The four elements discussed will be used to make good on these goals. Does it make sense? Can it win support of you and people you know in ag?*

- Doesn't make total sense; fatal flaws. Try to tie first one (land use ordinances) with second (voluntary easements). You're proposing to beat farmers up with regulations and then pay them for that. Not smart strategically—we need to think about how they work together. If it's not done correctly, lots of people won't participate. This is exactly what's been wrong in this county. You can't come heavy handed on element number one (Land Ordinances and Policy), and then come in and be successful with number two (Regional Ag Conservation Easement Program & Voluntary Financial Incentives).
- Lots of good tools, but can't come in too heavy handed with regulation.
- General plan is land use regulation.
- If you need to lower the value of property, that's a no go. Just wrong to come out of the shoot saying that's how we're going to solve this.
- Financial incentives (number 2) need to go way up and reinforce that.
  - Beyond educating North County about ag, they also need to chip in financially. They want to hold it for their benefit.
- North County could chip in enough dollars to make it whole, in addition to other grants.
- What about streamlining worker housing? This would be helpful.
- Ethically I have a problem with lowering the value of land.
  - We need to be careful how/what we say coming out with these tools - "Lower value".
- I would feel more optimistic with the branding campaign.
- Big thing: there has to be market based approach to bring people into this voluntarily rather than being coerced through "beans".
- I read it differently when I read lowering land value. My thought was more around let's take away speculative value that was driving things. I understand how that would send certain segments off not wanting to touch this. Making sure we're emphasizing carrots vs sticks will help.
- When are we going to do broader outreach and start those conversations in the public? I hear people ask, "Where's this program going, I haven't heard anything and I want to know more". Would be helpful with more public outreach ahead of time to vet conversations to identify triggers and have time for public buy in. I wouldn't want to see county put forward a plan with huge kick back from not hearing enough. Public meetings should be held a little sooner (we know how HCP process went).
- Class 1 and 2 soils only? Class 3 can be viable. Are we pushing class 3 soils out here and sticking to 1 and 2?
  - CAPP Team: This was just a summary of a case study. It's open to discussion. Class 3 is a large portion in county so would be no brainer to include it.
- Right side, awesome (Ag Economic Development Strategy & Regional Branding and Awareness), left side hot potato (or grenade) (Land use ordinances, policies, and agricultural easements with voluntary incentives). Fact of the matter is ag land isn't worth very much, it's cheap. We farm because we love it. Two on left will be touchy because we're in a type of job that requires walking on tightrope without safety net. Last year was worst year ever for us, first loss in almost 40 years. It put us on the canvas from just one bad year. All we've done to build over 39 years and one bad year and now we're struggling and may be for a while. There's no security in this business. Already heavily over regulated. The column on the far left speaks to that more. If you're seriously talking about incentivizing landowners/farmer who own the land about committing to putting things in easements, it's got to be a much (exponentially) bigger number than what ag lands are worth.
- CAPP Team: **Gap numbers- 70k-140k as a worthwhile top end.** In conversations on our end no one is talking about 20k.

- That's good- would make more intriguing. Even at that, if not right now, a few short years from now if that land were **eligible for development** it would still have trouble competing at that price.
- CAPP Team: You mention eligible for development (which is a General Plan function). What if we don't extend those rights to make it eligible for development. How do you create a program that keeps ag viable? We're trying to find out where the line is. Otherwise your allies don't know how to help. What matters: value in land vs keeping it in ag?
  - I have 2600 acres on the north side. We will stay there unless we're regulated out by the state and federal regulations. In the 60's we green belted, we have an easement for PG&E, pipeline. We're the largest landowner without a land conservation easement on it. For range land it's awesome- would love to see it preserved. We have the value of our land down as far as we can get it - from my side looking in I can't ever have a high value on my land. Otherwise, I would sell at high rate to get out of here. On the other hand, I'm valued down to protect myself. I'm not here for the money- I'm here because I enjoy what I'm doing. Cattle and hay don't make money. When landowning parents die, their kids don't want to pay an inheritance tax- it's tough. The next generation doesn't want to farm. What happens to the ranch? It all depends on regulations to move forward. It's a constant battle. This is for rangeland and hay. Row crops might be different. We all have the problem of small parcels and traffic. We are a thorn in their side.
  - To summarize: it's our 401k. In a lot of cases it's all we have as our safety net if things go horribly wrong. Unfortunately, the state of things is that we're on a runaway train towards that station with no brakes. If we try to farm and can't the only way we can put food on our family's table is to sell land. I tried to team with a developer to purchase land we were leasing- it was scheduled for development so the value was way up. Eventually when it is developed i'll have enough security for my kids, and maybe theirs. That's okay because I intend to farm that land as long as I can. But in order to continue farming we need a little piece of mind in the long term. If someone came to me and offered 140k for 100 acres I might retire today, though.
  - Great comments here. Valid points with the previous statement. I'm a tenant farmer. I lease year to year. Not a long time. No room to put improvements in case I have to vacate. Most who own the property I'm on are looking for the future gain. One piece of land I was on was owned by a trust, and 11 of the 13 members of the trust wanted to sell. It took 4 years to sell and they got 60k/acre to sell. That was divided into 10 acre parcels. These transactions happen when a lot of properties are owned by investors. It's difficult to bring people in on less than 10 acres because it requires high capital and yields low ROI. It's urban edge farming and this is where we need to figure out where/how this works. Growing and growing is not working for everyone.
  - This issue keep coming up for me: the county has been accused through the SE quadrant process that they're to blame for the situation by allowing rural residential ranchettes to happen. I understand not infringing on rights to do this- but what does the county do to remove a problem they're admitting they have if you can't incentivize enough? We're still back to square one then, if you don't package it up so we can minimize impact of those.
    - It's a matter of degrees- I don't think we should do away with all regulations.
    - Don't blame county for this- the problem was created long before anyone here was alive.
  - CAPP Team: *We're trying to encourage ag- not take something away. We're saying, if you stay in ag there's a goody bag here for you to take advantage of. Let's look at transferring units so you can cash out. We may have missed the mark on language/conveyance here.*
  - We all want to save agriculture in the county. We need to make it so that developing land doesn't have a high value- that the farming of land has the high value. In this county farming is the high value. We need to convince the county that ag land holds the highest value.
    - We need it to be more important than developed properties, ag is the most important thing in SC Valley.
- Do you all understand who owns what land?
  - Tough- local LLC might own and it's a foreign company. There are holding companies and attorneys. Lots of land appears to be owned by folks that aren't local landowners.
- I like what Rob said about how GHG funds can come back for ag easements and conservation. We see save the air days all the time- how can that transfer into trying to preserve agricultural land? Look at the changing use of vehicles- a Prius is taxed differently. How can something like that happen more locally in terms of preserving ag land?
- CAPP Team: *Would the agricultural economic development, and the regional branding, education, and awareness strategies help growers?*
  - Yes, for the most part. Regulations are not just local, but also federal. Food safety for example. It's stringent for wholesale. The Farm Bureau does some farmer advocacy- need more for different farm demographics we will have. Food safety will be the biggest one. For Chinese growers it will be difficult to comply. There's not the same network for food safety as for pesticides.
- Is there an economic analysis of wildlife corridors? This could be a way to trigger open space acceptance with ag as a part of it?
  - CAPP Team: This is a developing concept. We want people to know these lands and their services aren't free. There would be a cost to replacing them if we lost them. Work to raise the value and visibility to the public -- in some places we're almost at point of no return. Coyote Valley report recently came out- if we put a price tag on these

things local decision makers will think about ag viability, wildlife, water. Right now nobody in the county is thinking that way.

## What does the Tech Panel want to see next?

*What are the things you would like to see back from the project proponents as they try to bring this into place? We are hearing: More details, less emphasis on regulatory hammers, more voluntary, look at how to partner on regulations, and that there's more nuance in different land use patterns and preferences even amongst three farmers in room.*

- How would the population react to a tax amongst all property owners in county? We need to figure out what the dollar value of open space is and go to the public and see if they believe that too. A county-wide ballot would include both property owners and non-owners- it's easy for non-owners to say "Sure, go ahead". I think we're in consensus to say yeah, we see value, and what we do has value for quality of life. But does this resonate with someone who works at XYZ tech company?
- On another scale, all of the development (especially in Morgan Mill), is up to 3 stories and soon/now 4. Where is the view tax? Everyone gets the benefit of view besides the farmer/rancher. I'm regulated to do what I need to do. I don't have parcels. There's already things on my property that mean I couldn't take advantage of TAC's. It all comes down to Ag land has to be of higher value than potential development lands.
- I would rather see the next version of this sooner rather than later. I don't disagree about bringing the North County into the larger picture. Ag land has to be viewed as highest and best use. I don't want to put the complete onus on one group, so we need to make sure ag fees make a statement. What's the message you're sending via mitigation fees about that ag land?
- Left side (land use ordinances and policies and regional ag conservation easements and voluntary financial incentives) is where battles will be fought. We're going to have to respect two very opposing mindsets here.
- Landowner/tenant relationship: almost all landowners are descendants of farmers. Some family members survive and want to see it farmed, but if they can sell it they will.
  - Kids sitting back waiting for mom/dad to bite it and then swoop in.
- Right side of page (ag economic development, regional branding, education, and awareness strategy): less hot button; all appear to be on board here. As an industry we can use help with getting our story out there. These are two important categories not to be taken lightly, and we're willing to participate. Will have fewer roadblocks on this piece- focus here.
- Not sure where we're at in terms of a full rotation of this project- but the big thing is how do you bridge this historic movement of properties from an ag base into new use? Until you can come up with a financial mechanism to change course, it will be difficult to get people to buy into these programs. I want to see it succeed, but I'm not seeing how this mechanism is developing yet. It might sound fine in this room, but what about when land owners weigh in, whether absentee or otherwise?

## Closing Thoughts

Rob closed the meeting by letting the Panel know that next steps include

- final report incorporating your feedback
- A last meeting of Tech Panels to look at the final report
- Community engagement
  - *We will be working to find property owners, and work in community. We'll talk to cities. Then we'll come back with a more detailed plan, and action plan, of how it rolls out in the fall. Our goal is to be before our board and OSA before October.*

## Participants

<b>Agricultural meeting at Farm Bureau</b>	
<b>Name</b>	<b>Department and Description</b>
John Telfer (Morgan Hill)	Realtor, South County farmland (Southeast Quadrant)
Julie Hutcheson (FSA)	Santa Clara County Food Systems Alliance
Pete Aiello	Usegi Farms Owner/President
Erin Gill	Grass Farm Business Owner; President, Santa Clara County Farm Bureau
Janet Burbach	Owner/operator - Tilton Ranch ; VP Santa Clara County Farm Bureau
Aparna Gazula	UCNAR - Small Farms Advisor
Michael Meehan	Acre Policy
Andrea Mackenzie	Open Space Authority
Matt Freeman	Open Space Authority
Jake	Open Space Authority
Joe Deviney	Agricultural Commissioner, Santa Clara County
Rob Eastwood	Santa Clara County Planning
Kirk Girard	Santa Clara County Planning
Manira Sandhir	Santa Clara County Planning
Charu Ahluwalia	Santa Clara County Planning, Associate Planner
Amie Macphee	Cultivate
Joseph McIntyre	Ag Innovations
Rob King	Ag Innovations



# Climate and Agricultural Preservation Plan

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## *Santa Clara Valley Agricultural Action Plan*

**LAFCO**  
**October 4, 2017**



# Santa Clara Valley Agricultural Action Plan

## **An Action Plan to Grow A Vibrant Regional Agricultural Economy**

- \* County of Santa Clara & Open Space Authority
- \* Ongoing Outreach – Technical Panels – Agriculturalists / Agency Reps.
- \* Funded by Sustainable Agricultural Land Conservation Grant

FOOD FROM  
**Santa Clara  
Valley**

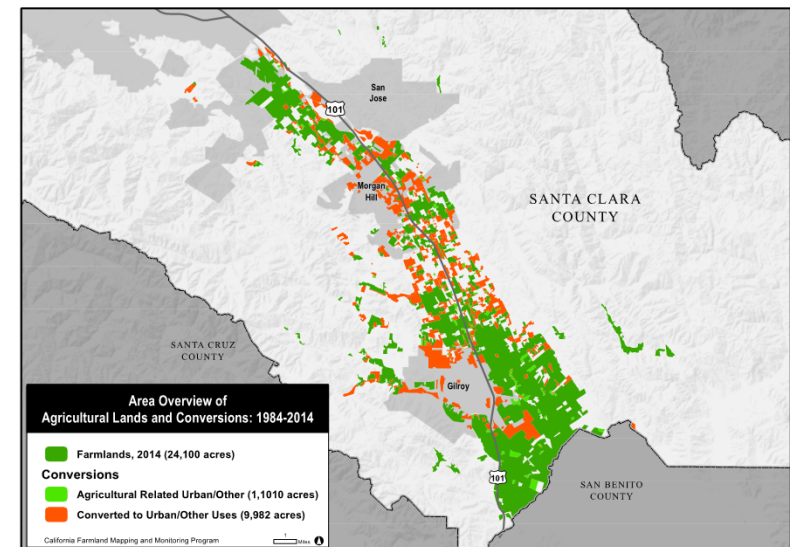
# Santa Clara Valley Agriculture Trends

## \* Land Conversions

- \* Approximately 10,000 acres converted since 1984
- \* City Annexations (42%) and Rural Development (58%)
- \* Rural Conversions – parcels < 10 acres

## \* Agricultural Economy Trends

- \* Increase in Production Value
- \* Higher Value Crops (Vegetables) less dependent upon open land (mushrooms, nurseries).
- \* Export Economy driven

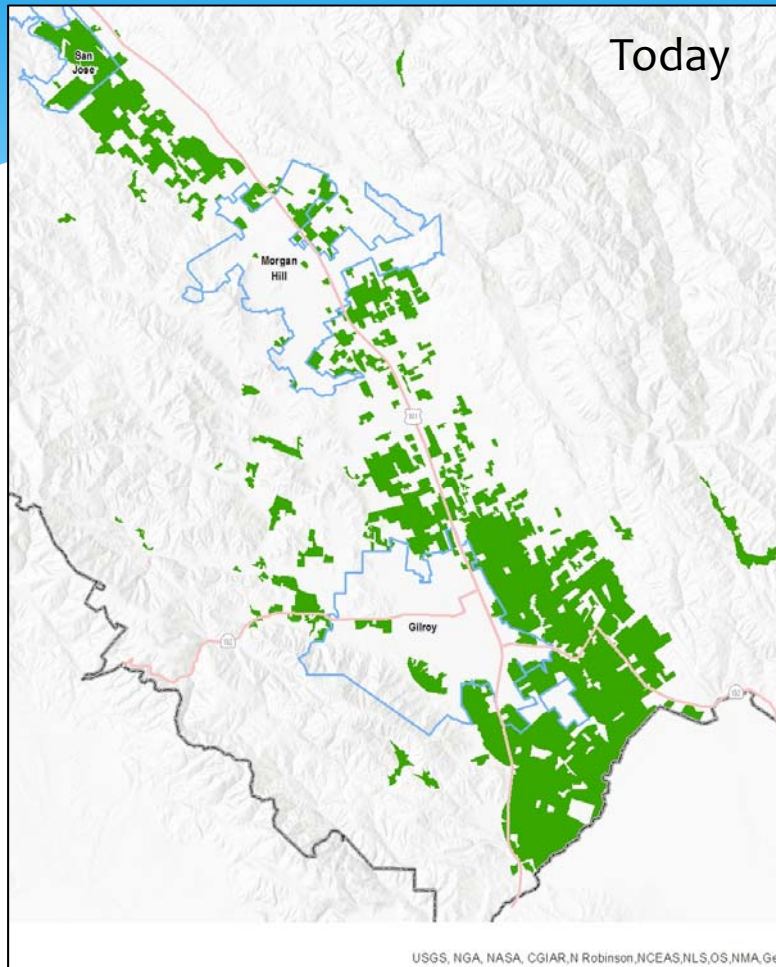


# Agriculture – Challenges Today

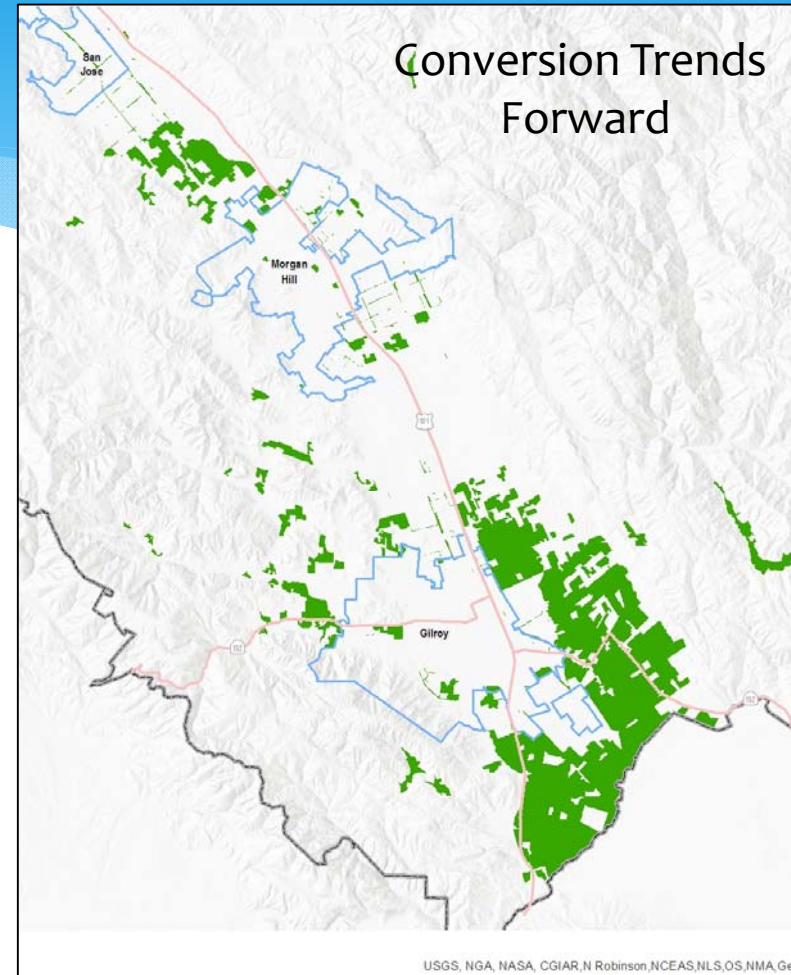
- \* Large number of small lots
- \* Parcels are not available
- \* Land held for speculation
- \* Urban Interface - (a) commuters (b) complaining neighbors
- \* Local Markets / direct marketing difficult
- \* Lack of Agricultural Worker Housing
- \* Regulations, Disease, Pests, Weather



# The Risk of Doing Nothing



**24,000 Acres in Farmland**  
**8,100 Jobs**  
**\$830 million in Economic Output**



**Loss of approximately 8,400 acres (36% of farmlands)**

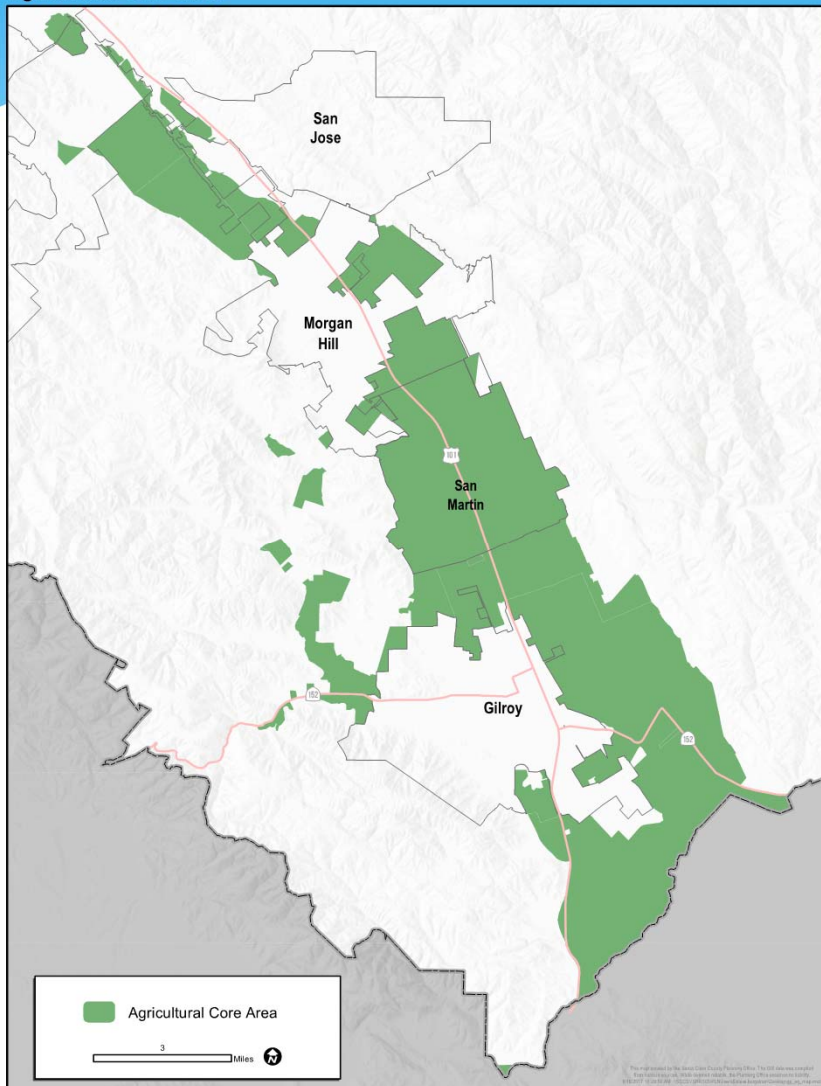


# Santa Clara Valley Agricultural Action Plan

- Keeping Lands in Ranching and Farming
- Protecting critical lands from conversion to Development
- Unified Regional Policy
- **Recognize Farming's Benefits to the Region**
  - Greenhouse Gas Reduction
  - Food Security
  - Groundwater, Flooding
  - Economic Importance

# Agricultural Resource Area

Agricultural Core Area



- \* A **priority area** that focuses all policies and programs
- \* Prime Farmland Soils
- \* Groundwater
- \* Outside Cities
- \* Large Contiguous tracts of farming

# Creating the ideal environment

- \* Large Lots
- \* Inexpensive Lots (leases / fee title)
- \* Good Soil
- \* Water available and inexpensive
- \* Seasonal and year-around labor – (housing)
- \* No urban interface
- \* Easy access to markets and customers
- \* Less “red-tape”
- \* Support System– packing, warehousing, distribution, equipment, farm supply



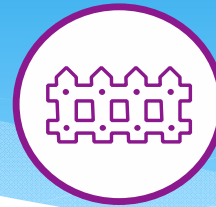


# VIBRANT AGRICULTURAL ECONOMY



# Vibrant Agricultural Economy

## LAND USE ORDINANCES & POLICIES

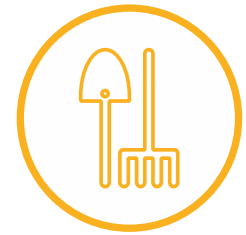


- \* General Plan & Zoning- Agricultural Resource Area
- \* Zoning Ordinance Changes
  - \* Rural Residential – size / location limitations
  - \* Restrict non-residential (non) agricultural development
  - \* Regulatory Reform – Agricultural Worker Housing, Ag Processing
- \* Agricultural Buffers
- \* Agricultural Conversion Fees / Mitigation Program
- \* Strengthen the Right to Farm<sub>10</sub> Ordinance

# Vibrant Agricultural Economy

## REGIONAL AGRICULTURAL CONSERVATION EASEMENT PROGRAM & VOLUNTARY FINANCIAL INCENTIVES

- \* Agricultural Conservation Easement (ACE) Purchase Program
- \* Farmland Security Zone (FSZ)
- \* Stewardship payment for Environmental Services



# Vibrant Agricultural Economy

## AGRICULTURAL ECONOMIC DEVELOPMENT STRATEGY



- \* Agricultural Enterprise Grant Program
- \* Small Farms Initiative Program
- \* Local Food Preference Procurement Policy
- \* Farmbudsperson
- \* Farmer Training Program

### \* **Ag Incubator**



Oregon State University

# Vibrant Agricultural Economy

## REGIONAL BRANDING, EDUCATION & AWARENESS STRATEGY

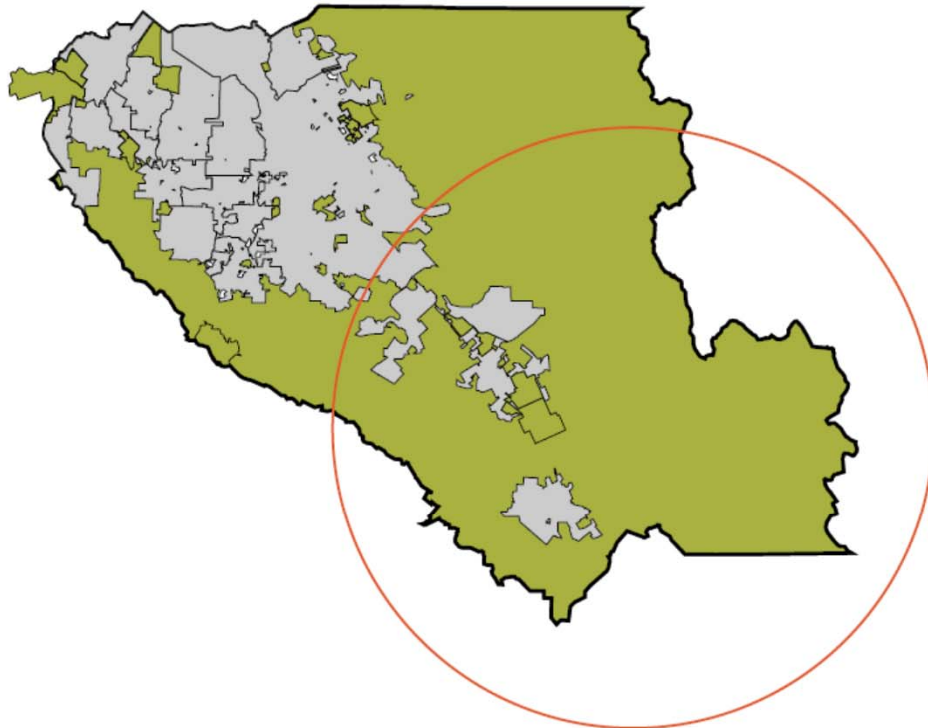
- \* Placemaking / Branding
- \* Recognizing Farmers
- \* Marketing local Agricultural products to tech companies and institutions
- \* Increasing Agricultural Tourism
- \* Education & Awareness of Santa Clara Valley Agriculture



## NAMING

### North County / Silicon Valley

- Urban
- Tech Economy
- Demand Side



### South County / Santa Clara Valley

- Rural
- Ag Economy
- Supply Side



LANDS AT WORK

# Santa Clara Valley

WORKING LANDS

# Santa Clara Valley



## AD / POSTER / BILLBOARD SERIES



**SILICON VALLEY**

TECH ENTREPRENEUR



**Santa Clara  
Valley**

AG ENTREPRENEUR

### What do they have in Common?

Both are home to entrepreneurs who work hard, take risks, and are committed to growing businesses. Together, these two Valleys make up the County of Santa Clara and contribute to our shared prosperity.



# VIBRANT AGRICULTURAL ECONOMY



# Next Steps

- \* SALC Grant for ACE Regional Purchasing Program
- \* Pending – Grant for ACE on 70 Acres of Agricultural Lands – Morgan Hill
- \* Grant for Marketing / Branding (CDFA)
  
- \* **Finalize Action Plan**
  - \* Meeting with Technical Panels – October 30<sup>th</sup>
  - \* OSA Adoption - December
  
- \* **Board of Supervisors Adoption – December**
  - \* Mid Year Budget
  - \* Task Force / Implementation



**LAFCO MEETING:** October 4, 2017  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** PREPARATION & IMPLEMENTATION OF A COMMUNICATIONS AND  
OUTREACH PLAN

### **STAFF RECOMMENDATIONS**

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1. Authorize staff to issue a Request for Proposals (RFP) for a professional service firm to prepare and implement a communications and outreach plan for LAFCO.
2. Delegate authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$75,000 and to execute any necessary amendments subject to LAFCO Counsel's review and approval.
3. Appoint a LAFCO Commissioner to serve on the consultant interview panel.

### **BACKGROUND**

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The purpose of the Communications and Outreach Plan is to help LAFCO expand understanding of its mandate and policies among local agencies and the community.

At the June 7, 2017 LAFCO meeting, the Commission deferred approval of a Draft Request for Proposals (RFP) for the preparation and implementation of a communications and outreach plan and directed staff to provide additional information to the Commission at a future LAFCO meeting. Based on the Commission's discussion of this item at its June 7, 2017 meeting, staff has further clarified the purpose of the proposed communications and outreach plan.

Over the last few years, on multiple occasions, various Commissioners have requested that staff conduct more outreach to member agencies, increase LAFCO's visibility in the community, maintain good relations and develop partnerships with local agencies; and to that end have suggested a variety of outreach activities, including conducting workshops, attending local agency meetings, writing articles for local newspapers, preparing brochures/fact sheets, hosting a summit focused on specific issues, hosting a

luncheon for newly elected officials, meeting with stakeholder groups, and participating in other agencies' outreach and education efforts, etc.

As opportunities arose and as workload permitted, staff has been able to implement some of the actions recommended by the Commission. Recognizing that a more comprehensive and strategic outreach approach is necessary in order to be more effective in increasing awareness and understanding of LAFCO and its policies, the Commission added the development of a communications and outreach plan to its FY 2016 work plan. However, staff has had to postpone this work item until now in order to focus on more time-sensitive work items, including processing applications and conducting service reviews.

The development and implementation of a communications and outreach plan requires professional expertise and resources which can best be provided by a consulting firm that specializes in such matters. As part of the Scope of Services, the consulting firm will identify LAFCO's target audience groups; recommend targeted messages to reach each audience group; and recommend appropriate communications delivery mechanisms to reach each audience group. The consulting firm will also help implement the plan and develop specific messages and outreach materials, as identified in the RFP. **Please see Attachment A for the Draft RFP & Scope of Services.**

The LAFCO Budget for Fiscal Year 2017-2018 includes sufficient funding for the development of such a plan, and the initial implementation of the plan, with the anticipated staff involvement. Staff recommends an allocation of \$75,000 for this project. The LAFCO Executive Officer will negotiate the final project cost with the selected firm.

#### **TENTATIVE TIMELINE**

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- Release RFP: mid October 2017
- Proposals Due: mid November 2017
- Firm Interviews and Selection: by mid December 2017
- Begin Project: early January 2018
- Draft Plan presented to LAFCO: Summer 2018
- Implementation of Plan Completed: by late 2018

#### **NEXT STEPS**

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##### **Proposed Release of Final RFP**

Upon LAFCO authorization, staff will email the Final RFP to firms specializing in communications and outreach and will post the RFP on the LAFCO website and the CALAFCO website for interested firms.

##### **Appoint a Commissioner to Participate on Consultant Interview Panel**

Staff recommends that LAFCO appoint a Commissioner to serve on the consultant interview panel.

**ATTACHMENT**

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Attachment A: Draft RFP & Scope of Services for the Preparation and Implementation of a Communications & Outreach Plan for LAFCO of Santa Clara County



**-DRAFT-**

**REQUEST FOR PROPOSALS**  
**PREPARATION & IMPLEMENTATION OF A COMMUNICATIONS AND**  
**OUTREACH PLAN FOR LAFCO**

**I. Objective**

The Local Agency Formation Commission (LAFCO) of Santa Clara County is seeking proposals from professional consulting firms to prepare and implement a communications and outreach plan for LAFCO. The purpose of the plan is to help LAFCO expand understanding of its mandate and policies among local agencies and the community.

**II. Background**

LAFCO of Santa Clara County is an independent local agency created by the State Legislature in 1963 to encourage orderly growth and development of local agencies (i.e. cities, special districts, and county). LAFCO's mission is to promote sustainable growth and good governance in Santa Clara County by preserving agricultural and open space lands, preventing urban sprawl, encouraging efficient delivery of services, promoting accountability and transparency of local agencies, and exploring and facilitating regional opportunities for fiscal sustainability. LAFCO seeks to be proactive in raising awareness and building partnerships to accomplish this through its special studies, programs, and actions.

**III. Scope of Services**

A draft Scope of Services is enclosed with this RFP as Attachment 1. A final statement of services to be provided will be negotiated with the consulting firm selected to develop and implement a communications and outreach plan for LAFCO and will be included as part of the professional services agreement.

**IV. Budget**

A final budget amount for this project will be negotiated with the consulting firm selected for the work prior to reaching agreement. The anticipated project cost of the proposal should not exceed \$75,000.

## **V. Schedule**

It is anticipated that the selected consulting firm will begin working on this project in January 2018; that the firm will attend a LAFCO Workshop to facilitate a discussion about the Commission's communications and outreach goals in March 2018; that LAFCO will hold a public hearing on the Draft Plan in Summer 2018; and that implementation of the Plan will be completed by late 2018.

## **VI. Proposal Requirements**

Response to this RFP must include all of the following:

1. A statement about the consulting firm that describes its history as well as the competencies and resumes of the principal and all professionals who will be involved in the work. This statement should describe the consulting firm's level of expertise in the following areas:

### **Expertise**

- Familiarity with principles, practices and techniques of effective public communications, public relations, and information media
- Experience in developing and implementing communications and marketing strategies/plans
- Familiarity with the customs and practices of various public information media related to local government/public sector and/or environmental issues affecting the public
- Experience developing, articulating and evaluating communications/marketing strategies to meet objectives, including work around branding, media relations, advertising, and corporate or grassroots outreach
- Experience in techniques of public relations/marketing copy writing and editing, layout and production
- Experience in project management
- Experience in techniques of effective interviewing
- Experience facilitating and synthesizing input from a variety of stakeholders
- Experience in fostering multi-agency partnerships and cooperative problem-solving
- Familiarity with current principles and techniques of multimedia communications, including internet and social media
- Experience in website design including concepts and resources used in the design, development and management of websites



2. Identification of the lead professional responsible for the project and identification of the professional(s) who will be performing the day-to-day work.
3. Identification of any associate consulting firms to be involved. If associate consulting firms are proposed, describe the work they will perform and include the same information for each as required for items 1 and 2 above.
4. A statement of related experience accomplished in the last three years and references for each such project, including the contact name, address and telephone number.
5. A statement regarding the anticipated approach for this project, explicitly discussing and identifying any suggested changes to the draft Scope of Services (*Attachment 1*).
6. Identification of any information, materials and/or work assistance required from LAFCO.
7. An overall project schedule, including the timing of each work task.
8. Information about the availability of all professionals who will be involved in the work, including any associate consultants.
9. The anticipated project cost, including:
  - a. A not-to-exceed total budget amount.
  - b. The cost for each major sub-task identified in the draft Scope of Services.
  - c. The hourly rates for each person who will be involved in the work, including the rates of any associate consultants.
10. Comments about the draft services agreement (*Attachment 2*) specifically including the ability of the consulting firm to meet the insurance requirements and other provisions.

## **VII. Submission Requirements**

DUE DATE AND TIME: **TBD**

Proposals received after this time and date may be returned unopened.

NUMBER OF COPIES:

6 copies

DELIVER TO:

Neelima Palacherla  
LAFCO of Santa Clara County  
777 North First Street, Suite 410  
San Jose, CA 95112

Note: If delivery is to be in person please first call the LAFCO office (408-993-4705 or 4704) to arrange delivery time.

### **VIII. Evaluation Criteria and Selection Process**

Consulting firms will be selected for further consideration and follow-up interviews based on the following criteria:

- relevant work experience
- the completeness of the responses
- overall project approaches identified
- proposed project budget

A consultant selection committee will conduct interviews and the most qualified consulting firm will be selected based on the above evaluation criteria and reference checks. Interviews will be held on **TBD**. The selection committee is expected to make a decision soon after. Following the selection of the most qualified consulting firm, a final services agreement including budget, schedule, and final Scope of Services statement will be negotiated before executing the contract.

LAFCO reserves the right to reject any or all proposals, to issue addenda to the RFP, to modify the RFP or to cancel the RFP.

### **IX. LAFCO Contact**

Dunia Noel, Analyst  
LAFCO of Santa Clara County  
Voice: (408) 993-4704  
Email: dunia.noel@ceo.sccgov.org

### **X. Attachments**

1. Scope of Services
2. Professional Service Agreement and Insurance Requirements

### **XI. Reference Information**

More information on LAFCO of Santa Clara County and its activities are available on the LAFCO website (<http://www.santaclaralafco.org/>), including the following:

- Frequently Asked Questions (FAQs) (<http://www.santaclaralafco.org/about-lafco/faq>),
- 2015-2016 LAFCO Annual Report (<http://www.santaclaralafco.org/file/AnnualReport/LAFCOAnnualReport2016.pdf>), and
- LAFCO's Adopted Service Reviews (<http://www.santaclaralafco.org/studies-service-reviews>).

Additional information on LAFCOs is available as follows:

- 50 Years of LAFCOs (2013) – A Guide to LAFCOs  
(<https://calafco.org/sites/default/files/resources/50%20Years%20of%20LAFCOs.pdf>)
- It's Time to Draw the Line: A Citizen's Guide to LAFCOs  
([https://calafco.org/sites/default/files/resources/TimetoDrawLine\\_03.pdf](https://calafco.org/sites/default/files/resources/TimetoDrawLine_03.pdf))

**-DRAFT-**

**SCOPE OF SERVICES  
PREPARATION AND IMPLEMENTATION OF A COMMUNICATIONS AND  
OUTREACH PLAN FOR LAFCO**

LAFCO of Santa Clara County is searching for qualified consulting firms to prepare and implement a communications and outreach plan for LAFCO. The purpose of the plan is to help LAFCO expand understanding of its mandate and policies among local agencies and the community.

The selected consulting firm, working closely with LAFCO staff, will develop the Plan and help LAFCO implement key elements of the Plan.

**The Communications and Outreach Plan will:**

- a. Define guiding principles, overarching goals and objectives for LAFCO's communications efforts;
- b. Identify target audience groups for outreach and education;
- c. Recommend targeted messages to reach each audience group;
- d. Recommend communications delivery mechanisms with which to reach each audience group;
- e. Prepare an implementation plan, including prioritization of activities, required resources, schedule, and role and responsibilities of LAFCO staff, Commission, and consultant in implementing the Plan;
- f. Identify specific performance measures that LAFCO can use to evaluate the effectiveness of its communications program; and
- g. As necessary, include any other items that the selected consulting firm recommends be included in the Plan.

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**Continues on Next Page**

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**Implementation activities will include, at a minimum, the following:**

**1. Development of Outreach Materials**

PRODUCTS	ROLE OF CONSULTING FIRM		
	Advice on Messaging & Content	Design	Create Template
“What is LAFCO” Brochure <sup>1</sup>	x	x	N/A
County and Cities Boundaries Map <sup>2</sup>	x	x	N/A
Fact Sheets <sup>3</sup>	x		x
Annual Report <sup>1</sup>	x		x
Newsletter/Announcement (electronic)	x		x
Any other products that selected consulting firm recommends	<i>TBD</i>	<i>TBD</i>	<i>TBD</i>

**Notes:**

- (1) Staff will provide draft content.
- (2) Draft version of document already exists.
- (3) Potential topics include: compact growth/infill; agricultural preservation; transparency and accountability best practices for special districts; water resources; affordable housing; island annexations; and climate change.

- 2. Re-design LAFCO Logo and related changes to business cards and letterhead**
- 3. Develop a graphic style guide for LAFCO meeting agendas, staff reports, and PowerPoint presentations**
- 4. Any recommendations for changes to LAFCO website that are necessary to implement key elements of the Plan, including reorganization and/or new content (The LAFCO website was re-designed in 2014 and only minor improvements are anticipated)**

## **GENERAL OUTLINE OF PROCESS**

Development and implementation of the Plan and related tasks will include the following steps, although other activities may be necessary:

### **1. Research and Analysis of Situation**

- Review LAFCO's mission statement and adopted strategic priority goals
- Evaluate LAFCO's recent communications and outreach efforts and existing documents
- Review on-line media for articles on LAFCO of Santa Clara County. Staff will provide articles/links
- Gather information from staff, commissioners, affected agencies, interested organizations, and other stakeholders on local context and situation, through informal interviews/discussions
- Discuss preliminary findings with LAFCO staff and prepare a draft problem statement based on findings

### **2. Identify LAFCO's Communications and Outreach Goals and Objectives**

- Attend a LAFCO Workshop to facilitate a discussion about the Commission's communications and outreach goals

Work Products: Following the workshop, prepare a final problem statement, and communications goals and objectives

### **3. Prepare Draft Plan**

- Based on LAFCO's communications goals and objectives, prepare a Draft Plan for LAFCO staff review
- Address LAFCO staff's comments on the Draft Plan

Work Products: Consultant must deliver a MS Word version and a PDF version of the Draft Plan to LAFCO staff

### **4. LAFCO Public Hearing to Consider & Adopt Plan**

- LAFCO staff will make the Draft Plan available on the LAFCO website for public review and comment
- Present the Draft Plan at a LAFCO public hearing for the Commission's consideration and adoption
- Incorporate any revisions as directed by LAFCO and prepare a Final Plan

Work Products: Consultant must deliver a MS Word version and a PDF version of Final Plan to LAFCO staff

**5. Implement Key Elements of Plan**

- Proceed with the development of products identified in Plan/Scope of Services

Work Products: Consultant must deliver products as identified in Plan/Scope of Services





**AGENDA ITEM # 5**  
**Additional Information**  
Provided on 10/04/2017

**From:** D. Muirhead <doug.muirhead@stanfordalumni.org>  
**Sent:** Wednesday, October 04, 2017 11:28 AM  
**To:** Abello, Emmanuel  
**Subject:** County Local Agency Formation Commission (LAFCO) Meeting  
October 04, 2017 Item #5: Communications and Outreach Plan

Hello Emmanuel,  
I realize that this is too late for the meeting.  
Please distribute to the Commissioners when you can.

Comments for the Public Record submitted by Doug Muirhead, a resident of Morgan Hill, for:  
County Local Agency Formation Commission (LAFCO)  
Meeting October 04, 2017  
Item #5: Preparation & Implementation of a  
Communications and Outreach Plan

I have spoken in favor of this activity before.

I prefer the future focus from the staff report  
identify LAFCO's target audience groups and recommend  
targeted messages to reach each audience group

over conventional Fact Sheets with conventional topics as described in the RFP Scope of services under  
Development of Outreach Materials

Messages that attracted past support are less likely to attract new support. And I want your emphasis to  
be on increasing public support for LAFCO and its mission.  
I would also accept as a success any reduction in outright opposition.

As I have mentioned before, the single most impactful message I have seen here in the last 5 years was  
the history presentation at the 2012 Strategic Workshop by former County planner Don Weden where  
he shows the expansion of cities in the 1950s and 1960s.  
Consider a presentation that imagines the County w/o LAFCO.

So what are your challenges and opportunities?

Stealing a line from Rob Eastwood at the San Martin Planning Advisory Committee  
You need to speak people talk and not planner talk

One of the concepts you just heard for the Climate and Agriculture Preservation Program (CAPP) is to  
tell the tale of two valleys.  
Does North County really care about South County co-benefits of local food, groundwater recharge, and  
flood protection?

In the CAPP Agricultural Tech Panel Notes, the CAPP Team said  
We want people to know these lands and their services are not free.  
There would be a cost to replacing them if we lost them.

Now a few words about Partnerships and Silos

The staff report for the CAPP item said 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 core mandate to preserve farmland and curb urban sprawl.

What did the CAPP Municipal Tech Panel Notes say? [June 2017]

Q: What are comments from LAFCO around this project?

At some point this needs to happen.

A: They are being briefed in the background. Haven't reached out to them explicitly to get their perspectives on the work. More important for us to get on same page as counties and cities.

Q: What is the particular role for LAFCO, ideally?

A: If the four jurisdictions come to an agreement I would like to see them say "Good for you, we're behind it.  
There's some risk they wouldn't say this, though.

Silos (now know in Sacramento as Cylinders of Excellence).

The LAFCO Executive Director is a strategic advisor for the Bay Area Greenprint, a collaboration of the Bay Area Open Space Council, The Nature Conservancy, Greenbelt Alliance, American Farmland Trust, and Green Info Network.

Can LAFCO be the one who is integrating or synthesizing the many efforts for land use and transportation planning?

Here are 6 relevant activities I know of.

- 1) Santa Clara County regional advance mitigation planning  
OSA Regional Conservation Investment Strategy
- 1) Pajaro Compass  
conservation in the Pajaro Watershed
- 3) OSA Valley Greenprint  
focuses in part on farms, ranches, and other working lands.
- 4) Climate and Agricultural Preservation Program (CAPP)
- 5) The California DWR Land Use Viewer developed to support  
Groundwater Sustainability Agencies (GSAs)
- 6) The Freshwater Trust StreamBank® Toolkit

**LAFCO MEETING: October 4, 2017**

**TO: LAFCO**

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

**SUBJECT: 2016-2017 LAFCO ANNUAL REPORT**

**STAFF RECOMMENDATION**

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Accept the 2016-2017 Annual Report (July 1, 2016 to June 30, 2017).

**APPLICATION PROCESSING**

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In February 2017, LAFCO considered and approved an Urban Service Area and Sphere of Influence amendment between the cities of Los Altos and Mountain View, and conditionally approved the detachment of 1.21 acres from the City of Mountain View and its concurrent annexation to the City of Los Altos and to the County Library Services Area. In March 2017, LAFCO recorded the aforementioned reorganization, after determining that the Town had met the specified conditions.

In June 2017, LAFCO considered and denied an Urban Service Area and Sphere of Influence amendment request from the City of Monte Sereno, after continuing the LAFCO public hearing multiple times, primarily at the request of the landowner.

During Fiscal Year 2016-2017, LAFCO staff processed five city-conducted annexations approved by cities. They include two annexations to the Town of Los Altos Hills totaling 9.61 acres, two annexations to the Town of Los Gatos totaling 0.67 acres, and one annexation to the City of San Jose totaling 0.78 acres.

Please see **Attachment A** for a full accounting of the applications processed by staff from July 1, 2016 to June 30, 2017.

## **PROMOTING SUSTAINABLE GROWTH**

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### **LAFCO and the City of Morgan Hill Reach Settlement on City's General Plan EIR**

As a Responsible Agency pursuant to CEQA, LAFCO provided detailed comment letters to the City of Morgan Hill concerning their EIR for the Morgan Hill General Plan 2035. The letters identified significant deficiencies in the EIR and encouraged the City to conduct adequate environmental analysis, as the City may choose to utilize the EIR to seek approval from LAFCO for urban service area amendments. However, the City certified the EIR without adequately addressing the identified deficiencies.

As a result, LAFCO authorized initiation of litigation against the City to challenge the adequacy of the EIR and directed staff to first pursue settlement. LAFCO staff and City staff then had many discussions and successfully negotiated a settlement which avoided litigation between the two parties. In taking such an action, LAFCO continued to 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.

### **Encouraging Public Agencies to Proactively Plan for and Locate Public Facilities within Existing City Limits, Away from Farmland**

Much of the county's remaining agricultural lands are subject to significant land development speculation and pressure. Such speculation and pressure is not limited to private entities. LAFCO became aware that certain public agencies have been either purchasing and/or are planning to purchase unincorporated farmland in the Southeast Quadrant, outside of Morgan Hill, for non-farm uses, such as for recreational uses, and school sites and related facilities. In response, staff sent a letter to the Morgan Hill Unified School District and the City of Morgan Hill encouraging the two agencies to work collaboratively to proactively plan for and locate schools and other public facilities within the existing city limits, away from farm lands, in order to prevent the conversion of valuable farmland, make use of existing services/infrastructure, and help reduce greenhouse gas emissions.

### **California High Speed Rail Authority's Consideration of Station Location in Gilroy Area**

Staff monitored the California High Speed Rail Authority's (CHSRA) planning process, particularly as it relates to the Authority's selection of a preferred alternative station location in the Gilroy area, which will be analyzed in its upcoming environmental review process. Staff met with the CHSRA's Northern California Regional Director to receive an update on the proposed Project and to reiterate to CHSRA some of the significant areas of conflict between a proposed East Gilroy station location and LAFCO policies; and to encourage consideration of alternative locations that are more consistent with LAFCO polices, state law and other local/regional interjurisdictional goals, plans and policies.

## **PROMOTING ACCOUNTABILITY AND TRANSPARENCY OF LOCAL AGENCIES**

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### **New Reporting Requirement for Certain Joint Powers Authorities**

Staff notified affected agencies about SB 1266, a new law which became effective January 1, 2017, that requires certain Joint Powers Authorities (JPAs) to file their agreements and amendments with LAFCO within specific time-frames. In response, staff has received agreements and amendments from several affected agencies.

## **PUBLIC INFORMATION AND CUSTOMER SERVICE**

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### **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, certain issues and projects may require additional research and meetings in order to effectively address the issues/projects. Staff conducted research and met with the following:

- Cities (Los Altos Hills, Los Gatos, Monte Sereno, Santa Clara, San Jose), County departments, and property owners regarding annexation of unincorporated islands
- County Counsel on potential dissolution of Reclamation District No. 1663 and LAFCO's recommended dissolution of the Santa Clara County Library Service Area
- Midpeninsula Regional Open Space District's potential annexation of remaining lands within District's sphere of influence within Santa Clara County
- County Planning Department, County Environmental Health Department, Cities (Los Altos Hills, Palo Alto) and San Martin County Water District regarding various requests, from unincorporated property owners, for sewer or water service extensions outside of jurisdictional boundaries
- County Parks Department concerning potential city water service extensions to county parkland located in unincorporated areas
- 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
- 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
- Representatives of the South County Catholic High School regarding a new request for amendment of Morgan Hill's urban service area for property within the Southeast Quadrant

- Representatives of the San Martin Neighborhood Alliance on various issues, including the San Martin community's most recent incorporation effort and alternatives to incorporation, and the history of the Morgan Hill/Gilroy joint sewer trunk line that traverses the San Martin community and the recent sewage spill in the community.

## **LAFCO OFFICE RELOCATIONS**

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After relocating and reassembling the LAFCO Office multiple times over the last 18 months, LAFCO executed a lease agreement for private office space. In late March 2017, the LAFCO Office was successfully relocated to 777 North First Street, Suite 410 in San Jose, adjacent to the County Government Center. The term of the lease is 62 months.

Staff spent a significant amount of time and effort making sure that the space was properly prepared for LAFCO operations, including addressing IT/network connections and telecommunications, and working with vendors in order to purchase furniture and equipment for the office space. With a secure and fully functional workspace, staff can now focus on serving the Commission, local agencies, and the public; and completing outstanding work plan items.

## **PREPARATION AND ADOPTION OF ANNUAL BUDGET**

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LAFCO, at its February 1, 2017 meeting, established a Finance Committee consisting of Commissioners Hall, Jimenez, and Wilson, to work with staff to develop and recommend the proposed FY 2017-2018 budget for consideration by the full Commission and work on any other issues of a financial nature, as necessary. The Finance Committee met on March 9, 2017 to discuss several issues, including the status of LAFCO's current year work plan and budget, LAFCO's proposed budget for fiscal year 2018, and LAFCO's proposed work plan for fiscal year 2018.

LAFCO adopted its Fiscal Year 2017-2018 Budget as recommended by the Finance Committee in June 2017.

## **PARTNERSHIPS AND ASSOCIATIONS**

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### **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. The Commission authorized staff to send letters in support of AB 1725 (CALAFCO's Annual Omnibus Bill) and AB 464 (Gallagher) concerning annexations.

In October 2016, staff and Commissioners Vicklund Wilson and Rennie attended the Annual CALAFCO Conference which provides an opportunity to LAFCOs across the state to share some of their best practices and learn new techniques and approaches from other

LAFCOs. Commissioner Vicklund Wilson and Executive Officer Palacherla were panelists on a general session entitled “Back to Our Roots: Curbing Sprawl and Preserving Open Space and Agricultural Lands to Ensure Orderly Growth and Development” and Legal Counsel Subramanian was a panelist on a breakout session entitled “CEQA – What is a Responsible Agency to Do?” which was moderated by Commissioner Vicklund Wilson.

### **Regional Partnerships**

- Executive Officer Palacherla served as a strategic advisor for the Bay Area Greenprint, which is a collaborative project of the Bay Area Open Space Council, Nature Conservancy, Greenbelt Alliance, American Farmland Trust, and Green Info Network. The project, which was officially launched in June, incorporates data and information about natural resource values, including agricultural values, into land use and transportation planning so that a more complete evaluation of the associated public benefits and trade-offs can inform decisions about development and conservation. EO Palacherla spoke at the launch event and discussed the role that LAFCOs play in terms of preserving agricultural and open space lands and how curbing sprawl is an often overlooked but critical factor in land conservation.

### **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 Roads and Airports. The Group reviewed and resolved various city, special district, and tax rate area GIS boundary discrepancies.

### **CHANGES IN LAFCO MEMBERSHIP**

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This year, LAFCO experienced an unprecedented turnover in its membership, welcoming three new regular LAFCO members and two new alternate LAFCO members to the Commission.

In January 2017, the City of San Jose appointed Councilmember Sergio Jimenez as the regular LAFCO member and appointed Councilmember Sylvia Arenas as the alternate member. Commissioner Jimenez replaced Commissioner Ash Kalra, whose term on LAFCO concluded in December 2016. Alternate Commissioner Arenas replaced Alternate Commissioner Raul Peralez.

In January 2017, the Santa Clara County Cities Selection Committee (Cities Selection Committee) appointed Alternate Commissioner Rob Rennie (Councilmember, Town of Los Gatos) as Commissioner. Commissioner Rennie replaced Commissioner Tara Martin-Milius (Councilmember, City of Sunnyvale), whose term on LAFCO concluded December 31, 2016. In February 2017, the Cities Selection Committee appointed Russ Melton (Councilmember, City of Sunnyvale) as the alternate member.

Independent special districts have two designated seats on LAFCO. By agreement amongst the districts, one seat is held by a board member of the Santa Clara Valley Water District and the other is appointed by the Independent Special District Selection Committee (ISDSC). In February 2017, the Santa Clara Valley Water District appointed Board Member John L. Varela as the regular LAFCO member. Commissioner Varela replaced Commissioner Linda J. LeZotte. In May 2017, the ISDSC reappointed Sequoia Hall (Board Member, Santa Clara Valley Open Space Authority) as the regular LAFCO member and Yoriko Kishimoto (Board Member, Midpeninsula Regional Open Space District) as the alternate member.

### **Orientation for New Commissioners**

In order to provide key background information on LAFCO to new commissioners and help them prepare to serve on LAFCO, staff conducted an orientation session for all new commissioners.

### **ACCOLADES/AWARDS**

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#### **LAFCO's Sprawl Prevention Efforts Recognized in Regional Report**

The Commission's efforts to curb urban sprawl and preserve agricultural lands and open space in the south county were recognized by the Greenbelt Alliance in their report entitled "At Risk: The Bay Area Greenbelt 2017." The Report noted LAFCO's actions on applications, such as Morgan Hill's Southeast Quadrant; and on proposals, such as the North Gilroy Neighborhood District, and stated that "the county is lucky to have a vigilant LAFCO agency."

### **ATTACHMENT**

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Attachment A: LAFCO Application Processing Record: July 1, 2016 to June 30, 2017



## LAFCO APPLICATION PROCESSING RECORD

JULY 1, 2016 TO JUNE 30, 2017

### CITY CONDUCTED ANNEXATIONS

CITY	PROPOSAL NAME	DATE RECORDED	DOCUMENT #	ACREAGE APPROVED
Los Altos Hills	Mora Drive No. 2	06/30/17	23687804	1.13
	Mora Glen Drive No. 1	09/07/16	23424090	8.48
	<i>City Total</i>			<b>9.61</b>
Los Gatos	Marchmont Drive No. 4	09/07/16	23424091	0.28
	Winterbrook No. 5		23504393	0.39
	<i>City Total</i>			<b>0.67</b>
San Jose	Story No. 66	06/30/17	23687805	0.78
	<i>City Total</i>			<b>0.78</b>

*Total City Conducted Annexations Acreage*                      **11.06**

### LAFCO HEARD CHANGE OF ORGANIZATION

AGENCY	PROPOSAL NAME	LAFCO ACTION	DOCUMENT # DATE RECORDED	ACREAGE APPROVED
Los Altos/ Mountain View	Jardin Drive Reorganization 2016	Approved 02/01/17	23603223 03/15/17	1.21

### URBAN SERVICE AREA & SPHERE OF INFLUENCE AMENDMENTS

AGENCY	PROPOSAL NAME	LAFCO ACTION	DOCUMENT # DATE RECORDED	ACREAGE APPROVED
Los Altos/ Mountain View	Jardin Drive USA / SOI Amendment	Approved 02/01/17	23603223 03/15/17	1.21
Monte Sereno	Monte Sereno USA / SOI Amendment 2016 (Lucky Road)	Denied 06/07/17	None	0.00



**LAFCO MEETING: October 4, 2017**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Analyst**  
**SUBJECT: LITTLE HOOVER COMMISSION REPORT: SPECIAL DISTRICTS –**  
**IMPROVING OVERSIGHT AND TRANSPARENCY**

**FOR INFORMATION ONLY**

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The Little Hoover Commission, after a year of study, released their Final Report on August 30, 2017, on special districts. The report, titled: "Special Districts – Improving Oversight and Transparency", focuses on district oversight and transparency and has a special emphasis on healthcare districts and climate change. The final report is a culmination of a year-long study by the Commission that included two public hearings and two roundtable discussion forums. See Attachment A for the full report.

The full list of recommendations in the report is presented in Table 1. There are twenty final recommendations, eight of which are directly related to LAFCO.

The LHC's first recommendation is for the Legislature to curtail its recent trend towards special legislation that either bypasses LAFCO or divests LAFCO of authority. Recommendation #2 is for the Legislature to provide a small amount of one-time grant funding to LAFCOs to support targeted activities where critically needed reorganization studies are identified.

Recommendations #3 and #4 support two current bills: SB 448 (Wieckowski) and AB 979 (Lackey). SB 448 is designed to identify and streamline the dissolution of inactive independent special districts; AB 979 streamlines the seating of special districts on LAFCOs. On September 1, 2017, the Governor signed AB 979 into law; SB 448 was passed out of the Legislature on September 5, 2017 and is awaiting the Governor's signature.

To ease the political pressures that LAFCO Commissioners might face in controversial votes, LHC recommendation #5 is that LAFCO Commissioners be seated for fixed terms not subject to the will of Commissioners' appointing authorities.

Recommendation #6 is that the Legislature convene an advisory committee to simplify LAFCO's protest provisions and make them more consistent across different types of LAFCO actions. CALAFCO, which participated throughout the LHC study process, acknowledges the benefits of this recommendation and, its Legislative Committee continues to work on this issue.

Recommendation #9 is for LAFCOs to post a link to all public agencies on the LAFCO website along with the relevant municipal services review for each agency.

Recommendation #13 reiterates LHC's call for the Legislature to stop its recent practice of overriding local LAFCO processes specifically with respect to healthcare districts. CALAFCO has established a workgroup to explore relationships between LAFCOs and health care districts.

**TABLE 1. LHC RECOMMENDATIONS**

\* Recommendations related to LAFCOs

<b>Toward Higher-Quality Local Control</b>	
*1.	The Legislature and the Governor should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.
*2.	The Legislature should provide one-time grant funding to pay for specified LAFCO activities, to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.
*3.	The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.
*4.	The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts-Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.
*5.	The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.
*6.	The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.
7.	The Legislature should require every special district to have a published policy for reserve funds, including the size and purpose of reserves and how they are invested.
8.	The State Controller's Office should standardize definitions of special district financial reserves for state reporting purposes.

<b>Improving Transparency and Public Involvement</b>	
*9.	The Legislature should require that every special district have a website that includes specified components, including basic governance, service, and financial information, and a link to the relevant LAFCO website as well as any other relevant oversight agencies.
10.	The State Controller's Office should disaggregate information provided by independent special districts from dependent districts, nonprofits and joint powers authorities.
11.	The California Special Districts Association, working with experts in public outreach and engagement, should develop best practices for independent special district outreach to the public on opportunities to serve on boards.
<b>What is the Role for Healthcare Districts?</b>	
12.	The Legislature should update the 1945 legislative "practice acts" that enabled voters to create local hospital districts, renamed healthcare districts in the early 1990s.
*13	The Legislature, which has been increasingly inclined to override local LAFCO processes and authority to press changes on healthcare districts, should defer these decisions to LAFCOs.
14.	The Association of California Healthcare Districts and its member districts should step up efforts to define and share best practices among themselves.
<b>Front-line Roles for Climate Change Adaptation</b>	
15.	The Legislature should place a requirement that special districts with infrastructure subject to the effects of climate change should formally consider long-term needs for adaptation in capital infrastructure plans, master plans and other relevant documents.
16.	The California Special Districts Association (CSDA), in conjunction with its member districts, should document and share climate adaptation experiences with the Integrated Climate Adaptation and Resilience Program's adaptation information clearinghouse being established within the Governor's Office of Planning and Research (OPR). Similarly, CSDA and member districts should step up engagement in the state's current Fourth Assessment of climate threats, a state research project designed to support the implementation of local adaptation activities. The CSDA also should promote climate adaptation information sharing among its members to help districts with fewer resources plan for climate impacts and take actions.
17.	The state should conduct a study - by either a university or an appropriate state department - to assess the effect of requiring real estate transactions to trigger an inspection of sewer lines on the property and require repairs if broken.
18.	State regulatory agencies should explore the beginnings of a new regulatory framework that incorporates adaptable baselines when defining a status quo as climate impacts mount.
19.	CSDA, and special districts, as some of the closest-to-the-ground local governments in California, should step up public engagement on climate adaptation, and inform and support people and businesses to take actions that increase their individual and community-wide defenses.
20.	The California Special Districts Association and special districts should lead efforts to seek and form regional partnerships to maximize climate adaptation resources and benefits.

The LHC is an independent state oversight agency that was created in 1962. The Commission's mission is to investigate state government operations and – through reports, recommendations and legislative proposals – promote efficiency, economy and improved service. By statute, the Commission is a balanced bipartisan board composed of five citizen members appointed by the Governor, four citizen members appointed by the Legislature, two Senators and two Assembly members. The Commission works to implement its recommendations either through legislation or administrative changes.

## **ATTACHMENT**

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Attachment A: Little Hoover Commission's Final Report: Special Districts – Improving Oversight and Transparency

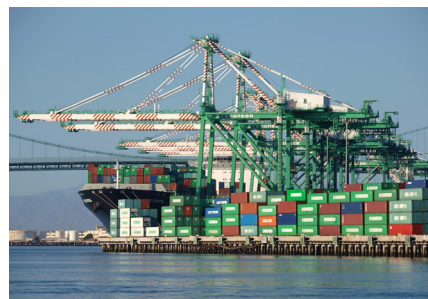
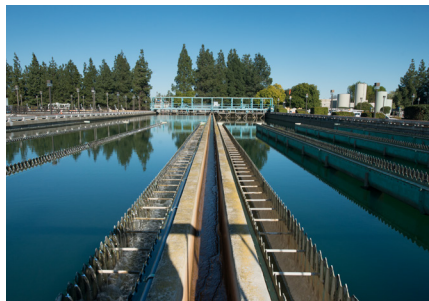


ITEM # 7  
Attachment A

# Special Districts: Improving Oversight & Transparency

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Report #239, August 2017



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# Dedicated to Promoting Economy and Efficiency in California State Government

The Little Hoover Commission, formally known as the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, is an independent state oversight agency.

By statute, the Commission is a bipartisan board composed of five public members appointed by the governor, four public members appointed by the Legislature, two senators and two assemblymembers.

In creating the Commission in 1962, the Legislature declared its purpose:

*...to secure assistance for the Governor and itself in promoting economy, efficiency and improved services in the transaction of the public business in the various departments, agencies and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...*

The Commission fulfills this charge by listening to the public, consulting with the experts and conferring with the wise. In the course of its investigations, the Commission typically empanels advisory committees, conducts public hearings and visits government operations in action.

Its conclusions are submitted to the Governor and the Legislature for their consideration. Recommendations often take the form of legislation, which the Commission supports through the legislative process.

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# Letter From The Chair

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August 30, 2017



The Honorable Kevin de León  
President pro Tempore of the Senate  
and members of the Senate

The Honorable Patricia Bates  
Senate Minority Leader

The Honorable Anthony Rendon  
Speaker of the Assembly  
and members of the Assembly

The Honorable Chad Mayes  
Assembly Minority Leader

Dear Governor and Members of the Legislature:

California’s most prevalent form of government – special districts – is often its least visible. In a year-long review, the Commission looked at how California’s more than 2,000 independent special districts provide vital services ranging from fire protection to healthcare, cemeteries to sewers. It wanted to better understand if California taxpayers were well-served through this additional layer of specialized bureaucracy and to analyze whether consolidation or dissolution of some special districts could lead to improved efficiency in governance and operations.

The Commission found no one-size-fits-all answer. The districts are as diverse as the geographic locations they serve and the millions of Californians who support them through taxes and fees. What might provide an appropriate pathway for five small water districts in rural Northern California who want to consolidate but need help sorting out water rights, likely would not make sense for their powerhouse counterparts, the Metropolitan Water District or Santa Clara Valley Water District, who serve millions of customers in Southern California and the Bay Area. And water districts are just one of 29 types of independent special districts ranging from airport districts to veterans memorial districts.

As part of this study, the Commission considered the role of the Legislature, which gave life to this form of local government in 1877 and retains the power to create or dissolve districts and amend the practice acts that guide district activities. As California began its rapid growth and urbanization after World War II, the Legislature realized that decision-making over local government growth was best done by local officials. In 1963, the Legislature and Governor Edmund G. “Pat” Brown created a local mechanism for overseeing local boundary decisions – and formed 58 Local Agency Formation Commissions (LAFCOs). LAFCOs have the authority to initiate special district consolidations or dissolutions.

In 2000, the Legislature expanded the authority of LAFCOs to conduct Municipal Service Reviews. These reviews provide information to guide districts in performance improvement and can serve as a catalyst for LAFCOs to initiate consolidations or dissolutions. Like many great ideas in government, particularly in a state as large and diverse as California, these 58 different commissions are not uniformly effective.

The Commission also used this review to assess the progress of its recommendations from a 2000 report, *Special Districts: Relics of the Past or Resources for the Future?* In that study, the Commission found an expansive government sector, largely invisible, serving constituents who know little about them or how the money they provide is used.

The Commission found some progress but also saw a missed opportunity for special districts – many have a great story to tell. Very rarely are taxpayer dollars so closely tied to services provided in the community. And still people do not seem to know much about these local governments and their locally-elected boards.

As much as the Commission wanted to find a magic bullet to ensure these 2,000 districts were performing efficiently and effectively, it didn't. The LAFCO process may not be working as it could and should in every corner of the state, but special districts remain best served by local decision-making. To that end, the Commission recommends the Legislature curtail its practice of bypassing the local process. Additionally, the Commission offers a number of common-sense recommendations to help LAFCOs exercise their authority. Two ideas have already resulted in legislation, AB 979 (Lackey) and SB 448 (Wieckowski). The Commission recommends the Legislature enact SB 448 and requests the Governor's signature on AB 979 and SB 448. This report also includes a rare recommendation to infuse a small one-time grant fund to pay to initiate the most urgent consolidations or dissolutions, which should lead to taxpayer savings in improved government efficiency.

The Commission heard extensive testimony on reserve funding – a thorny issue first raised in its 2000 report. The State Controller's Office has convened a task force to standardize reporting on reserves, a necessary first step before anyone can assess the adequacy of each district's rainy day fund. The Commission also urges special districts to adopt prudent reserve policies and make these policies public.

The Commission found significant improvements since its last review in the way that districts communicate their activities and finances with their constituents although not every district has a website. All districts should have a website with basic information including how to participate in decision-making and an easy guide to revenue sources and expenditures.

The Commission did not evaluate every type of special district, but it did take a deeper look at one type – healthcare districts. Originally formed in the 1940s to build hospitals where none existed, less than half of the current healthcare districts run hospitals today. But even within healthcare districts, the Commission found significant differences. In rural communities, districts largely continue to fulfill their original mission – providing a hospital that otherwise would not exist. Among healthcare districts no longer operating hospitals, the Commission found some districts assessing local needs and filling a void in preventative healthcare service. But this was not consistent and the Commission suspects that in some locations, LAFCOs should do more to assess whether every healthcare district should continue to operate. To guide this work, an essential step for the Legislature is an update to the 1945 practice act to reflect the modern healthcare landscape.

As part of the vigorous discussion on reserves, special districts were asked how they were planning and using their reserves to adapt to climate change, particularly those districts with large infrastructure investments. Building on its 2014 report, *Governing California Through Climate Change*, the Commission in this report recommends special districts and their associations take more active roles in existing state government process and in sharing best practices.

During its study process, the Commission discussed some rather extreme solutions that generated intense interest. Through a very robust public process, however, the Commission ultimately concluded that local institutions are best served by local decision-making. The important recommendations in this report will lead to improved efficiency. The Commission stands ready to assist.



**Pedro Nava**  
Chair, Little Hoover Commission

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# Executive Summary

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Special districts, the workhorses of public service delivery created by the California Legislature during the earliest days of statehood, represent the most common form of local government. They have prevailed through endless upheaval as California morphed from a state of rural open spaces into one of the world's most powerful economic engines and home to nearly 40 million people. Today special districts generate some \$21 billion in annual revenues and employ more than 90,000 local government workers.<sup>1</sup>

In 2016 and 2017, the Little Hoover Commission reviewed and analyzed California's 2,071 independent special districts and the State of California's role and responsibility in overseeing them.<sup>2</sup> The Legislature not only created special districts and enacted the practice acts by which they are governed, but it retained the power to create new districts and also to dissolve them. In the early 1960s, the Legislature had the foresight to develop a local oversight mechanism, Local Agency Formation Commissions (LAFCOs) tasked with bringing more rational planning practices and reining in inappropriate growth by considering local government boundary decisions. LAFCOs have the authority to initiate dissolutions and consolidations of special districts, although ultimately local voters have the final say. The process is slow -- intentionally slow according to some --and occasionally frustrated parties attempt to bypass the local process by taking issues directly to the Legislature. This tension, in part, prompted the Commission to update its 2000 review of special districts to consider whether the local oversight process works as intended or whether a different process or a greater role for the Legislature would be more effective.

The Commission's review broke new ground, but also revisited issues first identified in its May 2000 report, *Special Districts: Relics of the Past or Resources for the Future?* The 2000 report declared that California's expansive special district sector often amounted to a poorly overseen and largely invisible governing sector serving residents who know little about who runs them or

what they pay in taxes to sustain them. The Commission nearly two decades ago questioned the soundness of special districts' financial management and asked if their numbers might be pared back through consolidations. Yet Commissioners also acknowledged in their 2000 analysis that special districts provide Californians valuable services and are "physically closest to their communities." The Commission concluded that despite its range of criticisms, special districts should remain, in the end, local institutions best served by local decision-making.

In its newest review the Commission heard from some who still contend that special districts are ripe for consolidation and represent convoluted, dispersed, under-the-radar government. Frustrated with the local oversight process, various local special district issues percolated up into bills in the 2015-16 legislative session as the Commission began its study, potentially signifying that the current system of oversight fails to work as well as intended.

In this review, the Commission found special districts themselves could do a better job of telling their own story to overcome the stigma that they function as hidden government. During an advisory committee meeting, Chair Pedro Nava encouraged special districts to "tell your story." There are very few government entities in a position to let people know that they work directly for the public and that the taxes and fees they collect fund local services, he said.

In testimony, the Commission also learned that despite the perception that special districts continue to proliferate in California, the number of special districts has declined 5 percent since 1997, while the number nationally increased by 10 percent.<sup>3</sup> Thirty-three states have more special districts per capita than California. Despite frequent calls for dissolving or consolidating these local governments, special districts seem to have pluses that render them tolerable to those they govern and able to forestall movements to purge them or fold their work into city and county governments.

The Commission's 2016-2017 review delved into four primary arenas concerning special districts:

- Oversight of special districts, specifically, opportunities to bolster the effectiveness of Local Agency Formation Commissions (LAFCOs).
- The continued need for districts to improve transparency and public engagement.
- The frequently-controversial evolution of California's healthcare special districts, which in the 1940s and 1950s built a far-ranging system of hospitals that are mostly now gone due to a tremendous transformation in healthcare from hospitalization to preventive care.
- The urgency of climate change adaptation in California and the front-line roles that special districts, particularly water, wastewater treatment and flood control districts, play in preparing their communities and defending them from harm.

## Toward Higher-Quality Local Control

As in 2000, the Commission held fast to the concept that special districts are essentially local institutions. Whether their individual endeavors are praised or panned, special districts seemingly reflect the wishes of local voters. They also reflect the politics of LAFCOs, unique oversight bodies in each county with authority to judge their performances and recommend whether they should continue to exist. The Commission again determined that LAFCOs should be the leading voice on the status of special districts in California – and that they need more tools to do the job well.

Commissioners perplexed by the seemingly slow progress in dissolutions and consolidations at one point during the study asked if a lack of money prevented LAFCOs and special districts from initiating consolidations or conducting the mandated Municipal Service Reviews that can identify opportunities for improved efficiency in service delivery. A chorus of stakeholders suggested a small, one-time infusion of grant funding, tied to specified outcomes to ultimately improve efficiency and save taxpayer dollars, was indeed warranted. They also called for various statutory changes that could bolster the effectiveness of LAFCOs.

Clearly, special districts can be improved. Given the routine front-line services they provide, the historic climate challenges these districts face in keeping California stable, as well as the need to provide the best possible healthcare to millions of residents, LAFCOs and the state have obligations to see that they succeed. To that end, the Commission offers 20 recommendations to guide the Legislature and Governor going forward. The first eight of those recommendations address the basic structure and governing issues revolving around special districts:

***Recommendation 1: The Legislature and the Governor should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.***

The Legislature and Governor have reason to be frustrated with slow and deliberative LAFCO processes. But these are local institutions of city, county and special district members often better attuned to local politics than those in the State Capitol. Exemptions where the Legislature gets involved should be few, and in special cases where the local governing elites are so intransigent or negligent – or so beholden to entrenched power structures – that some higher form of political authority is necessary.

***Recommendation 2: The Legislature should provide one-time grant funding to pay for specified LAFCO activities, to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.***

The Commission rarely recommends additional funding as a solution. However, a small one-time infusion of \$1 million to \$3 million in grant funding potentially could save California taxpayers additional money if it leads to streamlined local government and improved efficiency in service delivery. This funding could provide an incentive for LAFCOs or smaller districts to start a dissolution or consolidation process. Participants in the Commission's public process suggested the Strategic Growth Council or Department of Conservation could administer this one-time funding.

**Recommendation 3: The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.**

There has been no formal review to determine the number of inactive special districts – those that hold no meetings and conduct no public business. Rough estimates gauge the number to be in the dozens. Simplifying the LAFCOs' legal dissolution process would represent a significant step toward trimming district rolls in California. The Commission supports SB 448 and encourages the Legislature to enact the measure and for the Governor to sign the bill.

**Recommendation 4: The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.**

The Cortese-Knox-Hertzberg Reorganization Act of 2000 (AB 2838, Hertzberg) provided the option to add two special district members to county LAFCOs to broaden local governing perspectives. Nearly two decades later, 30 counties have special district representatives on their LAFCOs alongside city council members and county supervisors. This change provides LAFCOs a more diverse decision-making foundation and stronger finances. But 28 counties, mostly in rural California have not added special district representatives to their LAFCO governing boards, citing scarce resources. Presently, a majority of a county's special districts must pass individual resolutions within one year supporting a change. This has repeatedly proved itself a formidable obstacle to broadening the outlook of local LAFCOs. AB 979 (Lackey) would allow a simple one-time election process where districts could easily – and simultaneously – decide the question.

**Recommendation 5: The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.**

The California Association of Local Agency Formation Commissions (CALAFCO) testified on August 25, 2016, that

individual LAFCO members are expected to exercise their independent judgment on LAFCO issues rather than simply represent the interests of their appointing authority. But this is easier said than done when representatives serve on an at-will basis. The CALAFCO hearing witness said unpopular votes have resulted in LAFCO board members being removed from their positions. Fixed terms would allow voting members to more freely exercise the appropriate independence in decision-making.

**Recommendation 6: The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.**

Complicated and inconsistent processes potentially impact a LAFCO's ability to initiate a dissolution or consolidation of a district. If 10 percent of district constituents protest a LAFCO's proposed special district consolidation, a public vote is required. If a special district initiates the consolidation, then a public vote is required if 25 percent of the affected constituents protest. Additionally, the LAFCO must pay for all costs for studies and elections if it initiates a consolidation proposal, whereas the district pays these costs if it proposes or requests the consolidation. Various participants in the Commission's public process cautioned against setting yet another arbitrary threshold and advised the issue warranted further study before proposing legislative changes. They called for more consistency in the process.

**Recommendation 7: The Legislature should require every special district to have a published policy for reserve funds, including the size and purpose of reserves and how they are invested.**

The Commission heard a great deal about the need for adequate reserves, particularly from special districts with large infrastructure investments. The Commission also heard concerns that reserves were too large. To better articulate the need for and the size of reserves, special districts should adopt policies for reserve funds and make these policies easily available to the public.

**Recommendation 8: The State Controller's Office should standardize definitions of special district financial reserves for state reporting purposes.**

Presently, it is difficult to assess actual reserve levels held by districts that define their numbers one way and the State Controller's Office which defines them another way. The State Controller's Office is working to standardize numbers following a year-long consultation with a task force of cities, counties and special districts. To improve transparency on reserves, a subject that still eludes effective public scrutiny, they should push this project to the finish line as a high priority.

## Improving Transparency and Public Involvement

Because there are thousands of special districts in California, performing tasks as varied as managing water supply to managing rural cemeteries, the public has little practical ability to ascertain the functionality of special districts, including the scope of services these local districts provide, their funding sources, the use of such funds and their governance structure. Although publicly elected boards manage independent special districts, constituents lack adequate resources to identify their local districts much less the board members who collect and spend their money.

The Commission saw a number of opportunities for special districts to do a better job communicating with the public, primarily through improvements to district websites and more clearly articulating financing policies, including adopting and making publicly available fund reserve policies. Existing law requires special districts with a website to post meeting agendas and to post or provide links to compensation reports and financial transaction reports that are required to be submitted to the State Controller's Office. The State Controller's Office – despite having a software platform from the late 1990s – attempts to make all the information it receives as accessible as possible.

Many special districts already utilize their websites to effectively communicate with their constituents and voluntarily follow the nonprofit Special District Leadership Foundation's transparency guidelines and receive the foundation's District Transparency Certificate of Excellence. But often, these districts are the exception and not the rule. The Commission makes three recommendations to improve special district transparency and to better engage the public served by the districts:

***Recommendation 9: The Legislature should require that every special district have a website.***

***Key components should include:***

- ***Name, location, contact information***
- ***Services provided***
- ***Governance structure of the district, including election information and the process for constituents to run for board positions***
- ***Compensation details – total staff compensation, including salary, pensions and benefits, or a link to this information on the State Controller's website***
- ***Budget (including annual revenues and the sources of such revenues, including without limitation, fees, property taxes and other assessments, bond debt, expenditures and reserve amounts)***
- ***Reserve fund policy***
- ***Geographic area served***
- ***Most recent Municipal Service Review***
- ***Most recent annual financial report provided to the State Controller's Office, or a link to this information on the State Controller's website***
- ***Link to the Local Agency Formation Commission and any state agency providing oversight***

Exemptions should be considered for districts that fall under a determined size based on revenue and/or number of employees. For districts in geographic locations without reliable Internet access, this same information should be available at the local library or other public building open and accessible to the public, until reliable Internet access becomes available statewide.

Building on this recommendation, every LAFCO should have a website that includes a list and links to all of the public agencies within each county service area and a copy of all of the most current Municipal Service Reviews. Many LAFCOs currently provide this information and some go further by providing data on revenues from property taxes



and user fees, debt service and fund balance changes for all the local governments within the service area. At a minimum, a link to each agency would enable the public to better understand the local oversight authority of LAFCOs and who to contact when a problem arises.

***Recommendation 10: The State Controller’s Office should disaggregate information provided by independent special districts from dependent districts, nonprofits and joint powers authorities.***

Over the course of this study, the Commission utilized data available on the State Controller’s website to attempt to draw general conclusions about independent special districts, such as overall revenues, number of employees and employee compensation. Presently, it is difficult to do this without assistance as information for independent districts is mixed with various other entities.

***Recommendation 11: The California Special Districts Association, working with experts in public outreach and engagement, should develop best practices for independent special district outreach to the public on opportunities to serve on boards.***

The Commission heard anecdotally that the public does not understand special district governance, does not often participate or attend special district board meetings and often does not know enough about candidates running to fill board positions. Often, the public fails to cast a vote for down-ballot races. Two county registrars provided the Commission information that showed in many instances those who voted for federal or statewide offices did not vote for local government officials at the same rate, whether they were city council positions, special district positions or local school or community college district positions.

## **What is the Role for Healthcare Districts?**

The Commission found in its review that special districts were as diverse as the services provided and the millions of Californians served. To gain deeper insight on one type of local government service provider, the Commission took a closer look at an often-controversial group: healthcare districts that no longer operate hospitals. These entities struggle to explain their relevance within the rapidly evolving healthcare industry,

which emphasizes preventative care over hospitalization. Amid uncertainty about the future of the Affordable Care Act, many of these districts claim they are carving out new roles in preventative care. Yet the Legislature, local grand juries, LAFCOs and healthcare analysts continue to question their relevance and need to exist. Presently, just 37 of 79 California healthcare districts operate 39 hospitals, mostly in rural areas with few competitors or other alternatives – and few suggest the need to dissolve those districts.

Controversy tends to afflict districts in former rural areas that became suburbanized in recent decades and grew into competitive healthcare markets. The 2015-16 legislative session included a rash of legislation that considered whether to force district dissolutions or modify district boundaries – even though those decisions are the responsibility of LAFCOs. Nonetheless, most healthcare districts officials continue to maintain they are more flexible than counties in defining priorities and are pioneering a new era of preventative care under the umbrella of “wellness.” Officials say their districts are misunderstood by critics who lack understanding about how much the healthcare landscape is changing. They also say that local voters generally support their local missions and how they allocate their share of property taxes in the community.

As part of its special districts review, the Commission convened a two-hour advisory committee with experts to shed light on healthcare districts. During the course of the Commission’s study, the Association of Healthcare Districts convened a workgroup to develop recommendations, in part, in response to legislative scrutiny. These recommendations were considered and discussed during the November advisory committee meeting. Participants analyzed whether counties or healthcare districts are best positioned as local and regional healthcare providers and discussed the role of LAFCOs in consolidating, dissolving or steering healthcare districts toward more relevant roles. During the meeting Commissioners also pushed districts to share and adopt best practices and define better metrics to measure what they are accomplishing with their shares of local property taxes. Three Commission recommendations arose from the discussion as well as numerous interviews with experts during the study:

**Recommendation 12: The Legislature should update the 1945 legislative “practice acts” that enabled voters to create local hospital districts, renamed healthcare districts in the early 1990s.**

Experts widely agree that statutory language in the acts no longer reflects the evolution of healthcare during the past seventy years, particularly the shift from hospital-based healthcare to modern preventive care models.

**Recommendation 13: The Legislature, which has been increasingly inclined to override local LAFCO processes and authority to press changes on healthcare districts, should defer these decisions to LAFCOs.**

LAFCOs have shown successes in shaping the healthcare district landscape and should be the primary driver of change. Given the controversies over healthcare districts, the California Association of Local Agency Formation Commissions and LAFCOs should be at the forefront of studying the relevance of healthcare districts, potential consolidations and dissolutions of districts. To repeat a theme of Recommendation 1, the Legislature should retain its authority to dissolve healthcare districts or modify boundaries, but this authority should be limited to cases in which local political elites are so intransigent or negligent – or so beholden to local power structures – that some form of higher political authority is deemed necessary.

**Recommendation 14: The Association of California Healthcare Districts and its member districts should step up efforts to define and share best practices among themselves.**

A Commission advisory committee meeting discussion clearly showed that not enough thought or interest has been assigned to sharing what works best in rural, suburban and urban areas among members. The association should formally survey its members and collectively define their leading best practices and models for healthcare, as well as guidelines to improve the impacts of grantmaking in communities.

## Front-line Roles for Climate Change Adaptation

At the Commission’s August 25, 2016, hearing, Chair Pedro Nava asked a simple question of special district attendees vigorously defending their need for robust reserve funds:

How are they assessing future climate change impacts when amassing reserves for long-range infrastructure spending? That question, rooted in the Commission’s 2014 climate adaptation report *Governing California Through Climate Change*, became the genesis of a deeper exploration of awareness of and preparations for climate change among special districts. In an October 27, 2016, hearing focused on special districts efforts to adapt to climate change, the Commission learned that:

- Special districts, even while vastly outnumbering cities and counties in California, have generally not participated at the levels of cities and counties in the state’s emerging climate adaptation information gathering and strategizing. Often that is because they lack land-use authority. Nonetheless, it is critical that their experienced voices be at the table.
- Many larger infrastructure-intensive water, wastewater and flood control districts stand at the forefront nationally in preparing for the varying, changing precipitation patterns – too much or too little water – at the heart of anticipated climate change impacts.

The Commission found it encouraging that many special districts are reducing the need for imported water by diversifying supplies and producing vastly more recycled water. Districts also are steering more stormwater runoff in wet years into groundwater recharge basins for use in dry years. The actions that all agencies must eventually take are already being done by some. The Commission agreed that these leading-edge actions and infrastructure spending strategies represent models for other districts to follow. Accordingly, the Commission makes six recommendations focused on climate change adaptation:

**Recommendation 15: The Legislature should place a requirement that special districts with infrastructure subject to the effects of climate change should formally consider long-term needs for adaptation in capital infrastructure plans, master plans and other relevant documents.**

Most special districts, especially the legions of small districts throughout California, have their hands full meeting their daily responsibilities. Many have few resources and little staff time to consider long-range issues, particularly those with the heavy uncertainty of

climate change adaptation. Making climate change a consideration in developing capital infrastructure plans and other relevant planning documents would formally and legally elevate issues of adaptation and mitigation, especially for districts where immediate concerns make it too easy to disregard the future.

***Recommendation 16: The California Special Districts Association (CSDA), in conjunction with its member districts, should document and share climate adaptation experiences with the Integrated Climate Adaptation and Resilience Program’s adaptation information clearinghouse being established within the Governor’s Office of Planning and Research (OPR). Similarly, CSDA and member districts should step up engagement in the state’s current Fourth Assessment of climate threats, a state research project designed to support the implementation of local adaptation activities. The CSDA also should promote climate adaptation information sharing among its members to help districts with fewer resources plan for climate impacts and take actions.***

The OPR clearinghouse promises to be the definitive source of climate adaptation planning information for local governments throughout California. At the Commission’s October 27, 2016, hearing, an OPR representative invited more district participation in state climate adaptation processes. It is critical that special districts and their associations assume a larger participatory role – both within state government and among their memberships – to expand the knowledge base for local governments statewide.

***Recommendation 17: The state should conduct a study – by either a university or an appropriate state department – to assess the effect of requiring real estate transactions to trigger an inspection of sewer lines on the property and require repairs if broken.***

The responsibility to safeguard California and adequately adapt to climate change impacts falls on every resident of California. This begins at home with maintenance and upgrading of aging sewer laterals. Requiring inspections and repairs during individual property transactions is an optimum way to slowly rebuild a region’s collective wastewater infrastructure in the face of climate change. At the community level, repairs will help prevent excess stormwater during major climate events from overwhelming wastewater systems and triggering sewage

spills into public waterways. The Oakland-based East Bay Municipal Utility District has instituted an ordinance that requires property owners to have their private sewer laterals inspected if they buy or sell a property, build or remodel or increase the size of their water meter. If the lateral is found to be leaking or damaged, it must be repaired or replaced. The state should consider implementing this policy statewide.

***Recommendation 18: State regulatory agencies should explore the beginnings of a new regulatory framework that incorporates adaptable baselines when defining a status quo as climate impacts mount.***

With climate change what has happened historically will often be of little help in guiding regulatory actions. State regulations designed to preserve geographical or natural conditions that are no longer possible or no longer exist already are creating problems for special districts. Wastewater agencies, for example, face conflicting regulations as they divert more wastewater flows to water recycling for human needs and less to streams historically home to wildlife that may or may not continue to live there as the climate changes. While it is not easy for regulators to work with moving targets or baselines, climate change is an entirely new kind of status quo that requires an entirely new approach to regulation.

***Recommendation 19: The California Special Districts Association, and special districts, as some of the closest-to-the-ground local governments in California, should step up public engagement on climate adaptation, and inform and support people and businesses to take actions that increase their individual and community-wide defenses.***

Special districts are uniquely suited to communicate with and help prepare millions of Californians for the impacts of climate change. Nearly all have public affairs representatives increasingly skilled at reaching residents through newsletters, social media and public forums. District staff grapple constantly with new ways to increase their visibility. Many will find they can build powerful new levels of public trust by helping to prepare their communities for the uncertainty ahead.

***Recommendation 20: The California Special Districts Association and special districts should lead efforts to seek and form regional partnerships to maximize climate adaptation resources and benefits.***

Water, wastewater and flood control districts are already bringing numerous agencies to the table to pool money, brainpower and resources for big regional projects. The East Bay Municipal Utility District has arrangements with many Bay Area and Central Valley water agencies to identify and steer water to where it is most needed for routine demands and emergencies alike. The Metropolitan Water District and Sanitation Districts of Los Angeles County also increasingly pool their joint resources to steer more recycled water to groundwater recharge basins for dry years. Likewise, the Santa Clara Valley Water district and other state and federal agencies are collectively planning and funding 18 miles of levees to protect the region from sea level rise. These partnerships among special districts and other government agencies clearly hint at what will be increasingly necessary as climate impacts begin to mount.

# Introduction

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*“Celebrated as the best example of democracy, cursed as the worst form of fragmented government, and generally misunderstood even by the experts, special districts are California’s unique contribution to local government.”*

*What’s So Special About Special Districts?* 2010. Senate Local Government Committee.

At any given moment in any random neighborhood, millions of Californians whirl through their lives within the boundaries of special districts. During their relentless proliferation over the past 75 years or more they have become the backbone of California’s vast public services delivery system and the state’s most common form of local government. The largest of these districts, each individually established by their inhabitants to perform a specific function, provide healthcare, water delivery, transportation, flood control and fire protection. Hundreds more special districts operate airports, harbors, cemeteries, sewer systems, parks and libraries. Still more keep the street lights on, limit the spread of mosquitoes and operate memorials and halls for veterans.

Typically, most residents living in these districts know little about them, how they operate, who runs them and what they pay in taxes or fees to support them. Yet California has an estimated 2,071 independent special districts – many with the power to collect property taxes, to send monthly bills and collect fees and frequently to make voters scratch their heads over a list of unfamiliar candidates during election time.

Generally, it is the state’s 482 cities and 58 counties that attract all the media and social media attention with their noisy, divisive issues and controversial political campaigning. But it is the quiet, below-the-radar special districts where most of the grunt work and local governing of California gets done.

## The Commission’s Study Process

The Commission, in keeping with its mission to seek economy and efficiency in California government, decided at its May 2016 business meeting to undertake a fresh look at the vast, interwoven political landscape of special districts that it first reviewed in 1999 and 2000. A new generation of Commissioners studied the basics of special districts and examined changes spurred by the Commission’s 2000 report. In following up during 2016 and 2017, they evaluated districts generally, but also specifically through the present political uncertainty regarding healthcare delivery and the lens of infrastructure planning for climate change.

*“Districts were popular because they could be put in place quickly, had flexible boundaries, and could efficiently provide those specific services in greatest need without saddling citizens with creation of complex municipal bureaucracies. They were a perfect fit for the dominant, low-density suburban lifestyle that characterized California almost from the beginning.”*

*Growth Within Bounds.* January 2000. Commission on Local Governance for the 21st Century.

Similarly to the 2000 study, this review largely focused on the 2,071 independent special districts. An August 25, 2016, introductory hearing helped the Commission explore the broad background of special districts and consider recommendations about their structures, operations and oversight. An October 27, 2016, hearing focused more narrowly on how special districts, as critical front-line service providers, are mapping out climate adaptation strategies, investing their financial reserves and budgeting for long-range infrastructure to prepare for anticipated climate impacts across California.

Additionally, a November 16, 2016, advisory committee meeting zeroed in on numerous controversies that continue to arise within the Capitol around healthcare districts and whether those districts without hospitals should continue to exist. The Commission examined the historic roles of hospital districts in California, noted the disappearance of many district hospitals and asked if redesigned successor healthcare districts remain a viable entity in an industry that has shifted from disease-focused care to an emphasis in preventative care. Finally, on June 22, 2017, the Commission held a roundtable meeting to discuss potential recommendations for this report, with 17 invited participants and approximately 40 others who provided input and comments to help guide the Commission's review.

During the course of the study, the Commission and staff interviewed dozens of special district officials and members of their trade associations, government analysts, legislative consultants, members of special district oversight bodies and many others. Staff also toured Sierra

Nevada water delivery infrastructure that supplies water to East Bay Municipal Utility District customers.

Throughout the Commission's study process, the evolution of special districts was viewed through California's spectacular population growth since World War II. The Commission learned that newcomers created special districts by the hundreds, then thousands, to bring basic public services to developing rural areas and small towns as the California population rose from nearly seven million in 1940 to 20 million in 1970 and to nearly 40 million today. Many quiet places with ranches and single stoplights morphed into bustling suburbs, cities and urban counties during a frenzy of residential, commercial and industrial development. Often, competing agencies were established to fight fires, build parks and control floodwater. Today, this vast interlaced and unruly governing landscape of city, county and special district service providers is locked into place, the vestige of seven decades of hurry-up growth and hyperactive local agency creation.

## **Institute for Local Government: A Guide to Special Districts**

Special districts are public agencies created to provide one or more specific services to a community, such as water service, sewer service, parks, fire protection and others.

- **Independent Special Districts.** Many special districts operate under a locally elected, independent board of directors, which oversees district functions. These kind of special districts are called "independent special districts." About two-thirds of special districts are independent.
- **Dependent Special Districts.** Sometimes the governing board of either a city or county will also serve as decision-makers for a special district. These kinds of special districts are called "dependent special districts." About one-third of special districts are dependent.

Most special districts perform a single function, such as water service, parks and recreation, fire protection, pest abatement or cemetery management. Other districts have multiple functions, such as community service districts. Some special districts provide services for residents in both cities and counties, while others provide services only for residents who live outside city boundaries in the unincorporated areas.

In California, cities must be located in one county, and city boundaries may not cross county lines. On the other hand, special districts may cross city and county boundaries. For example, the Metropolitan Water District of Southern California serves residents in six different counties and most of the cities within those counties.

Special districts generate revenue from several sources including property taxes, special assessments, and fees.

- **Enterprise Special Districts.** These agencies run much like business enterprises and provide specific benefits to their customers. They are primarily funded by fees paid by service recipients.
- **Non-Enterprise Special Districts.** These deliver services that provide general benefits to entire communities. They are primarily funded by property taxes.

Source: Institute for Local Government. "About Special Districts." Sacramento, CA. <http://www.ca-ilg.org/post/about-special-districts>. Accessed July 18, 2016.

The Commission quickly learned that the status quo is a formidable political force and amply able to quash reform efforts. As it began its 2016-2017 study, it assessed the failure of many reformers during the past quarter century to spur mass consolidation of older special districts or simply absorb them into cities and counties. Consistently, in reports, studies and books, they have argued for centralizing government to create efficiencies and make optimum use of tax revenues. Yet special districts largely continue to prevail. They seem to possess advantages – or conversely, lack wide-scale harms – that make them mostly tolerable to their constituents in the larger scheme of governing and able to forestall movements to purge them on a significantly large scale. Likewise, in California as elsewhere, voters still tend to prefer government that’s closest to them.

the Commission. The findings and recommendations in the report, however, are the Commission’s own.

The Little Hoover Commission, in lieu of reemphasizing past reform perspectives that California is broken, cracking up and encrusted with too much multilayered or “barnacled” government, elected to provide a newer understanding of districts’ collective role, shine fresh light on old and emerging issues and find ways for the state to oversee better order among local and regional service providers. The Commission, as it assessed the role of special districts in a state that has largely matured in its growth patterns, considered potential ways to clean up poorly-organized local and regional governing systems lingering from chaotic episodes of growth and better prepare them for a new kind of California – one that is:

- Much more densely populated and urban
- Implementing concepts of wellness to create a healthier population and greatly reduce catastrophic healthcare costs, and
- Increasingly focused on economic stability and reliable service delivery as climate impacts begin to mount.

Public hearing witnesses and advisory committee meeting participants are listed in the appendices.

Throughout this study, Commission received much valuable input from interviews and correspondence with special district officials, legislative advocates, government analysts and other experts on governing California. All gave generously of their time, providing great benefit to

# Background

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Special districts are a unique creation of California, a governing mechanism dating to the Legislature’s Wright Act of 1877 authorizing Stanislaus County farmers to form the Turlock Irrigation District and capture Sierra snowmelt to water their crops. Water districts led the way in formation of special districts in a vast rural state with approximately 1.5 million people in 1900. In 2017, with a population nearing 40 million, they still supply approximately 90 percent of the developed water in California.<sup>4</sup>

Cemetery districts likewise came into being when California’s population growth overwhelmed the traditional role of churches in providing and maintaining burial grounds.<sup>5</sup> Nearly 250 cemetery districts still exist statewide.<sup>6</sup> New districts in the 1930s built levees and airports and brought electricity to residential areas. Yet most of today’s 2,071 independent districts – the focus of this review – came into being after World War II to accommodate millions of newcomers who migrated to the state’s bounty and warm climate. Hospital districts formed to provide intensive medical care. Library districts put books on the shelves. Harbor districts created shelter for fishing boats and new community services districts took on most of the responsibilities of a small town with fire trucks, parks and night lighting.

The state’s largest districts tend to be located in long-developed coastal areas and include such regional giants as the Metropolitan Water District, Santa Clara Valley Water District and East Bay Regional Parks District. Most of the smaller districts, which are more narrowly focused and limited in service scope, are located in more recently developed inland areas of California.<sup>7</sup>

Proponents of special districts say their best quality is the ability to concentrate on one service. A city parks department is one among many competing for funding during budget season – and may share a city council meeting agenda with dozens of items on proposed shopping centers, gang prevention, pavement conditions, flooding and the homeless. A special district

has a narrowly-defined budget and a singular focus for interested constituents during its public meetings.

“By focusing only on providing the highest level of emergency services to the communities they serve, they avoid being sidetracked or competing for resources with other governmental services,” North Tahoe Fire Protection District Chief Michael Schwartz told the Commission in August 25, 2016, testimony. “Along with a focused mission comes a certain level of organizational expertise, do one thing, do it efficiently and do it well.”

One example from late 2015 testifies to the flexibility enjoyed by single-purpose special districts in contrast to cities, counties and state or federal agencies. When Amador and Calaveras counties were overwhelmed after the 70,000-acre Butte Fire and the federal government couldn’t immediately move to begin watershed restoration, the East Bay Municipal Utilities District (EBMUD) board voted to loan the U.S. Bureau of Land Management (BLM) \$1 million for helicopter time to quickly re-seed the Mokelumne River watershed which drains into the district’s Pardee and Camanche water storage reservoirs. “We really pushed the envelope of what could be done. We were like ‘let’s get going, let’s get going,’” said Chris Swann, ranger supervisor of EBMUD’s Mokelumne River Watershed and Recreation District. Unfortunately, said Mr. Swann, the BLM bureaucracy could not find a way to accept the loan to begin a response.<sup>8</sup>



## Special Districts: How Many Are There?

### Number of California Local Government Entities

- School Districts: 1,022
- Cities: 482
- Counties: 58
- Independent special districts: 2,071
- County-run dependent special districts (including more than 800 county service areas): 1,495
- City-run dependent special districts: 254
- Joint Powers Authorities and Nonprofit Corporations: 957

### Number of Independent Special Districts by Category

- Airport districts: 10
- Water districts: 132
- Water storage districts: 8
- Citrus pest districts: 9
- Community services districts: 321
- Cotton pest abatement districts: 1
- County sanitation districts: 37
- County water districts: 169
- Fire protection districts: 346
- Harbor districts: 7
- Healthcare districts: 79
- Irrigation districts: 92
- Levee districts: 13
- Library districts: 13
- Mosquito control and vector control districts: 47
- Municipal utility districts: 5
- Municipal water districts: 37
- Park and recreation districts: 95
- Police protection districts: 3
- Port districts: 5
- Public cemetery districts: 248
- Public utility districts: 54
- Reclamation districts: 150
- Resource conservation districts: 99
- Sanitary districts: 66
- Transit districts: 17
- Water conservation districts: 13
- Water replenishment districts: 2
- Veterans memorial districts: 27

Sources: See endnote 73.

*“What makes special districts an effective and efficient form of local governing is the empowerment of local service specialists with the revenue and budget authority. When you empower the specialists with the authority combined with the resources necessary to get the job done they will do it in a focused manner that results in efficiency and effectiveness. They will be more prudent, more innovative and more sustainable. As this Commission looks forward to its next hearing let’s not undermine this unique and invaluable tool, the independent special district, that local voters throughout California have established to make a difference in their communities. Let’s instead work together to strengthen these local specialists.”*

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association, addressing the Commission August 25, 2016.

## State Auditor Elaine Howle on the Strengths and Challenges of Special Districts

**Strengths:** “Special districts are typically formed to provide specific services and serve certain areas or regions that are not necessarily tied to a city or a county and thus, often understand their constituents’ needs better than a government entity that provides many services and may be a bit further removed from the constituents. Special districts may be able to customize services and provide more tailored services to their customers.”

**Challenges:** “Special districts may have less resources or administrative staff than a city, county or state entity. With limited resources it is sometimes difficult to incorporate management controls and proper oversight that mitigate errors, irregularities, or mismanagement.”

Source: California Special District Magazine. October 15, 2015. “Interview with State Auditor Elaine Howle: Auditing in the Course of Checks and Balances.” Sacramento, CA. <http://www.csdanet.net/districts-in-the-news/interview-with-state-auditor-elaine-howle-auditing-in-the-course-of-checks-and-balances/#sthash.8PmlL0z2.dpuf>. Accessed July 18, 2016.

## Numbers Rising Nationally, but Declining in California

Nationally, the proliferation of special districts is increasing, numbering 38,266 in the U.S. Census Bureau’s 2012 Census of Governments, and raising familiar concerns about too much government and too little oversight.<sup>9</sup> In California, the number has peaked, however, and is falling. The California Special Districts Association (CSDA), testifying at the August 25, 2016, hearing and citing 2012 Census of Governments data stated:

- The number of special districts in California has declined 5 percent since a 1997 peak, while the number nationally increased 10 percent since 1997.
- Thirty-three states have more special districts per capita than California.

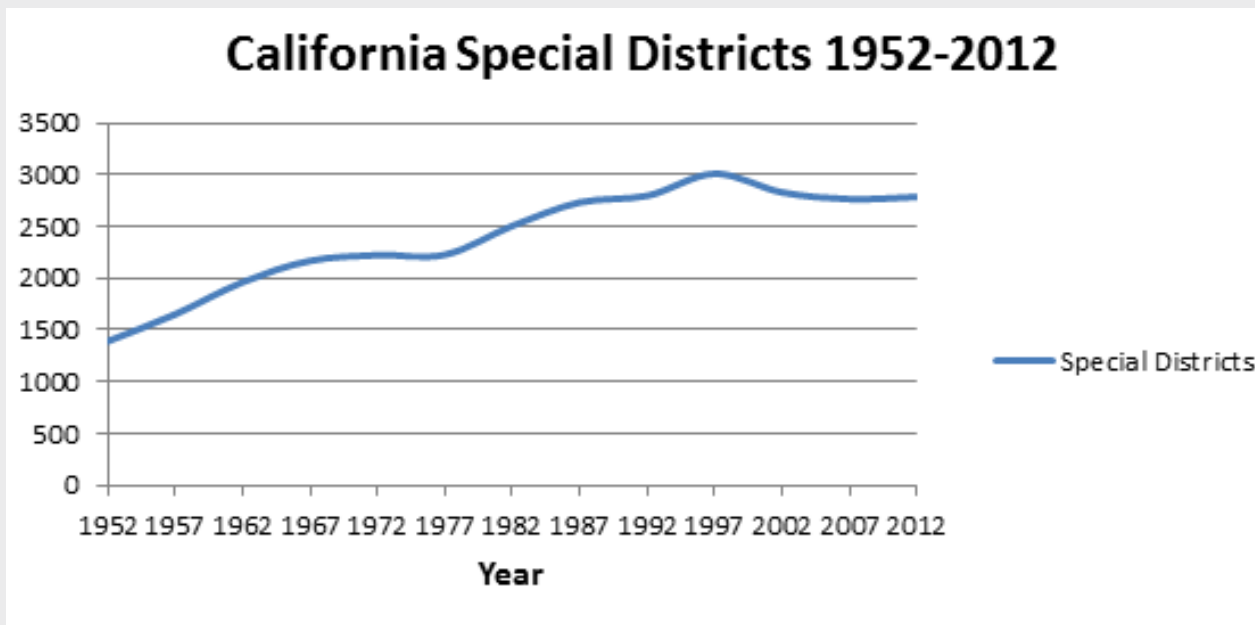
- California has 7.5 percent of the nation’s special districts with 12 percent of the nation’s population.

The leveling-off trend continues, according to the CSDA, which reported a half dozen district consolidations and dissolutions from mid-2015 through the end of 2016. They include:

- Lompico Water District in Santa Cruz County
- Los Trancos Water District in San Mateo County
- Rabb Park Community Services District in Amador County
- Del Rio Woods Recreation and Park District in Sonoma County
- Gold Springs Lighting District in Tuolumne County
- Niland Fire Protection District in Imperial County.

### Slight Declining Trend in Number of Special Districts

After 75 years of relentless formation and growth to accommodate the rapid development of California, the number of special districts within the state has leveled off.



Source: U.S. Department of Commerce. U.S. Census Bureau. Census of Governments. “List & Structures of Governments. Number of Special Districts.” Washington, D.C. [https://www.census.gov/govs/go/number\\_of\\_special\\_districts\\_by\\_county.html](https://www.census.gov/govs/go/number_of_special_districts_by_county.html). Accessed July 18, 2016.

The Imperial County Local Agency Formation Commission moved to dissolve the Winterhaven Fire Protection District, in May 2017. The district had ceased to provide fire protection to the small community and its board had stopped meeting regularly, according to a May 2017 report from the LAFCO's executive officer.<sup>10</sup> Studies also were underway to consider dissolving the West Contra Costa Healthcare District and Rollingwood Wilart Recreation and Park District in Contra Costa County, according to CSDA analysts.<sup>11</sup> Likewise, representatives of five Tuolumne County special districts gathered on January 18, 2017, to discuss possible consolidation of their sanitary, parks, cemetery, lighting and fire districts – with combined annual revenue of \$2.1 million – into a single community services district. “I think through consolidation we would be more efficient,” said one board member quoted by the local newspaper. “We may spend the same amount of money, but I think we would be increasing services to the community.”<sup>12</sup>

In May 2017, the Commission received a copy of a letter from four water districts and one flood control and water conservation district in the Ukiah Valley of Northern California seeking assistance from the Governor in resolving water rights issues so that the five districts could voluntarily consolidate into one Joint Powers Authority. The letter highlighted the challenges that willing water districts working in conjunction with their LAFCO encounter in attempt to consolidate to become more efficient. The districts hoped to provide a statewide model for voluntary water district consolidation using the LAFCO process.<sup>13</sup>

The special districts community maintains there are an unknown number of inactive districts statewide – all candidates for further rounds of dissolutions. A handful of them, according to CSDA, include the Alpine Resource Conservation District, Corcoran District Hospital, Mootamai District Hospital, Odessa Water District and Reclamation District 2120, Silver Creek Drainage District, Valley Health System Healthcare District and Willow Springs Water District.<sup>14</sup> The California Association of Local Agency Formation Commissions (CALAFCO) suggested at the Commission's August 25, 2016, hearing that its member agencies would benefit from having statutory authority and funding to unilaterally dissolve inactive districts without protest votes and costly elections. Presently, when either a LAFCO or a district (even an inactive one) formally initiates its own dissolution residents can protest and upend the process. Legislation to resolve this issue is

currently pending consideration by the Legislature.

## What Californians Can Find Online About Special Districts

Special districts report financial data annually to the California State Controller and California State Treasurer for public review. The Controller's office annually updates the number of independent districts and their employees and reports their statewide and individual salaries and wages paid per district. Data on individual districts can be found by entering the name of the district. Many special districts also provide links to the State Controller's website. One challenge, as described in greater detail later in this report, is that the State Controller combines information on independent special districts, joint powers authorities and nonprofit corporations making it difficult to assess trends in the aggregate. Upon request from the Commission, the State Controller provided the following details on the 1,895 independent special districts that have data available on the State Controller's website<sup>15</sup>:

- These districts have revenues of \$21.5 billion.
- These districts employ 90,461 people.
- The total payroll for these districts was nearly \$6 billion.

The Controller also updates a Top 250 list of the largest districts, an activity spurred by legislation codifying a recommendation in the Little Hoover Commission's 2000 report. For historical information, the Controller's Office maintains a list of annual financial transaction reports from fiscal year 1995-1996 through 2011-2012. In 2014, the Controller's Office updated its financial reporting to an open data format, allowing the public to sort and compare data in a variety of ways. The Treasurer's office tracks special districts' outstanding debts on its *DebtWatch* website. According to the State Treasurer's *DebtWatch* website, California special districts issued \$10 billion in debt from July 2016 to July 2017.

The California Special District Association also has a wealth of information on special districts on its website, including an interactive map of California that includes the name and contact information for a majority of special districts by county with links to many local district websites.

## Relevant Websites to View Special Districts Data

Special Districts Annual Report – Top 250 Districts  
<http://lgrs.sco.ca.gov/sb282/index.asp>

Salary Database for Special Districts  
<http://publicpay.ca.gov/Reports/SpecialDistricts/SpecialDistricts.aspx>

Top 1,000 Special District Salaries  
<http://publicpay.ca.gov/Reports/SpecialDistricts/SpecialDistricts.aspx?fiscalyear=2015&rpt=2&chart=1>

Annual Special District Financial Transaction reports 1995-2011  
[http://www.sco.ca.gov/ard\\_locarep\\_districts.html](http://www.sco.ca.gov/ard_locarep_districts.html)

Special Districts By the Numbers Open Data Website  
<https://bythenumbers.sco.ca.gov>

Debtwatch (California State Treasurer’s Office)  
<http://debtwatch.treasurer.ca.gov>

Special Districts Map (California Special Districts Association)  
<http://www.csda.net/special-districts/map/>

financial reserves held by some “well-heeled” districts, suggested that consolidating small districts into larger districts would yield efficiencies and stated that Local Agency Formation Commissions (LAFCOs) needed to be better-equipped and tougher to bring more order to the state’s checkerboard of districts.

*“When special districts first emerged, they were state-of-the-art government. All of their attributes were tailored to the unique needs of their communities – their boundaries, their functions, their governance and their finances ... Many of these independent government entities continue to evolve in ways that increase their value and relevance to the citizens they serve. But others are reluctant to change and to open themselves to scrutiny. Their boundaries are meaningless relics of communities that have lost distinctions. They spend money on their defined missions, regardless of other community needs. In some cases, they hold vast financial reserves that have simply not been publicly examined. In extreme cases, the governing boards are only “governing” contracts with private service providers.*

Little Hoover Commission. “Special Districts: Relics of the Past or Resources for the Future.” May 3, 2000.

## A Brief Recap: The Commission’s 2000 Study and Changes Since

In a May 3, 2000, letter to Governor Gray Davis and the Legislature following its initial year-long study, the Commission summarized that it found special districts were slow to change their ways, invisible to most citizens and often lacking in scrutiny until it was too late to head off scandal. “Ironically, these governments that are physically closest to their communities are oftentimes unknown to the people they serve. And in the absence of community involvement, the mechanisms for public accountability are dulled and the value of public scrutiny is lost.”

Wrote then Commission Chair Richard R. Terzian: “It also is ironic that when they were created, these districts were tailored to the needs of their communities. But as those communities have grown and changed, the districts themselves have been slow to change their boundaries, functions and governance to reflect their communities.” In its 2000 report, the Commission criticized excess

The Commission’s five major recommendations in 2000:

- The Governor and Legislature should enact legislation to make special districts more visible and accountable to those they serve.
- The state should provide LAFCOs the direction and resources necessary to make them a catalyst for the effective and efficient evolution of independent special districts.
- The Governor and Legislature should establish a program at the California Policy Research Center, or similar institute, to equip policymakers and the public with tools necessary to assess and guide the organization of independent special districts. The program should develop guidelines and protocols for special district consolidations.

It also should study outcomes of consolidations and reorganizations, establish a cadre of trainers and develop performance measures.

- The Governor and Legislature should enact policies to ensure prudent management of special district reserve funds. Those reserves also should be incorporated into regional and statewide infrastructure planning.
- State policymakers should consider whether continuing to allocate property taxes to enterprise districts which bill their customers for services provided is appropriate.

The Commission's May 2000 report and recommendations have spurred few large-scale structural changes in the arena of special districts. There was no jump start in consolidations. There was no alteration of property tax allocations to enterprise districts. Explaining the lack of action, policymakers within the orbit of special districts told the Commission in 2016 that property tax policy is too intricate and convoluted to change allocations without tampering with Proposition 13. They also defended district reserve funds as a tool to pay for infrastructure or special programs such as the Metropolitan Water District's drought-inspired \$350 million lawn removal initiative in Southern California.<sup>16</sup> Many LAFCOs, meanwhile, remain as resource-challenged as they were in 2000, continuing to lack adequate funds to more aggressively initiate and study formation, dissolution or consolidation of districts.

Still, August 25, 2016, hearing witnesses, as well as others in interviews, told the Commission its 2000 report prodded many smaller changes and results: Among them:

- Numerous county grand juries conducted their own reviews of special districts following the Commission's report. These grand juries documented many of the same issues locally as those raised by the Commission. Many questioned reserve levels and district spending and suggested district consolidations.
- Governor Davis in 2001 signed legislation – SB 282 (Dunn) – requiring the California State Controller to publish an annual online report of 250 special districts with the largest revenues. This annual

report now provides the public specific data about districts' reserves, revenues, expenditures and cash and investments on hand.<sup>17</sup>

- The California Special Districts Association in 2001 issued a publication to its members which cited Little Hoover Commission concerns about reserves. It outlined methods to establish "prudent" reserves. The association updated its "Special District Reserve Guidelines" in 2013.
- The CSDA's Special District Leadership Foundation, formed in 1999, now issues certificates of excellence to districts that adhere to principles identified in the Commission study – ethics, transparency, accountability, efficiency and good policy choices.<sup>18</sup>
- Most special districts now have websites – unlike 2000 – and post notices of board meetings, minutes and financial and budget information online. Water districts, especially, make strong use of social media to engage customers and keep them in the know.<sup>19</sup>
- The Cortese-Knox-Hertzberg Act of 2000 – AB 2838 (Hertzberg) – authorized Local Agency Formation Commissions to occasionally analyze the organization and relevance of individual special districts. Most LAFCOs are doing these studies, called Municipal Service Reviews, according to state LAFCO officials.
- LAFCOs also have become more independent of other local government organizations that could sway their decisions. In 2000, some 70 percent of LAFCOs relied on county employees for staff. In 2016, approximately one-third rely on county employees.
- The number of county LAFCOs with special district representatives on their governing boards has increased from 25 to 30 since the Commission's 2000 report. In 2017, the California Special Districts Association and California Association of California Local Agency Formation Commissions is co-sponsoring legislation to remove a legal constraint that requires a majority of special districts within a county to pass resolutions favoring special district

representation on their LAFCO within a one-year period. The proposed change would allow a one-time election process where a majority of districts could vote on the question.

# Appropriate State Oversight

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The Legislature gave life to special districts in 1877 and retains the power to create them to meet new needs, dissolve them when they become irrelevant and adjust their boundaries to meet changing circumstances. Generally, the Legislature is free to intervene in operations of special districts any way it sees fit – and has repeatedly done so.

Many outside the Capitol told the Commission the Legislature increasingly is too quick to override local oversight of special districts – and ill-informed while weighing issues complicated by fractious local politics. Yet Capitol insiders say local oversight processes for special districts can be interminably slow and ineffective. It often requires higher political authority to break logjams, shut down troubled districts, consider the fairness of property tax allocations and scrutinize the scale of financial reserves.

The standoff is a constant in Capitol politics. What, indeed, is appropriate state oversight for special governing entities that are local and regional in scale, run by locally-elected boards, subject to local oversight authorities and, in theory, reflecting the wishes of local constituents?

## **It Begins with Local Agency Formation Commissions (LAFCOs)**

The Commission’s 2000 report found LAFCOs were slow, underfunded and even unreliable when captured by local politics – and some still are. A frustrated

Legislature has reacted by bypassing LAFCOs altogether through legislation to directly create, expand, dissolve or alter the operations of special districts. Governor Schwarzenegger and Governor Brown have largely approved reorganization bills that reach their desks. An uptick in these types of bills introduced during the 2015-2016 legislative session signaled the LAFCO process was not living up to its potential equally across the state.

The Legislative action however raises red flags among local government watchers. One 2016 Senate Governance and Finance Committee analysis stated that “continuing to enact special legislation circumventing the LAFCO process for individual local government boundary changes and reorganizations may set a precedent that invites regular legislative involvement in all manner of disputes over local service delivery and boundary issues.”<sup>20</sup>

Despite marked improvements since the last major reform effort in 2000, the enactment of the Cortese-Knox-Hertzberg Reorganization Act of 2000, the LAFCO process has generally not spurred an abundance of dissolutions or consolidations of special districts.

In August 25, 2016, hearing testimony, Pamela Miller, executive director of the California Association of Local Agency Formation Commissions (CALAFCO) told the Commission her member agencies oppose bills that bypass LAFCO authority and are increasingly being introduced in the Legislature. She also cited negative implications of the Legislature powerfully inserting itself into purely local disputes and issues, often of late involving healthcare districts, an issue discussed more fully later in this report.

## What is a LAFCO and What Does it Do?

Many consider county Local Agency Formation Commissions, in theory, one of the best ideas of any state in helping guide the orderly growth of local government as communities develop and change. In practice, this task is often made much more difficult by local politics that can occasionally override the broader public interest. LAFCOs are dominated by local elected officials with varying ideologies about accommodating growth or development while the institutions are sometimes thought to be controlled by various city or county factions favorable or unfavorable to developers. A dissenting vote can lead to a member's removal. (The California Association of Local Agency Formation Commissions testified at the August 25, 2016, hearing that it would like to see statutory authority providing fixed terms for LAFCO members to ease political pressures in controversial local votes).

LAFCOs exist in each of California's 58 counties and are generally governed by five or seven members that include two county supervisors, two city council members and one public member – and in 30 counties, also two special district representatives. In most of those 30 counties, the cities, counties and special districts each pay one-third of a LAFCO's annual budget – though funding ratios can vary. In counties without special district representation cities and counties generally split the cost.

The Legislature and Governor Edmund G. "Pat" Brown created LAFCOs in 1963 as part of a tide of planning reforms enacted to prevent practices in which "many landowners engaged in leapfrog development – jumping far ahead of municipal boundaries and urban services to build subdivisions without central water and sewer systems," according to author William Fulton's "Guide to California Planning." Cities, wrote Fulton, "happily annexed distant property" and counties "permitted growth wherever landowners wanted to put it." LAFCOs were assigned to bring a rational view to these decisions, in essence, having the final say over city boundaries and also creation of special districts and their boundaries.

The Legislature has added many new responsibilities to LAFCOs since their creation. A 1993 reform law, AB 1335 (Gotch), gave LAFCOs the power to initiate consolidations among special districts while adding the option of including two special district members on LAFCOs.

Another major reform effort in 2000, the Cortese-Knox-Hertzberg Reorganization Act of 2000, AB 2838 (Hertzberg), gave LAFCOs authority to conduct reviews of the efficiency and effectiveness with which special districts deliver services. These are called Municipal Service Reviews (MSRs). While LAFCOs have no direct regulatory authority over special districts, these MSR's provide information to help districts improve their performance – and also serve as the basis for LAFCO decisions to recommend and take the initiative to consolidate or dissolve districts and make boundary changes. Local voters, however, have the final say on consolidations and dissolutions.

Sources: William Fulton. *Guide to California Planning*. Second Edition. Solano Press Books. 1999. Point Arena, CA. Pages 58-59, 76-77. Also, Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions. August 25, 2016. Written testimony to the Commission.



## Recent Legislation Overriding LAFCO Authority in Special District Controversies

- SB 1374 (Lara), creating the Lower Los Angeles River Recreation and Park District without requiring the usual LAFCO study and approval process for new local government boundaries. Governor Brown signed the bill on September 22, 2016.
- AB 2414 (Garcia), allowing the Desert Regional Healthcare District in Riverside County to expand its boundaries into the eastern Coachella Valley without a full LAFCO review. Governor Brown signed the bill on September 21, 2016.
- AB 2471 (Quirk), expediting the dissolution of the Eden Township Healthcare District in Alameda County by ordering the LAFCO, under conditions specified in the legislation, to dissolve it. The bill was ordered to the Inactive File on August 29, 2016, at the request of Senator Loni Hancock, D-Oakland.
- AB 2737 (Bonta), bypassing LAFCO and the board of Eden Township Healthcare District to cap the district's administrative expenses at 20 percent of its annual revenue. Governor Brown signed the bill on September 21, 2016.
- AB 2470 (Gonzalez), requiring the San Diego County Water Authority to provide water outside its boundaries to the Sycuan Band of the Kumeyaay Nation if asked – bypassing LAFCO review and circumventing the annexation process. Governor Brown signed the bill on September 12, 2016.
- AB 3 (Williams), creating the Isla Vista Community Services District to administrate a long-neglected student-occupied neighborhood near UC Santa Barbara. The bill specifically prohibited the local LAFCO from disapproving the application to create it. Governor Brown signed the bill October 7, 2015.
- SB 88 (Committee on Budget and Fiscal Review), granting the State Water Resources Control Board power to bypass LAFCOs to force consolidation of local water districts to serve disadvantaged areas. Governor Brown signed the bill June 24, 2015.
- AB 2453 (Achadjian), establishing a special process to create a new Paso Robles Water District in San Luis Obispo County that included exceptions to the customary and statutorily-required LAFCO process. Governor Brown signed the bill September 16, 2014.
- AB 1232 (Huffman) allowing a special process for the consolidation of the Sewerage Agency of Southern Marin and its member districts, after notice and hearing, but without protest hearings. Governor Schwarzenegger signed the bill October 11, 2009.

Source: : Legislative Information System. Bill analyses.

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***“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.”***

Pamela Miller, executive director, California Association of Local Agency Formation Commissions. August 25, 2016, testimony to the Commission.

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In her testimony, Ms. Miller told the Commission that the Legislature is prone to ignore or override the local circumstances and conditions behind a particular special district dispute. She also said the extensive and time-consuming deliberations involved in LAFCO processes are necessary to ensure quality decision-making. The LAFCO studies required to consolidate, dissolve, change or create a district can take one to two years and cost thousands of dollars in staff time, she said. “The Legislature made the process very deliberative so it takes a while. A dissolution is messy. There are a lot of factors. What are the assets? Who will take over the assets and liabilities? It’s time-consuming and costly. Some entities think it’s less costly to run a bill through the state and nothing could be further from the truth,” she told the Commission.

Witnesses at the Commission’s August 2016 hearing and participants at the June 2017, advisory committee meeting suggested part of the reason for the inconsistent effectiveness of LAFCOs across California was insufficient funding. A small, one-time infusion of grant funding – particularly targeting the most critically needed reorganization studies by LAFCOs or smaller special districts – could lead to improved local governance.

Ms. Miller suggested that although ongoing funding to support LAFCO mandates is appropriate, she indicated CALAFCO fully supports a one-time infusion for LAFCOs to conduct certain activities.

She also acknowledged to the Commission that CALAFCO is seeking middle ground with the Legislature. “We are willing to work with the local government committees to look at LAFCO processes on what could be streamlined and still get the job done,” Ms. Miller said.

Several “nuts and bolts” types of fixes were proposed to the Commission during the study. Two recommendations – one that would make it easier for LAFCOs to dissolve inactive districts and another that would make it easier to add special districts to LAFCOs in the 28 counties where this currently is not the case, were introduced in the Legislature in 2017. The first bill was under consideration by the Legislature and the second was sent to the Governor’s desk in August 2017. Other proposed improvements including establishing fixed terms of service for LAFCO members and simplifying the consolidation and dissolution process.

## **Dealing with Property Tax Inequities**

The Commission spent considerable time in 1999 and 2000 examining a peculiar aspect of special districts that stems from rushed efforts to address the 1978 voter-created property tax limit measure, Proposition 13. The Commission then – alongside several other prominent task forces at the time – recommended reforms for fairer, more equal and sensible property tax distribution among local service providers. None of it gained traction due to powerful public entities, including special districts, fearing lost revenue and defending their locked-in property tax shares. The Commission revisited the topic at its August 25, 2016, hearing and heard a whole new round of opposition and protest from special districts and their trade associations. This opposition was repeated during and following the Commission’s June 2017 advisory committee meeting. It is clear that opportunities for property tax reform and more equitable distribution locally are little better in 2017 than in 2000.

Some districts – such as water districts – collect property taxes *and* charge fees for services to their customers. This enables them to prosper, build strong reserves and

keep fees lower. Meanwhile, some neighboring water districts *can't* collect property taxes, have few reserves and must charge customers higher fees.

*“The allocation of property tax revenues is difficult to administer and understand, complicating the work of policymakers and confounding taxpayers. Formulas for allocating property taxes enacted in the late 1970s often fail to reflect the contemporary needs and desires of local communities. Formulas are now locked in place that provide subsidies to some districts, prevent others from delivering services that the public wants, and preclude understanding by the public of what their property tax buys and from whom.”*

Special Districts: Relics of the Past or Resources for the Future. Little Hoover Commission. May 3, 2000.

This inequality prevails throughout California’s special districts landscape. It is due to AB 8, a quick, reactive measure which passed in 1979 and has defied solution ever since. AB 8 locked in a tax system in which special districts that levied their own property taxes in the mid-1970s get a similar share of their county’s 1 percent property tax rate today. Districts that didn’t levy property taxes in the 1970s – often due to politically-conservative boards – get no shares of their county’s property taxes. This inability to redistribute county property taxes for new program realities means libraries and parks may deteriorate due to taxing decisions made in the 1970s while nearby fire districts buy the best, newest fire trucks and healthcare districts give tax-funded grants to sometimes-questionable recipients – all while also maintaining reserve funds.

August 25, 2016, hearing witness Michael Coleman, a Davis-based government finance expert speaking for himself and not on behalf of his clients, told the Commission that special districts shouldn’t routinely be able to simultaneously receive property taxes and charge customer fees. He testified that the current system (inherited from the state government’s hurried, clumsy implementation of Proposition 13) often increases a region’s tax load – a struggling public library system must seek an additional parcel tax, for example, even as a nearby water district has seemingly outsized financial reserves.

Mr. Coleman acknowledged the difficulty of reforming an entrenched tax system fiercely defended by the winners. But he proposed a novel vision – one also floated during the early 1990s by the Legislative Analyst’s Office – to spend property tax dollars more efficiently in California by better aligning local property tax revenues with demand for services. “Communities should be empowered with the authority they need to allocate revenues according to their particular needs and preferences,” Mr. Coleman testified. “We have a local property tax apportionment system that fragments local governance: no local authority exists to allocate revenues among the core municipal services to better match local service level preferences as they exist today, not 30 or 40 years ago.”

Under Mr. Coleman’s scenario, the Legislature would give counties and cities responsibility to provide *all* services within their boundaries, even those now provided independently by special districts. Cities and counties would decide local service levels – for police, fire, parks, libraries, water and others – and have authority to shift annual spending of local property taxes to best provide them. In this manner, Mr. Coleman testified, a single government authority would set service priorities within its boundaries through an annual open budget process, he testified, rather than the current system of numerous independent entities making those decisions irrespective of one another and the region’s overall needs and wants.

“The authority to reallocate revenues from taxes should be tied at the hip with the responsibility for the service for which those taxes are intended,” Mr. Coleman told the Commission. Policymakers with the power to shift revenues from one program to another should shoulder the responsibilities for those programs.”

“Special districts could continue to be service providers under arrangement with cities and counties, but would no longer be ‘taxing entities,’” Mr. Coleman stated in his written testimony. Orally, he told the Commission, “I have said this many times, and I should reemphasize here again, that special districts, are in many cases, I do not doubt, the very best, most efficient and effective service provider for an area. What I’m suggesting is that that decision can be made through contract, as it is in many cases, as opposed to a locked-in allocation of revenues so that a community has the choice to think about what’s the best alternative for providing the service in the area.”

Special district representatives disagreed vigorously with Mr. Coleman’s proposal. Kyle Packham of the California Special Districts Association told the Commission it “fails on multiple levels” and noted the fact that it’s never been implemented suggested that it’s too difficult or “it may be it’s just a bad idea.” “The linchpin to the effectiveness of special districts, which Mr. Coleman recognizes in his written testimony, is their authority over revenues and expenditures. They’re independent,” Mr. Packham testified. “The moment that authority is subjugated to another body like cities, the district is completely undermined.”

Mr. Packham added: “Giving another body the purse strings might as well be handing them chains and shackles. He who controls, or she who controls, the revenue controls the outcomes. Therefore, turning over revenue control to the cities would inherently eliminate the purpose for which voters established special districts and the foundation for their effectiveness and efficiency.”

The Commission clearly recognizes that intense opposition to a different, more rational model of tax sharing creates formidable political obstacles to reforms. Yet, reflecting on the obvious inequities of property tax allocation and the locked-in formulas that have created winners and losers for nearly four decades after Proposition 13’s passage, it considers Mr. Coleman’s proposal worth keeping among policy options for the longer term in California.

## The Prickly Question of Reserves

The August hearing also revisited a sensitive topic of financial reserves held by special districts. In its 2000 report the Commission issued a finding, noting: “Hundreds of independent special districts have banked multi-million dollar reserves that are not well publicized and often not considered in regional or statewide infrastructure planning.”<sup>21</sup> The Commission found that “some reserves appear unreasonably large” and reported at length on ways to define a “prudent” reserve.

At the Commission’s August 25, 2016, hearing, Jon Coupal, president of the Howard Jarvis Taxpayers Association, reiterated many of those criticisms, stating, “Few can deny that many government entities have abused the public trust by hoarding vast sums of money. The problem remains, as it did in 2000, especially acute with enterprise districts.” Mr. Coupal added that reserves have continued

to increase since 2000 among the 25 top enterprise districts cited in the Commission’s original report.

The California Special Districts Association and individual special districts in 19 instances of public comment forcefully contested Mr. Coupal’s figures as well as his criticism. Mr. Coupal defended his testimony, stating, “It’s been said that we don’t understand reserves. I would submit that we do, very well.”

In his written testimony, Mr. Packham stated, “There are many factors to maintaining sufficient reserve levels and ultimately the fact that one agency has larger or smaller reserves than another is not, in and of itself, a bad thing.” He added, “The key is for agencies to establish a clear and well-articulated rationale for the accumulation and management of reserve funds.”<sup>22</sup>

Special districts have likewise continued to dispute the numbers cited for special district reserves in the Commission’s 2000 report, labeling them inaccurate and misleading. In 2016, a Commission discussion with special districts about their reserve figures cited by the State Controller’s Office led to the same impasse as districts told the Commission they use different definitions and calculations for their reserves than those reported by the State Controller. The bottom line: it is nearly impossible under the current state reporting system to draw conclusions that won’t be challenged by special districts as inaccurate. Trade associations for special districts told the Commission the State Controller’s Office has established a task force including representatives of cities, counties and special districts, to work on standardizing definitions used in its reporting of reserves to eliminate this constant discrepancy. The Commission hopes that work remains a priority and is soon concluded to help the public properly assess the reserves held by their local districts.

Special district executives repeatedly told the Commission during its August 25, 2016, hearing that strong financial reserves are necessary for district operations and represent good fiscal judgment. The discussion, highly focused on the need for expensive infrastructure to do their work today and into the future, prompted Commission Chair Pedro Nava to ask district representatives if they are considering the impacts of climate change when investing their reserve funds. That discussion prompted additional research and a second

hearing on October 27, 2016, on districts' reserve policies and climate change adaptation, a subject that will be discussed in a later chapter.

## RECOMMENDATIONS

Many of the concerns raised about special districts continue to be repeated in 2017. Within Capitol policy circles, some still contend that special districts are ripe for consolidation and represent convoluted, dispersed, under-the-radar government. The Commission, while recognizing that many districts could still be consolidated, believes that number may be more in the dozens than the hundreds. It takes at face value the fact that the number of districts has continued to level off since 1997. Yet the Commission remains frustrated with this seemingly slow process and at one juncture during the study process, even considered recommending broad and sweeping changes or encouraging a larger role for the Legislature.

After significant additional public input and several deliberations, the Commission still largely agrees, as it did in 2000, that keeping or dissolving a special district remains more of a local choice than a choice to be exercised within the Capitol. Governing issues remain, however, and special districts operations can be improved. The state can help through a one-time infusion of funding, combined with additional statutory improvements for LAFCOs. But these recommendations, if implemented, should be analyzed and measured and if additional progress does not occur, further reforms should be considered.

***Recommendation 1: The Legislature and the Governor, should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.***

The Legislature and Governor have reason to be frustrated with slow and deliberative LAFCO processes. But these are local institutions of city, county and special district members often better attuned to local politics than those in the State Capitol. Exemptions where the Legislature gets involved should be few, and in special cases where the local governing elites are so intransigent or negligent – or so beholden to entrenched power structures – that some higher form of political authority is necessary.

***Recommendation 2: The Legislature should provide one-time grant funding to pay for specified LAFCO activities, particularly to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.***

The Commission in its 2000 report and again in this study heard that certain LAFCOs and smaller districts lack the resources to propose consolidations and dissolutions. As part of the August 2016 hearing and June 2017 advisory committee meeting the Commission was told a small one-time infusion of \$1 million to \$3 million in grant funding could save California taxpayers money if local government is streamlined and efficiency is improved. This funding could provide an incentive for LAFCOs or smaller districts to start a dissolution or consolidation process. Participants in the Commission's public process suggested the Strategic Growth Council or Department of Conservation could administer this one-time funding.

***Recommendation 3: The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.***

The Commission's study found that there are inactive special districts that hold no meetings and conduct no public business. The exact number of inactive districts is not known and no formal effort to quantify this problem has occurred. A preliminary review by The California Special Districts Association found seven examples. Making the legal dissolution process for inactive districts easier for LAFCOs would represent a significant first step in trimming district rolls in California.

***Recommendation 4: The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.***

The Cortese-Knox-Hertzberg Reorganization Act of 2000 (AB 2838, Hertzberg) provided the option to add two special district members to county LAFCOs to broaden local governing perspectives. Nearly two decades later, 30 counties have special district representatives on their LAFCOs alongside city council members and county supervisors. This change provides LAFCOs a more diverse decision-making foundation and stronger finances. But 28 additional counties, mostly in rural California, have balked, citing scarce resources. Presently, a majority of a county's special districts must pass individual resolutions within one year supporting a change. This has repeatedly proved itself a formidable obstacle to broadening the outlook of local LAFCOs. AB 979 would allow a simple one-time election process where districts could easily – and simultaneously – decide the question.

***Recommendation 5: The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.***

The California Association of Local Agency Formation Commissions testified on August 25, 2016, that individual LAFCO members – members of city councils, county boards of supervisors and special districts – are expected to exercise their independent judgment on LAFCO issues rather than simply represent the interests of their appointing authority. It is a sometimes difficult expectation when members serve at will of their appointing authority. The CALAFCO hearing witness said unpopular votes have resulted in LAFCO board members being removed from their positions. Fixed terms would make voting members more willing to exercise the appropriate independence in decision-making.

***Recommendation 6: The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.***

The Commission heard that an overly complicated and inconsistent process provides another obstacle to implementing district dissolutions or consolidations. There is one set of rules if a LAFCO initiates a dissolution or consolidation and another if the same process is initiated by a district. There was general agreement that a simplified and consistent process could improve

local governance, but the Commission was cautioned against recommending specifics on the process without significantly more stakeholder input. The June 2017 meeting participants agreed this topic warranted further review and suggested the local governance committees in the Legislature convene an advisory group to propose specific legislative changes.

***Recommendation 7: The Legislature should require every special district to have a published policy for reserve funds, including the size and purpose of reserves and how they are invested.***

The Commission heard a great deal about the need for adequate reserves, particularly from special districts with large infrastructure investments. The Commission also heard reserves were excessive and district policies on how reserves are set aside, invested and earmarked for future use are not readily available for public review. To be more responsive to constituents, special districts should better articulate the need for and the size of reserves, by adopting explicit policies for reserve funds. These policies should be readily available for public review.

***Recommendation 8: The State Controller's Office should standardize definitions of special district financial reserves for state reporting purposes.***

Presently, it is difficult to assess actual reserve levels held by districts that define their numbers one way and the State Controller's Office which defines them another way. The State Controller's Office is working to standardize numbers following a year-long consultation with a task force of cities, counties and special districts. To improve transparency on reserves, a subject that still eludes effective public scrutiny, the State Controller's Office should push this project to the finish line as a high priority.

# Improving Transparency

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**M**odern technology provides government a broad array of tools for providing information to the public and to solicit input and involvement from constituents. The Commission found dramatic improvement in the way special districts used websites to reach the public as compared to its prior review in 2000. But this is still not true statewide. And, it still is difficult for the public to know which districts receive their property tax dollars, how to participate in their district’s public process and how to pick the best board members to run their districts from an often obscure list of potential candidates.

## Improving Transparency on Websites

In its 2000 report, the Commission found many districts provided minimal information to the public and many were still in the practice of posting meetings and agendas only at the district headquarters. In the subsequent 17 years, many special districts have embraced technology and provide much more information online. Some of the small and rural districts, however, still lack sufficient revenue and the consistent Internet access that would allow them to create and maintain a web presence. For these districts, it is more feasible to have no website at all rather than comply with state mandates for local government websites. Social media such as Twitter and Facebook provide new, less-costly outreach options.

The California Special Districts Association in partnership with the nonprofit Special District Leadership Foundation can be credited with making significant strides in improving online transparency for many special districts since the Commission’s 2000 report. The Special District Leadership Foundation has developed specific criteria special districts must meet to be awarded a District Transparency Certificate of Excellence. Currently, 118 special districts have received this certification.

Additionally, the California Special Districts Association has partnered with Streamline, a division of Digital Deployment, a web development company, to develop a website builder. With no startup fees and no commitment, association members can create and launch a website that meets all legal requirements as well as the Special District Leadership Foundation’s transparency guidelines for as little as \$10 per month.<sup>23</sup>

Current law mandates four requirements for any local agency with a website:

1. Agendas must be posted 72 hours before a meeting occurs.
2. Annual compensation reports, or a link to the State Controller’s website that contains the report, must be posted.
3. Financial transaction reports, or a link to the State Controller’s website that contains the report, must be posted.
4. Enterprise system catalogs must be posted.

The fourth requirement – to post enterprise system catalogs – is a fairly new requirement unique to local governments enacted through legislation in 2015, SB 272 (Hertzberg). This law requires local governments to include a list of all software and computer systems that it uses to collect, store or analyze information. By creating the new rule as part of the Public Records Act, the law technically did not create an unfunded mandate for local government. Local governments, however, point to this type of legislation as state micromanagement as this website feature may add little value to local government constituents, but does require ongoing staff resources to keep the feature up-to-date.



## Certificate of Excellence Website Requirements

The Special District Leadership Foundation encourages special districts to apply for a District Transparency Certificate of Excellence. These certificates indicate the district meets certain criteria and maintains a website with the following required items:

- Names of board members and their full terms of office to include start and end date
- Name of general manager and key staff along with contact information
- Election/appointment procedure and deadlines
- Board meeting schedule (Regular meeting agendas must be posted 72 hours in advance pursuant to Government Code Section 54954.2 (a)(1) and Government Code Section 54956 (a))
- District's mission statement
- Description of district's services/functions and service area
- Authorizing statute/Enabling Act (Principle Act or Special Act)
- Current District budget
- Most recent financial audit
- Archive of Board meeting minutes for at least the last 6 months
- Link to State Controller's webpages for district's reported board member and staff compensation (Government Code Section 53908)
- Link to State Controller's webpages for district's reported Financial Transaction Report (Government Code Section 53891 (a))
- Reimbursement and Compensation Policy
- Home page link to agendas/board packets (Government Code Section 54957.5) SB 272 compliance-enterprise catalogs (Government Code Section 6270.5)

The foundation also encourages additional items – and requires websites to include at least four of the items below:

- Post board member ethics training certificates
- Picture, biography and e-mail address of board members
- Last (3) years of audits
- Financial Reserves Policy
- Online/downloadable public records act request form
- Audio or video recordings of board meetings
- Map of district boundaries/service area
- Link to California Special Districts Association mapping program
- Most recent Municipal Service Review (MSR) and Sphere of Influence (SOI) studies (full document or link to document on another site)
- Link to [www.districtsmakethedifference.org](http://www.districtsmakethedifference.org) site or a general description of special districts
- Link to most recently filed FPPC forms
- Machine readable/searchable agendas (required in 2019)

Source: Special District Leadership Foundation website. Accessed August 7, 2017. [https://docs.wixstatic.com/ugd/e1128e\\_2a54d6cbed247a19f30556c297daee0.pdf](https://docs.wixstatic.com/ugd/e1128e_2a54d6cbed247a19f30556c297daee0.pdf)



In written comments to the Commission following the June 2017 advisory committee meeting, Mr. Packham from the California Special District Association noted that between April and June 2017, one district website had 289,133 unique page views to its homepage, but only 16 unique page views of the enterprise system catalog link. In the same letter, Mr. Packham urged the Commission to not only consider the upfront costs of developing or updating a website to comply with statutory requirements, but also the ongoing personnel costs required to maintain and update information on the website. He and others also suggested that any new requirements related to special district websites be consistent across all levels and types of state and local government and that consideration be given to small special districts with limited revenue and inconsistent access to the Internet.<sup>24</sup>

Improving websites was a significant discussion topic at the Commission's June 2017 advisory committee meeting. Chair Pedro Nava encouraged districts to "tell their story" in plain language. There are very few government entities that are in a position to let people know that they are out there working directly for them and that the taxes and fees they pay fund local services, he said.

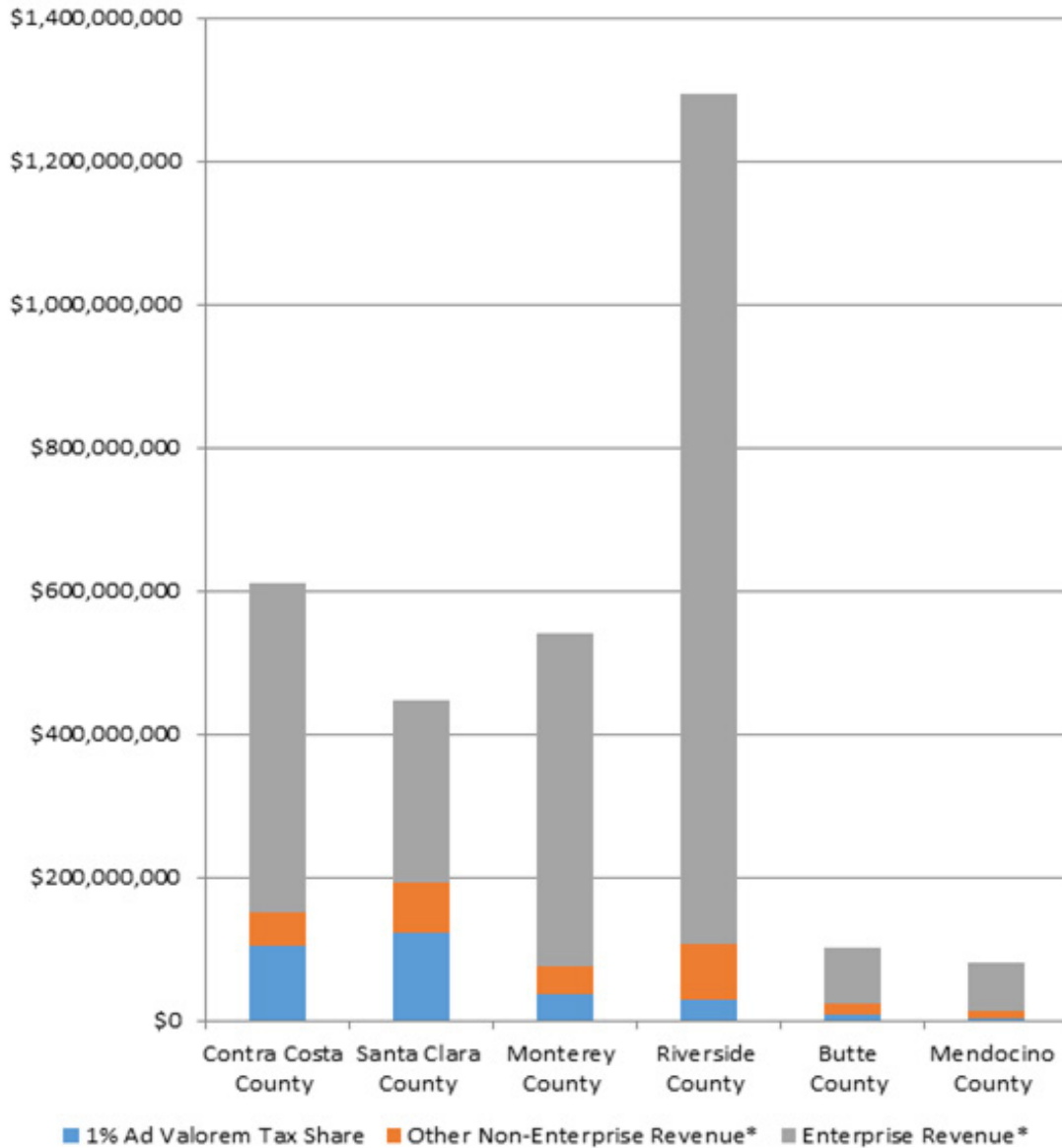
The goal of additional transparency is not micro-managing, another Commissioner stated at the meeting, but rather consistently making information available that answers basic questions about a district: how many employees are there and what are they paid, where does the revenue come from and how is money spent in the district. The goal, he said, is to build trust.

During the study process, the Commission also found it difficult to draw basic conclusions about independent special districts even though much information is publicly available on the State Controller's websites. [Government Compensation in California](#), includes employee salary, benefits and pension costs for every special district that submits this information as required to the State Controller's Office. Another State Controller's Office website, [By the Numbers](#), provides access to the financial information provided by special districts including revenue, expenditures, long-term debt and other data points and allows the website user to compare up to five different districts. This information on these two websites is valuable and helpful, particularly if the interested party knows where to look and the name of the special district they want to review, but it is difficult to

compile aggregate data as the State Controller combines independent and dependent special districts along with joint powers authorities and nonprofit corporations. Disaggregating independent special district data on the website would enable the public and policymakers to more easily draw general conclusions. With assistance from State Controller's Office staff, the Commission was able to learn that independent special districts generate some \$21 billion in annual revenues and employ more than 90,000 local government workers.<sup>25</sup>

The Commission also found that it is difficult, if not impossible, for taxpayers to understand where their property tax dollars are spent locally. Although many special districts, as previously described, do receive a portion of their revenue from property taxes, not all do. SB 448 (Wieckowski), the legislation that would make it easier for LAFCOs to dissolve inactive districts, also included provisions requiring all county tax bills to include a list of all services provided by a city, county, special district or school district that are funded by the general ad valorem property tax. Ad valorem taxes are levied on property based on its value. In California, the ad valorem property tax is restricted by a formula set by Proposition 13, a ballot proposition enacted by voters in 1978. An analysis of SB 448 by the Senate Appropriations Committee concluded this provision would create "significant reimbursable mandate costs, likely in the millions annually related to requirements for counties to report specified information regarding services provided through the ad valorem property tax on every tax bill."<sup>26</sup> As a result of the cost, the bill was amended to delete the provision related to tax bills. The Legislature should continue to work with county officials to develop an alternative that would allow taxpayers to better understand the use of their ad valorem property taxes without causing an excessive burden for counties.

### Independent Special District Revenue, by County FY 2015



Source: Data obtained from Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association. Sacramento, CA. June 21, 2007. Written communication. Citing State Controller’s Office Financial Transaction Report Data obtained through [www.bythenumbers.sco.ca.gov](http://www.bythenumbers.sco.ca.gov).

At the Commission’s April business meeting, Commissioners asked if it was possible to look at one or two counties and view how much of the ad valorem property tax went to each of the districts operating within the county – with the understanding that many districts straddle more than one county and many districts receive no property tax revenue at all. In response, the California Special Districts Association, using data from the State Controller’s By the Numbers website, compiled information for two urban, two suburban and two rural counties. In the six counties analyzed, the ad valorem property tax generated ranged from 2 percent of total special district revenue in Riverside County to 27 percent of total special district revenue in Santa Clara County. Data show the vast majority of revenue for special districts in each of these six counties came from fees charged for services, not property taxes. Approximately 47 percent of the 256 special districts identified in the six counties received no property tax at all.<sup>27</sup> The data provided also included the total ad valorem property tax provided to county government, city government and all the special districts within each of the six counties. The chart below reflects the variances in each county, with special districts

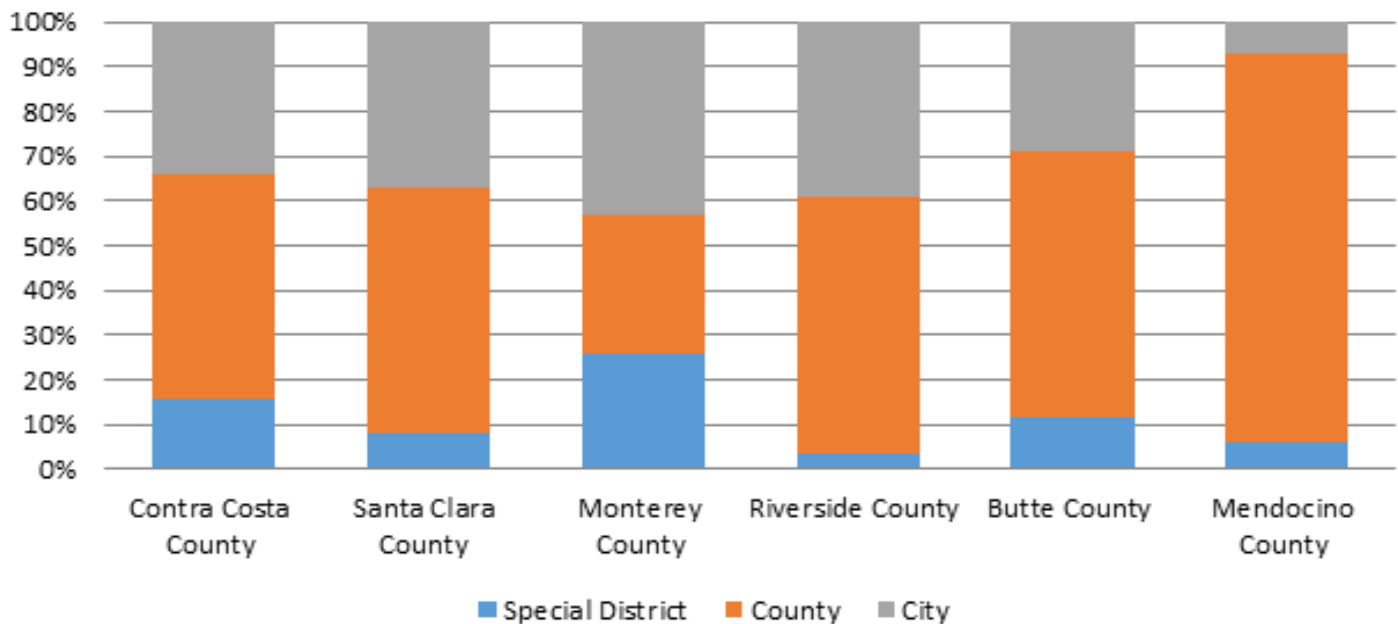
in Riverside County receiving approximately 3 percent of total ad valorem tax revenues and Monterey County receiving approximately 25 percent of the total.<sup>28</sup>

### Low Visibility = Public Engagement Challenges

The public often does not know what government entity provides a particular service, according to testimony at the Commission’s public hearings and discussion at its advisory committee meetings. Mr. Packham and others suggested that K-12 civics education should include more information about local government, particularly since cities, counties and special districts provide government services most relevant to local communities.

There was an ongoing dialogue throughout the study process about public outreach including opportunities to create greater awareness for public participation at district board meetings and opportunities to serve on boards as well as the need for better information on candidates running to serve on boards.

**Ad Valorem Tax**



Source: Data obtained from Kyle Packham, Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. June 21, 2007. Written communication. Citing State Controller’s Office Financial Transaction Report Data obtained through [www.bythenumbers.sco.ca.gov](http://www.bythenumbers.sco.ca.gov).

## When Districts Go Bad

Given the Commission’s general interest in this review of working within existing institutions and the established system to regulate special districts, Commissioners also considered what legal or other mechanisms exist to deal with districts (or district officials) that go off the rails with poor ethical decisions or illegal behavior. The Commission learned of a number of options to right wrongs within the existing system:

- Residents of the district can vote perceived offenders on the board out at the next election.
- Residents of the district can mount a recall effort of board members who exercise questionable conduct.
- The county District Attorney can file criminal charges.
- Whistleblowers can use the State Attorney General’s whistleblower system. The Attorney General also has authority for criminal matters.
- County civil grand juries can investigate special districts and report on findings.
- County Local Agency Formation Commissions can do a Municipal Service Review and initiate a process for dissolution or reorganization.
- The California State Auditor has statutory authority to identify, audit and issue reports on local government agencies, including special districts deemed at “high risk for the potential of waste, fraud, abuse, and mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.” Audited districts must file reports every six months on their progress implementing corrective action plans until the auditor is satisfied with results.
- The California Public Employees Retirement System (CalPERS) can administratively address pension issues such as reports of pension spiking related to special districts and district members.
- The state’s Fair Political Practices Commission has authority to investigate and fine special district officials for elections or campaign financing violations.
- Voters have power to qualify a local ballot initiative regarding a special district.
- Depending on the type of district or situation there may also be recourse through various regulatory bodies, such as the State Water Resources Control Board, the Public Employment Relations Board and others.

Sources: California Special Districts Association. Commission staff research.

As previously noted, one of the benefits of special districts is that they typically focus on one service area. This, however, lowers their visibility – hence such nicknames as ghost governments, invisible governments and under-the-radar governments. Low visibility also can inhibit public participation. A 2016 “Last Week Tonight with Jon Oliver” parody on special districts made fun of the fact that no one attended a public meeting of the Litchfield, New Hampshire, Mosquito Control District, at which two board members recited the Pledge of Allegiance by themselves and faithfully asked of the empty room if there was public comment on individual agenda items. (“I guess when you’re a member of ghost

government, you’re going to have a ghost public,” Oliver quipped).<sup>29</sup> The media infrequently attends and reports on special district meetings and most receive little local scrutiny until a scandal arises.

Low visibility of special districts contributes to challenges with public engagement. How do districts reach out about climate change or other topics to residents who are busy with their lives, aren’t overly familiar with the district in the first place, don’t know about the district’s social media sites and typically throw away most of the unsolicited paper that comes in their mail? Moreover, how do they broaden a governing board with new voices from

underrepresented communities where many working people don't have time, money or inclination to run for office or serve long hours for a minimal volunteer salary?

Special districts impact quality of life dramatically, yet voters often have the least information about those candidates during an election. District candidates often do not have websites or the visibility typically found in a city council or county supervisor election. And, local government elections typically yield lower voter participation than national or statewide elections. A 2011 Legislative Analyst's review of 42 special districts in San Diego County found little difference in voter participation, stating, "In our analysis of San Diego County local governments since 2002, we found that regardless of the size of the district, special district voter turnout was substantially similar to the turnout for city and county government elections."<sup>30</sup>

Voter participation drops for down ballot contests, such as school board or water district elections, in comparison to participation in top of the ballot contests such as presidential or gubernatorial seats, according to election data provided to the Commission by county registrars from Orange and Santa Cruz counties. Data collected on voter participation in Santa Cruz County since 1985 show that, on average, voters participate in special district and city elections at a much lower frequency than they do for presidential and gubernatorial elections.<sup>31</sup>

**Average Voter Turnout in Santa Cruz County Elections Since 1985**

Presidential General	78.90%
Presidential Primary	59.01%
Gubernatorial General	63.97%
Gubernatorial Primary	47.85%
Special District or City Special Election	42.21%

Similarly, data from Orange County's last three general elections show that participation in top of the ticket items is high. In 2012 and 2016, 67 percent and 78 percent of the county's registered voters respectively turned out to vote for a presidential candidate. Top of the ticket turnout in 2014 for the state's gubernatorial race was

comparatively lower – just 43 percent of registered voters cast a vote for a gubernatorial candidate.<sup>32</sup> In these three elections, on average, about 47 percent of registered voters in Orange County turned out to cast a vote in special district or city elections.<sup>33</sup>

Commissioners asked special district representatives during both public hearings how they engage with the public, particularly with underrepresented communities, about participating in public meetings and even running for office to ensure district boards reflect the diversity of the constituents served. Typically, representatives responded they make wide use of their websites and still wider use of social media sites – Facebook, Twitter, LinkedIn, Instagram and Next Door – to communicate with residents. Many go into schools with classroom presentations, erect booths at community fairs, use inserts with bills and publish a monthly or quarterly newsletter mailed to residents. In 2016, the Sanitation Districts of Los Angeles County began a quarterly workshop to educate the public and stakeholders on water issues related to climate change. As budgets have improved from the Great Recession, facility tours also are a popular public engagement tool, they said.

The California Special Districts Association, in August 25, 2016, hearing testimony, also cited a partnership with the Sacramento-based Institute for Local Government (ILG) to help build public outreach capacity within special districts. The institute, funded with a \$300,000 grant from the James Irvine Foundation, in 2017 began providing engagement training to cities, counties and special districts. The program provides a step-by-step approach to help local governments plan and execute their public engagement work in a systemic way. Sarah Rubin, ILG program manager for public engagement, said the program identifies up-and-comers in public organizations who may be doing a variety of jobs unrelated to outreach, but are expected to become leaders. They received training in systemic, continuous public outreach that goes beyond what cities, counties and special districts usually do – which is engage people to support one-time events such as voting for special taxes or benefit assessment districts. Ms. Rubin told the Commission, "We want them to think beyond the one-off way. To think about who is in their community, to think, when you need new board members, how do you notify the community to make sure they know about it."<sup>34</sup>

## RECOMMENDATIONS

The Commission recommended improving transparency in its 2000 report and while it acknowledges significant improvement in this area, much more can be done. At the June 2017 advisory committee meeting, Commissioners agreed that the goal of increased transparency was not to micromanage or create unnecessary burdens or significant new mandates for special districts but to improve trust in government. Ultimately, it is in the best interest of special districts to “tell their story.” Many are quietly providing excellent services, often unnoticed until a rate hike is proposed, a street floods or the power goes out.

Likewise, the Commission commends efforts to improve public engagement by the California Special Districts Association and the Institute for Local Government and urges these organizations to continue to develop best practices.

***Recommendation 9: The Legislature should require that every special district have a website.***

***Key components should include:***

- ***Name, location, contact information***
- ***Services provided***
- ***Governance structure of the district, including election information and the process for constituents to run for board positions***
- ***Compensation details – total staff compensation, including salary, pensions and benefits or a link to this information on the State Controller’s website***
- ***Budget (including annual revenues and the sources of such revenues, including without limitation, fees, property taxes and other assessments, bond debt, expenditures and reserve amounts)***
- ***Reserve fund policy***
- ***Geographic area served***
- ***Most recent Municipal Service Review***

- ***Most recent annual financial report provided to the State Controller’s Office, or a link to this information on the State Controller’s website***
- ***Link to the Local Agency Formation Commission and any state agency providing oversight***

Exemptions should be considered for districts that fall under a determined size based on revenue and/or number of employees. For districts in geographic locations without stable Internet access, make this same information available at the local library or other public building open and accessible to the public, until stable Internet access becomes available.

Building on this recommendation, every LAFCO should have a website that includes a list and links to all of the public agencies within each county service area and a copy of all of the most current Municipal Service Reviews. Many LAFCOs currently do this and some even go beyond by providing data on revenues from property taxes and user fees, debt service and fund balance changes for all the local governments within the service area. At a minimum, a link to each agency would enable the public to better understand the local oversight authority of LAFCOs and who to contact when a problem arises.

***Recommendation 10: The State Controller’s Office should disaggregate information provided by independent special districts from dependent districts, nonprofits and joint powers authorities.***

The State Controller’s Office is a leader in making the information it has available to the public. Despite its significantly out-of-date database software, the public can find a substantial amount of data on the State Controller’s website, particularly if the search is focused and the name of the district is known. But the manner in which data is stored on the State Controller’s Office website makes it difficult to draw general conclusions about independent special districts, such as overall revenues or employee compensation as information for independent districts is mixed with various other entities.

***Recommendation 11: The California Special Districts Association, working with experts in public outreach and engagement, should develop best practices for independent special district outreach to the public on opportunities to serve on boards.***

The Commission heard anecdotally that the public does not understand special district governance, does not often participate or attend special district board meetings and often does not vote in local elections. This was supported by information provided to the Commission by two county registrars that showed that many voters who voted for federal or statewide offices, did not vote for local government officials at the same rate, whether they were city council positions, special district positions or local school or community college district positions.

# What Role for Healthcare Districts?

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Few public policy arenas in 2017 appear fraught with more political and financial uncertainty than healthcare. And few public entities have more at stake in the outcome than a particular subset of special districts known as healthcare districts. As part of this review, the Commission sought to better understand one type of special district. It specifically focused on a controversial class of healthcare districts – those which no longer operate hospitals. Most of these districts, just like counties before them, have shed their hospitals in recent years due to deteriorating financial conditions within their operations. Instead, some districts manage various prevention and community-based wellness programs, often targeting specific identified needs. Others provide grants and manage healthcare facilities, among many other activities.

Scattered incidences of political turmoil, grand jury reviews and accompanying unflattering media in the wake of these transitions shows that many districts without hospitals still struggle to explain their roles in a rapidly evolving era of healthcare that emphasizes preventive care over hospitalization. No category of special district is perhaps more misunderstood regarding its proper role within the local and regional governing apparatus of California.

The Commission heard two equally compelling views of California healthcare districts that no longer operate hospitals:

- One segment questioned whether public healthcare districts without hospitals remain relevant – and more, whether they should continue to exist within the labyrinth of public, commercial, nonprofit and not-for-profit healthcare delivery in California. The Legislature, local grand juries, LAFCOs and healthcare analysts wondered if some of these districts are simply “money chasing a mission?” In other words, are they outmoded public institutions protecting their turf as they defend and hold firm to their traditional financial bases of property taxes?
- Alternatively, despite the great uncertainty about a long-term direction of healthcare in general and the Affordable Care Act and its potential replacement in particular, many healthcare districts without hospitals are indeed, carving out interesting and pioneering new roles in delivering preventive care. Some are receiving national attention as models of a new paradigm in healthcare. Are these districts onto something that has not yet jelled in public consciousness – a notion that healthcare districts can reduce out-of-control healthcare costs locally in the long run by investing upfront in healthier lifestyles – what one healthcare district executive calls “preventing the preventable?”<sup>35</sup>

Each of these questions drove the Commission’s 2016-2017 review of healthcare districts (the new name the Legislature gave hospital districts during the 1990s to reflect changes in healthcare). The Commissioners also considered related questions:

- When a healthcare district primarily exists to manage real estate or redistribute its property tax allocations as community healthcare grants to other entities, might its job be better fulfilled by county health departments or other local or regional health organizations?
- Do critics who maintain that healthcare districts without hospitals should be dissolved have too narrow a focus and lack understanding of shifts in the healthcare landscape?
- In an era of higher emphasis on wellness and preventive care are healthcare districts the appropriate entities to model and offer a new menu of healthcare services?

The Commission in November 2016 convened an advisory committee meeting that brought together nearly two dozen experts to discuss how healthcare



districts are rethinking their roles and relevance in an era that favors preventive care over traditional hospital care – the original reason for the existence of California healthcare districts. Participants discussed the role of LAFCOs in consolidating or dissolving healthcare districts and analyzed best practices and metrics to define their accomplishments. Commissioners initially described a phenomenon of “mission creep” that comes over agencies defending their turf and asked what makes healthcare districts special – whether in finance, management or governance – compared to county governments? Indeed, if California was to develop a healthcare system from scratch, might it best be done by counties instead of healthcare districts? The November meeting is discussed in greater detail later in this chapter and forms the basis of recommendations at the end.

## Nearly Half of Districts Still Operate Hospitals

Approximately one-half of California’s 79 healthcare districts still operate hospitals, mostly in rural areas with few competitors or other intensive-care alternatives. No one has suggested a need to dissolve those rural districts and their hospitals, which provide essential emergency services to visitors and tourists, as well to their own residents.

Debates about the mission and purpose of healthcare districts, instead, tend to center on suburban healthcare districts. Created in former rural areas that have suburbanized, they now operate in competitive healthcare markets. The Legislature’s 2015-16 session, for instance, considered whether to: force an East Bay healthcare district to dissolve (not passed); rein in its administrative overhead expenses (passed and signed by the Governor); and, require the Southern California Coachella Valley to expand its service boundaries to take in more lower-income residents (passed and signed by the Governor). This provides another example of the Legislature bypassing the LAFCO process.

In the face of institutional criticism executives of suburban healthcare districts without hospitals continue to tout their viability. Commonly, in formal Commission hearing testimony, remarks during an advisory committee meeting, in public comment and conversations with

Commission staff, healthcare district executives told the Commission:

- They are more nimble and flexible than county public health bureaucracies in defining and funding the healthcare priorities of their communities.
- They are helping to pioneer a new era of cost savings via proactive preventive care for children, adults and the elderly under the umbrella of “wellness.”
- They are often misunderstood in this new mission by critics who lack understanding about how much the healthcare landscape is changing and downplaying hospitalization.
- Voters generally support their districts’ local missions and the manner in which they channel their district property taxes to community groups as healthcare grants.

## California Healthcare Districts: A Brief Introduction and History

Alongside the proliferation of large hospital chains, private doctor’s offices, federally-qualified health centers and county health departments that dominate California’s healthcare landscape, 79 public healthcare districts – with and without hospitals – employ 32,000 people and operate in 40 counties. More than two-thirds of these districts are established fixtures in small towns and rural areas, governed by volunteer elected boards and administered by professional staffs. The typical rural healthcare district provides nearly one-third of its care to low-income residents.

Statewide, 37 of the 79 healthcare districts operate 39 district hospitals, the Association of California Healthcare Districts (ACHD) reported in August 25, 2016, hearing testimony. Forty-two districts no longer own or operate a hospital, or never did.<sup>36</sup> The 39 district hospitals make up just 10 percent of hospitals in the state. The rest of the hospital landscape in California includes 209 nonprofit hospitals, 90 investor-owned private hospitals, 50 hospitals run by health systems and 10 veterans hospitals, according to the California Hospital Association.<sup>37</sup>

Californians began to form hospital districts during the 1940s when the Legislature passed the Local District Hospital Law to deal with a shortage of local hospital beds and medical care in a growing state, particularly in rural areas. These new hospital districts steered property tax and fee revenues into a hospital building boom as the state added nearly 10 million new residents during the 1950s and 1960s.<sup>38</sup>

By the late 1970s and into the 1980s, however, these and other smaller hospitals struggled as public and private insurers increasingly implemented cost-saving strategies. A new managed-care and cost-minded approach to financing hospital care added to deficits. Beds lay empty as patients were discharged earlier. Growth in outpatient care due to better technology and pharmaceutical drugs kept those hospital rooms vacant. Since then, a growing emphasis on wellness and preventive care accelerated by the passage of the Affordable Care Act in 2010 continues to drive a trend of less hospitalization. Just as many counties earlier closed hospitals under these financial pressures, special districts have in recent years closed at least 16 hospitals and outsourced operations of five more to for-profit and not-for-profit chains, stated the ACHD in written testimony to the Commission.

The most recent closures include Doctor’s Hospital in San Pablo in April 2013. Six months after Doctor’s Hospital closed, San Diego County-based Fallbrook Regional Health District, in November 2014, closed its Fallbrook Hospital emergency room and stopped admitting patients due

to continuing financial losses. The district’s contracted hospital operator attributed losses - \$6 million in 2013 alone – to “modern health care’s growing emphasis on managed care contracts, which funnel patients to specific providers, and ongoing competition from other hospitals in the region.”<sup>39</sup> The West Contra Costa Healthcare District, which struggled through years of financial losses at the hospital – attributed in part to low reimbursement rates for Medi-Cal and Medicare – filed for bankruptcy in October 2016.<sup>40</sup>

Amid these trends, more hospital districts, including West Contra Costa Healthcare District and Fallbrook Regional Health District, have turned toward being general community health providers. A 2006 California Healthcare Foundation study noted that districts increasingly offer substance abuse and mental health programs, outpatient services and free clinics. They also run senior programs that include transportation to wellness and outpatient care. Others provide nurse training, physician recruitment, ambulance services, health education programs and a variety of wellness and rehabilitation activities.<sup>41</sup>

At the Commission’s August 25, 2016, hearing, Amber King, senior legislative advocate for ACHD, expanded on the 2006 list, testifying: “The range of services offered by healthcare districts are tailored to meet community needs and include prevention and public health programs, primary care, skilled nursing, ambulance, hospice and acute and emergency services. Despite their unique and



New 50-bed Hillcrest Hospital opened 1957 by the Petaluma Hospital District. Courtesy of Petaluma Health Care District.

varied nature, the mission of healthcare districts remains the same: to provide critical health services to the communities that created them,” testified Ms. King.<sup>42</sup>

### California Healthcare Districts at a Glance:

- Number of Districts: 79
- Districts that levy property taxes: 66
- Districts in rural areas: 54
- Districts without hospitals: 42
- Districts with hospitals: 37
- Number of hospitals: 39
- Districts that lease their hospitals: 5
- District hospitals that have closed: 16
- District employees statewide: 32,000
- Number of board members: 400

Source: Association of California Healthcare Districts. Written testimony to the Commission. August 25, 2016. Also, personal communication. August 1, 2017.

Another key development in the evolution of healthcare districts without hospitals is their role as grant-makers to community organizations. Critics question if people want to pay property taxes so health district executives can act as a “middleman” and disburse them in grants. Others also have questioned how the money is spent. A Senate Governance and Finance Committee analysis for AB 2471 (Quirk), which aimed, unsuccessfully in 2016, to force dissolution of Alameda County’s Eden Township Healthcare District, stated, “In recent years Eden Township Healthcare District has spent district funds on sponsorships of community organizations and events that appear to have relatively tenuous connections to community healthcare needs, including the Hayward Area Historical Society’s ‘Martini-Madness Gala,’ a Rotary Club ‘Lobsters for Literacy’ fundraiser, charity golf tournaments, and a community rodeo parade.”<sup>43</sup> The district, which doesn’t run a hospital, also reportedly spends more on administrative expenses than it allocates in grants.<sup>44</sup>

Jack Hickey, a director of Sequoia Healthcare District in San Mateo County, told the Commission his district funds a food bank that provides services to residents

outside the district – with less than 10 cents per dollar of local taxes returning to district residents. Mr. Hickey, a long-time board member who campaigns to dissolve the district, said it spent \$10 million subsidizing nursing programs that didn’t require the nurses to work inside the district.<sup>45</sup> (A June 2013 San Mateo County Grand Jury report issued similar criticisms).<sup>46</sup> During the Commission’s November 2016 advisory meeting on healthcare districts, a fellow Sequoia board member, as well as the district’s chief executive officer, countered the criticism by citing continued support of voters for district operations and policies.

### Healthcare District Bills and Outcomes: 2015-16 Legislative Session

During the 2015-16 legislative session lawmakers grappled several times with the issues of healthcare districts. Many involved an issue explored at the Commission’s August 25, 2016, hearing: legislative end runs around the local process, which requires LAFCO approval to dissolve and expand boundaries of districts. These issues clearly seemed to both frustrate and confound lawmakers, as nearly all were local issues with strains of local politics not always immediately apparent to legislators in Sacramento. The bills and their outcomes included:

- AB 2414 (Garcia), allowing the Desert Regional Healthcare District in Palm Springs to expand its boundaries into the eastern Coachella Valley without a full LAFCO review. Governor Brown signed the bill on September 21, 2016.
- AB 2471 (Quirk), expediting the dissolution of the Eden Township Healthcare District in Alameda County by ordering the LAFCO, under conditions specified in the legislation, to dissolve it. The bill was ordered to the inactive file on August 29, 2016, before reaching a final vote.
- AB 2737 (Bonta), bypassing LAFCO and the board of Eden Township Healthcare District to cap the district’s administrative expenses at 20 percent of its annual revenue. Governor Brown signed the bill on September 21, 2016.

Source: Legislative Information System. Bill analyses.



Directors of El Camino Healthcare District in Santa Clara County also questioned whether \$6.4 million in grants they approved in June 2016 were being put to good use considering failures by some of the same grantees to meet previous year’s expectations. The district grants fund mobile dental clinics and school therapists, as well as food giveaways and police-sponsored summer camp stays for at-risk youth.<sup>47</sup> Statewide, however, testimonials from community grantees abound in healthcare district annual reports and other publications about the importance of district grants to their operations. The ACHD, in August 25, 2016, written testimony also submitted successful grantmaking examples that included:

- \$738,700 in community-based mental health grants provided by the El Camino Healthcare District in 2015 and 2016.
- \$40,000 from Los Medanos Healthcare District from 2013 to 2016 to sponsor a breastfeeding program in response to low birthweights and higher infant mortality within the district.
- \$650,000 from Desert Healthcare District from 2013 to 2015 to help target and register approximately 90,000 area residents eligible for Medi-Cal and Covered California.
- \$35,000 from Fallbrook Health District in 2015 and 2016 to provide senior citizens free transportation to medical appointments, grocery stores, the food pantry and senior centers.

## Dissolution Has Proved Itself a Persistent Question

County grand juries have found healthcare districts that do not run hospitals an inviting target. Four grand jury reports over a decade successfully prodded the 2012 dissolution of the Mount Diablo Healthcare District in Contra Costa County. The district hadn’t run a hospital since 1996 and, according to a Contra Costa County LAFCO consultant, “the health care district spent in the past decade 85 percent of its property tax proceeds on overhead, elections and legal bills.” In March 2012, the county LAFCO voted 6-1 to subsume the Mount Diablo district’s responsibilities into a new subsidiary district run by the City of Concord and transfer its property tax allocation to the city, as well.<sup>48</sup>

Likewise, three grand juries over a decade criticized Pittsburg-based Los Medanos Community Healthcare District in Contra Costa County, which reportedly spent half of its 2010-2011 revenue on community and health programs and half on “administrative and operating expenses, including stipends for the board of directors, travel and election fees and a board retreat.”<sup>49</sup> In 2017, the district continues to exist and dispense grants in its community.

San Mateo County’s Peninsula Health Care District also is the subject of several grand jury reports since 2000. One in 2004 recommended that it and nearby Sequoia



Beach Cities Health District “Walking School Bus” Program. Courtesy Beach Cities Health District.

Healthcare District (also the subject of five grand jury examinations since 2000) merge their operations to cover the entirety of San Mateo County. No action resulted. The county grand jury in 2013 questioned whether Peninsula is, at its core, a commercial landlord, a real estate developer or a community health resource. The report suggested a closer examination by the county LAFCO and made no explicit call for the district's dissolution. In response, the district disagreed with the premise of the grand jury's question, writing that none of the three roles cited by the grand jury are

mutually exclusive, and all serve the needs of the district community.<sup>50</sup> The district's newest real estate project, a 124-unit assisted living and memory care center facility, is expected to open in early 2018.<sup>51</sup>

Healthcare districts generally have deflected criticisms of grand juries about their missions and prevailed with their own counterarguments about the necessity of their healthcare-centered real estate operations and grant programs. Yet the continuous public probing shows at the very least, a significant perception problem among

## The Poster Child for Controversy: Eden Township Health District

Perhaps no district in recent years has fended off more pressure to dissolve than Alameda County's Eden Township Health District, formed in 1948, headquartered in Castro Valley and no longer running a hospital. As previously noted, AB 2471 (Quirk), which proposed to dissolve the district, passed the Assembly in 2016 and reached the Senate floor before being moved to the inactive file. The 2015-2016 Alameda County Grand Jury, in a report issued June 1, 2016, questioned whether the district should continue to exist. Grand jurors stated that the district:

*"...provides no direct medical services and its forecasted grant awards to service providers account for a mere 12 percent of the district's total expenses. The Grand Jury found that 88 percent of the district's budget is spent on real estate, administration, legal and consulting fees. In effect, ETHD is essentially a commercial real estate management operation rather than an indirect (or direct) healthcare provider for citizens of the community."*

The grand jury report prompted a series of local actions that led the Alameda County LAFCO to conduct a special study – released in December 2016 – to help determine its future. (The county LAFCO conducted a similar study in 2013 and concluded the district should continue in its current form. Eden executives, too, contend that dissolving the district would eliminate the option of funding local nonprofits from a "readily available taxing authority").

The new LACFO-commissioned study has again determined that the health district "provides a service of value, including significant expenditure of funds for community healthcare purposes consistent with its mission as a healthcare district." The study notes the district distributed nearly \$12 million in grants to nonprofit community health organizations from 1999 to 2015 – largely funded by rent received from three district-owned medical buildings.

Local elected officials have weighed in with dissenting views. The mayor of San Leandro said she believes the district has lost sight of its core mission and wants the district dissolved and its real estate assets used to support two other struggling area hospitals. An Alameda County supervisor has expressed similar sentiment. Further complicating this ongoing healthcare district controversy is who would be responsible for \$17.2 million the district, if dissolved, still owes Sacramento-based Sutter Health after losing a recent prolonged legal battle over the operations of San Leandro Hospital.

Sources: County of Alameda. 2015-2016 Alameda County Grand Jury Final Report. Page 43. June 1, 2016. Oakland, CA. <https://www.acgov.org/grandjury/final2015-2016.pdf>. Accessed January 12, 2017.

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the public in how they operate and what is defined as healthcare.

## Seeking a New Paradigm for Healthcare Districts

Mindful of the increasing political scrutiny and controversy regarding some of its member districts, the Association of California Healthcare Districts in 2016 engaged a

24-member expert task force to review how districts are perceived, where they are headed and how they might reposition themselves more effectively within a rapidly-changing healthcare environment that emphasizes preventive care. The task force approved four strategic recommendations on October 5, 2016, which ACHD shared with the Commission and others at the November 2016 advisory committee meeting. Those included:

- Updating the 1945 healthcare district enabling act and adding intent language to define today's

### Beach Cities: Is This a Future of Healthcare Districts?

The Beach Cities Health District, which serves residents of Hermosa Beach, Manhattan Beach and Redondo Beach, offers one hint of how districts might retool themselves. The district, established in 1955, has no hospital and calls itself “one of the largest preventive health agencies in the nation.” The district encourages and helps children walk to school, eat right and lose weight, provides relatively-low cost memberships at a district fitness center and helps older people remain living at home through personal visits and in-home care. The district’s innovative Blue Zones Project branding effort also encourages healthy habits at home and work and promotes local restaurants that offer nutritious menus. The district, which receives 73 percent of its revenue from fees and other sources beyond its \$3.1 million annual property tax base (2016), also makes grants to community partners.

Asked if critics who support closing districts without hospitals may be thinking narrowly and not understand shifts in healthcare, Dr. Michelle Bholat answered, “Yes.” In written comments provided to the Commission in November 2016, Dr. Bholat explained, “Beach Cities Health District successfully transitioned in 1998 from disease-focused care to preventive care health services – largely because research from the Centers for Disease Control shows 70 percent of chronic illnesses are preventable, and healthcare cost savings associated with keeping people healthy and out of hospitals are substantial. Currently, the U.S. spends roughly \$3 trillion annually on healthcare costs.”

The district counts a major success in reducing childhood obesity in Redondo Beach K-5 students from 20 percent of children in 2004 to 7 percent in 2016 by working closely with the district’s 21 public schools and parents. Parents attend district training and teach nutrition in schools, said Dr. Bholat. The district identifies gaps in Los Angeles County Department of Public Health Department services, uses science and data to target specific community needs and measures program impacts with data collection and analysis, she said.

Beach Cities, often considered a model for transitioning California healthcare districts to preventive care, operates a Community Services Department which connects children and underinsured adults to medical, dental and mental health services; a LiveWell Kids program that provides elementary school students with daily physical education, nutritional and gardening information and fresh fruits and vegetables; and a Center for Health and Fitness with 3,000 members and free visits for police officers, firefighters and lifeguards. Their Community Services Department also works with nearly 20 percent of residents 85 and older to stay healthy at home.

In June 2016, U.S. Surgeon General Vivek Murthy visited the district, and told representatives, “We tend to believe that America’s health problems are too big and intractable. You have proven that communities can take charge and reverse the trend.”

Sources: Beach Cities Healthcare District. “BCHD Overview.” <http://bchd.org/bchd-centers-programs/center-health-and-fitness>. Accessed July 22, 2016. Dr. Michelle Bholat. Board Member. Beach Cities Health District. November 8, 2016. Written comments to the Commission. On file. Personal conversation with Beach Cities Health District officials on December 7, 2016 and July 21, 2017.

mission of healthcare districts: achieving health and wellness for the communities they serve. (The ACHD told the Commission the 1945 act is woefully outdated and reflects a healthcare landscape that largely no longer exists. The statute also only broadly and vaguely defines “healthcare,” which contributes to districts being criticized for operating outside the realm of healthcare, they said. They aim to introduce legislation in 2018 to modernize the act).

- Enhancing the oversight of healthcare districts by working collaboratively with LAFCOs to ensure timely, credible and relevant Municipal Service Reviews of healthcare districts.
- Enhancing ACHD’s current Certified District program to ensure that full transparency and good governance practices are met, as well as increase educational opportunities for healthcare districts, district trustees, district chief executive officers and district board clerks.
- Educating policymakers, the public and other stakeholders about the important role healthcare districts already play within the greater health care system.

## **Advisory Meeting: What Makes Healthcare Districts Special? Are They?**

At the Commission’s November 2016 advisory committee meeting, participants helped the Commission understand the complexities of healthcare delivery and advised it in deliberations that informed its recommendations. District executives said healthcare districts manage healthcare as a single-purpose mission, making them more flexible than counties, which typically are strapped for funding and must balance many services beyond healthcare. Counties generally do not want more responsibility over healthcare, they said, noting that if healthcare districts went away and their property tax allocations were given to counties there is no guarantee that county supervisors would spend the money on healthcare. Already, district officials said, they are serving many residents neglected by their counties. Indeed, many healthcare districts were originally created to address needs that counties weren’t meeting, they said.

A Southern California healthcare district executive, citing voters’ general preference for close-to-the-ground government, suggested that public healthcare is better divided among many organizations than in a single county system “where it can get lost. That is what I worry about.”<sup>52</sup>

## **How to Avoid Redundancies in Services Provided by Counties and Special Districts**

Commissioners asked healthcare district representatives how they work with their counties to weed out redundancies in their collective healthcare work – a particularly important task, Commissioners said, if the Affordable Care Act is replaced and healthcare funding may become even more competitive. Bobbi Palmer, executive director of Fallbrook Regional Health District in San Diego County, said redundancies exist and continue due to lack of coordination. She said when she assumed command of the Fallbrook district in early 2016, she approached county officials “with a baseball bat and a smile, to say ‘we have needs that the county should be addressing.’” Now, county public health nurses, funded to provide the services, attend district wellness events and give vaccinations that would otherwise cost the district, Ms. Palmer said.

Dennis Zell, a board member for Burlingame-based Peninsula Healthcare District said his district only does work not being done by San Mateo County. The district performs a health needs assessment, he said, to determine where the needs are and what services exist, and then determine how the district can fill gaps. Mr. Zell said this includes seeking out nonprofit organizations, introducing them to county officials and in some cases, providing them seed money. He said Peninsula noticed a rash of teen suicides within the district, then contacted school districts to assess the problem and provided funding to districts and Stanford University to assist. “We did that in seven months,” he said. “Find a problem, find a solution and get it going.” Mr. Zell said the fact that Peninsula does not run a hospital is a positive, freeing the district to be an “engine of innovation” in government.

## **Making Healthcare Districts Better**

Commissioners asked of the assembled experts, “There has to be things the Legislature can do to make

healthcare districts better. What can we recommend to the Legislature to improve things? If the Legislature were to be helpful [to healthcare districts] what could it do?"

Among the responses:

- Update and clarify the statutory language that, since 1945, has defined the roles, responsibilities and practices of districts. Executives widely agreed that legal language more than seven decades old speaks to a healthcare world that no longer exists.
- Empower LAFCOs to do stronger, smarter and more relevant Municipal Service Reviews. "We need LAFCOs in place to push us to be better," said one.
- Curtail a growing practice in the Legislature to pass bills that override and circumvent the LAFCO process to address healthcare district concerns. Those decisions are better made at the local level.
- Encourage districts to use better metrics to improve performance and measure outcomes. And help them to incorporate the same results driven-accountability into their grant giving.
- Help districts address inequities within counties when considering how to measure and improve healthcare outcomes. Many less affluent coastal residents of San Mateo County, for instance, pay property taxes to the county, but do not live within boundaries of the county's two healthcare districts that receive those taxes. They have no access to tax-subsidized health benefits available to wealthier healthcare district residents.

### **Start with One Thing (and Share it)**

Commissioners also suggested during the advisory committee roundtable discussion that healthcare districts look to their counterparts in other localities for best practices. Said one Commissioner: there appears to be little information-sharing among the state's 79 healthcare districts. It was suggested to start, take a first step, by simply asking all 79 districts to answer a question such as, "What is the best practice on one thing?" Then the district's trade association or others could evaluate that "one thing" a year later to show what works and might be replicated on a larger scale.

Somewhat surprisingly to the Commission, the question got little traction and sparked scant discussion. Healthcare district representatives said they are interested in best practices, but noted all their districts are different and what works in a rural district likely doesn't translate to an urban or suburban district. One healthcare district board member cited the principle of local control and the importance of maintaining it against one-size-fits-all practices imposed by legislation. Another district chief executive said that since healthcare districts are locally funded and voters elect board members who hire staff, healthcare districts must be accountable first to their constituents. He said the primary responsibility of healthcare districts is to work within their areas and not focus on how the work is done elsewhere or how districts in the rest of the state might evaluate their work.

Another healthcare district board member, however, expressed support for a 58-county review of best practices if conducted by impartial public health professionals. The board member agreed on a need to aggregate best practices across healthcare districts, to get rid of programs that aren't working and focus money and energy on the four or five programs that work best.

Pressing the question, the Commission asked how healthcare district hospitals share information with one another about common, and often unforeseen, issues that some may be dealing with for the first time. A California Hospital Association representative said she often receives questions from member hospitals about how other hospitals are handling such issues. She recently coordinated, for example, conversations with healthcare district hospitals on how to conduct transgender patient registrations. The general manager of Lake County-based Redbud Healthcare District also noted, for example, that during the devastating wildfires that struck Lake County in 2016 he contacted the Feather River Healthcare District for advice about its actions in similar wildfire situations. The official said his district hospital (managed by Adventist Health System) often consults with other hospitals and belongs to a Northern California regional network set up for hospitals to share best practices.



## What Should LAFCOs Decide about Healthcare Districts?

Experts and district officials convened by the Commission widely supported LAFCOs as the oversight entities best suited to advise and recommend options to special districts, including healthcare districts. Healthcare district officials and Association of California Healthcare Districts representatives stressed again the principle of local control and noted that across-the-board and statewide best practice recommendations may not always work at the local level. The advisory committee consensus held that local communities and LAFCOs are always better at determining what works and defining appropriate outcomes, including those for healthcare districts without hospitals.

A representative of the California Association of Local Agency Formation Commissions (CALAFCO) acknowledged that LAFCOs' Municipal Service Review studies, give them an important role in advising their local special districts. The executive said many LAFCOs can hire consultants and appropriate subject matter experts for the process, particularly as it relates to healthcare districts. She repeated a common theme of the advisory committee discussion – the 1945 enabling acts which established the ability of voters to form healthcare districts are out-of-date, making it difficult to assess the districts. "They are very antiquated and have not evolved with healthcare changes," the executive said. She also defended local control at a time when the Legislature is increasingly introducing bills to regulate individual healthcare districts. She said county LAFCOs are the agencies best suited to continue the work they do in advising and reviewing California's healthcare districts.

A California Special Districts Association official likewise contended that LAFCOs are ideal for initiating local processes regarding special districts, including gathering local input, providing local analysis and giving local voters a final say. He told the Commission it is key to remember the local role that healthcare districts play in convening people and collaborating with local institutions to be responsive to community needs. Decisions should remain local, he said, kept in the hands of healthcare districts, empowering locals to do what they do best.

## RECOMMENDATIONS

The Commission has had vigorous discussions about the relevance and future of healthcare districts without hospitals. Among possible legislative proposals discussed was giving districts without hospitals three years to disband and to redistribute their property tax allocations elsewhere within their respective counties. Also extensively discussed was maintaining the principle of local control. If local residents continue to support their healthcare districts and their practices of allocating property taxes as community grant funds, that is a matter of local choice. LAFCOs, too, are an instrument of local policy, reflecting the will of local elected officials whom voters can keep or remove from office. If it is taken as a matter of faith, however, that these are local issues what then should be the role of the state and the Legislature regarding the institutional authority of special districts which it has created through various statutes over many decades and oversees? Recommendations supported by the Commission:

***Recommendation 12: The Legislature should update the 1945 legislative "practice acts" that enabled voters to create local hospital districts, renamed healthcare districts in the early 1990s.***

The Commission supports this recommendation, suggested by the Association of California Healthcare Districts and various others, to better define the mission of healthcare districts and will work with the association and others to support this legislative reform effort.

***Recommendation 13: The Legislature, which has been increasingly inclined to override local LAFCO processes to press changes on healthcare districts, should defer these decisions to LAFCOs, which in statute already have that responsibility.***

LAFCOs have shown successes in shaping the healthcare district landscape and should be the primary driver of change. Given the controversies over healthcare districts, the California Association of Local Agency Formation Commissions and statewide LAFCOs should be at the forefront of studying the relevance of healthcare districts, potential consolidations and dissolutions of districts. The Commission also supports the Association of California Healthcare District's commitment to build stronger bridges to LAFCOs statewide and help develop new

assessment tools for LAFCOs to analyze the relevance of districts during municipal service reviews.

To repeat a theme of Recommendation 1, the Legislature should retain its authority to dissolve healthcare districts or modify boundaries and administrative practices, but this authority should be limited to cases in which local political elites are so intransigent or negligent – or so beholden to local power structures – that some form of higher political authority is deemed necessary.

***Recommendation 14: The Association of California Healthcare Districts and its member districts should step up efforts to define and share best practices among themselves.***

A Commission advisory committee meeting discussion clearly showed that not enough thought or interest has been assigned to sharing what works best in rural, suburban and urban areas among members. The association should formally survey its members and collectively define their leading best practices and models for healthcare, as well as guidelines to improve the impacts of grant-making in communities.

# Readying California for Climate Change

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***“Looking over several emission scenarios and using a suite of global climate models, the Assessment projects that annual average temperatures will increase between 1.8 and 5.4 degrees Fahrenheit by the middle of this century, and between 3.6 and 9 degrees Fahrenheit by the end of the century. These increases in temperature will be accompanied by rising sea levels and declines in mountain snowpack, while the state will continue to see similar temporal patterns in precipitation, with more falling as rain than as snow. California will also see an increase in the frequency and severity of extreme events.”***

Louise Bedsworth, deputy director, Governor’s Office of Planning and Research. Testimony at the Commission’s October 27, 2016, hearing.

California’s ability to maintain its famed economic competitiveness and stature as a driving force of the global economy will soon hinge on much more than a legendary stock of private sector brainpower and know-how. The best and brightest of California’s public sector also must confront the impact of climate change, doing their part to govern to minimize disorder amid inevitable disruptions. When competitor nations and states stumble and develop reputations for instability due to sea level rise and flooding, wildfire, extreme heat episodes and drought, California must remain reliable, dependable and able to keep getting things done.

A surprising amount of these responsibilities will fall to California’s special districts. Their vigilance will be necessary to keep vital sectors of California’s \$2.6 trillion annual economy viable as temperatures and ocean levels rise, the Sierra snowpack dwindles and irregular precipitation patterns range between extended drought and superstorms.<sup>53</sup>

The widespread institutional inability to think coherently about climate change impacts represented a key finding in the Commission’s July 2014 report, *Governing California Through Climate Change*. Special districts, like other local governments, grapple with endless conflicting climate change assessments and scenarios – almost none of them scaled down to their particular locations – when trying to analyze what they might do. Most have no access to a definitive, centralized source of climate change impact information, though the Governor’s Office of Planning and Research (OPR) is building a one-stop clearinghouse of climate impact material for local governments statewide. That information resource is a result of 2015 legislation, SB 246 (Wieckowski) enacted by the Legislature and signed by Governor Brown in the wake of the Commission’s 2014 report.

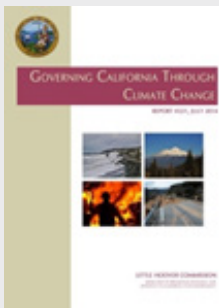
Some special districts are already at the forefront in preparing and investing for anticipated climate instability. These districts do not always call it climate change. Some call it a change in weather patterns and plan for it under that umbrella. Many simply plan for drought, a climate change condition which has already manifested itself across the Golden State. Their individual and collective efforts are encouraging – and should serve as models for other special districts that have yet to grapple with what’s coming.

Special districts are generally missing from the policy discussions, major conferences and research gatherings regarding local government preparations for climate change. These policy efforts tend to focus on cities and counties which make land use decisions – that is, decide how and where they will develop infrastructure and grow their residential, commercial and industrial neighborhoods. Yet many special districts also are missing in action because they are small and consumed with day-to-day operations. Like many local governments across California, they have little time or financial resources to look beyond the immediate, let alone consider longer-range climate scenarios that are at best uncertain.

Ample opportunity exists, however, for special districts to “engage in and support adaptation efforts, both in resource tool development, but also in contributing to adaptation and resilience efforts on the ground,” said Louise Bedsworth, deputy director of OPR, testifying at the Commission’s October 27, 2016, hearing. In testimony, Ms. Bedsworth also urged districts already preparing for climate impacts to document and share their experiences with the new Integrated Climate Adaptation and Resilience Program information clearinghouse within OPR. She, too, encouraged special districts to provide input to research projects being

conducted within the state’s fourth formal Climate Assessment. (The fourth assessment is a \$4.5 million research effort managed by the California Natural Resources Agency and the California Energy Commission to better understand climate risks and management options to help “the state to prioritize actions and investments to safeguard the people, economy and natural resources of California”).<sup>54</sup> Ms. Bedsworth also called on districts to step up information sharing within their trade associations as they individually integrate climate change considerations into their infrastructure investments. Finally, she urged more public engagement

## A Snapshot: The Commission’s 2014 Climate Change Adaptation Report



Governing California Through Climate Change released by the Commission in July 2014 after a year-long study process, made a case that California state government should bring the same focus to climate change adaptation that it brings to reducing emissions. The report contended that the foundations of California’s role in the global economy must continue with a minimum of disruption through wilder weather and rising seas – and cited a lack of definitive information and preparation, especially within local governments and special districts most likely to be on the front lines of preventing and addressing climate change impacts.

The Commission recommended:

- The Governor create a new agency or empower an existing agency to establish the best state science on anticipated impacts and help state and local decision-makers assess their risks based on that science.
- State government at all levels incorporate climate risk assessment into everyday planning and governing processes.
- The Legislature expand the mission of the Strategic Growth Council beyond reducing greenhouse gas emissions to focus equally on climate change adaptation.

The report also called for state government to aggressively enforce defensible space requirements to minimize wildfires and property damage, and the Governor to work with state agencies to clarify the impact of sea level rise on California’s Common Law Public Trust Doctrine before a rising ocean begins to condemn private property in coastal areas.

In response, the Legislature passed three bills, all signed by Governor Brown, to carry out specific recommendations:

- SB 246 (Wieczowski) designated the Governor’s Office of Planning and Research as the lead entity on climate adaptation and established both a central clearinghouse of information to help local governments plan for climate impacts and a science advisory council to provide scientific support.
- AB 1482 (Gordon) required the Natural Resources Agency, in coordination with the Strategic Growth Council, to coordinate across state agencies to be sure state funding maximizes key adaptation objectives.
- SB 379 (Jackson) required that the safety element of local general plans address local climate change adaptation and resiliency strategies.

with residents about what’s coming:

*“In many cases, special districts have direct relationships with local residents and businesses. These relationships provide the opportunity to support individuals and businesses to undertake actions that can increase their own resilience and that of the broader community.”*

The urgency of climate change demands that special districts act as leaders on adapting to its impacts. Special districts are the most common form of local government in California and are frequently on the front lines of water delivery, wastewater treatment and flood control. Without leadership of this critical government sector, disruptions will be unpleasant and expensive. Consider St. Petersburg, Florida, home to three big sewage spills since 2015, as heavy rains leaked into and overwhelmed an aging wastewater treatment system. “Climate change has arrived and this is what it looks like,” Mayor Rick Kriseman told the media in 2016 as he presided over millions of gallons of partially treated human waste flowing out of manhole covers onto city streets and into Tampa Bay.<sup>55</sup>

In California, scientists agree that climate change promises either too little water, as in the sustained,

severe drought that so recently gripped much of the state, or too much water, as in the type of wilder weather and big wet storms that overran California in 2017.

The robust discussion on special district reserves at the August 25, 2016, hearing prompted Chair Pedro Nava to ask the districts how climate change adaptation strategies were being included in district reserve policies. As a result of this question, the Commission scheduled a second hearing as part of this review on October 27, 2016, focusing on how leading-edge special districts are planning and investing for climate change. In keeping with the theme of appropriately investing special district reserve funds in long-term infrastructure, the Commission invited testimony from five districts with the massive infrastructure backbones that will be needed to dependably deliver water, treat wastewater and prevent flooding in a volatile climate.

Collectively, their stories make excellent case studies for how special districts are sizing up disruptive climate scenarios, assessing their vulnerabilities and investing in appropriate infrastructure to be flexible for too much or too little water. This chapter offers a wealth of examples and models for other districts to consider in their own strategy planning. Especially interesting is how some districts are creating regional partnerships to prepare for the worst. Special districts and their trade associations, too, are thinking ahead to regulatory changes necessary to move government rulemaking beyond a status quo

## **Also: A Brief Look at California Wildfires**

The Commission, at its August 25, 2016, hearing, similarly invited a rural fire protection district to discuss one of the most obvious, rising climate threats of all – wildfire. The Commission heard that many rural fire districts desperately want to step up to their climate change challenge, but are constrained by poor finances. North Tahoe Fire Protection District Chief Michael Schwartz testified that rising numbers of fire districts, especially in rural mountainous areas, face bankruptcy scenarios in the next few years – even as their regions face worsening firestorms due to a warming climate, drought and tree mortality crisis. “A lot of districts are on the verge of failure,” he testified. “They will run out of capital in the next year or two.”

Chief Schwartz told the Commission that growing fire district stresses stem from the customary revenue challenges in the wake of Proposition 13 restrictions on property taxes, but also increasingly from inability of districts to reach the two-thirds majorities needed to approve special new property taxes. “I don’t think I would even try it now,” Chief Schwartz said.

At its October 2017 business meeting, the Commission decided to delve deeper into forest management practices in light of the tree mortality crisis and launched a full study on this topic in 2017. The Commission anticipates adopting a report on forest management in late 2017 or early 2018.

that may no longer be relevant for water delivery and wastewater treatment as climate uncertainty deepens.

On a practical level, the Commission learned at its October 27, 2016, hearing that many of these districts are reducing their dependence on imported water by diversifying supplies and producing vastly more recycled water. Many are steering more stormwater runoff in wet years into groundwater recharge basins for use in dry years. In one case, a Southern California district pays farmers to replace water-intensive avocado crops with wine grapes, creating a win-win of reduced water demand and the economic development of wine tourism.

Clearly, some districts are already well along on the climate adaptation strategies and actions that many special districts must eventually implement for a changing climate – with an added benefit of generating thousands of engineering and construction jobs. The leading-edge actions and infrastructure spending strategies detailed at the Commission’s hearing offer a window, as well as a road map, for special districts that have yet to engage or prepare for what Governor Brown in 2013 described as “the world’s greatest existential challenge – the stability of our climate on which we all depend.”<sup>56</sup>

*“Water and wastewater agencies, such as EMWD (Eastern Municipal Water District, Riverside County), have been looking at climate-change related actions for years. We might not have grouped it under the “climate change” umbrella or even used those words to describe what we are doing, but we have long had an environmental stewardship and water use efficiency ethic.*

*“For adaptability, we have focused on the potential for and reality of longer, more intense droughts and heat waves, less snowpack and early runoff. We have made significant investments in developing climate-resilient water supplies and reducing per capita water consumption. The combination of local supplies and conservation directly reduces our District’s dependence on more greenhouse gas-intensive supplies.”*

Paul D. Jones II, General Manager, and Deborah S. Cherney, Deputy General Manager. Eastern Municipal Water District. November 14, 2016, letter to Little Hoover Commission Chair Pedro Nava.

## As Imported Water Dwindles, a Climate-Driven Rush to New Sources

California’s storied history is filled with powerful cycles of boom and bust development, during which boosters of agriculture, cities and suburbs formed special districts to find and deliver water from below ground or distant mountain reservoirs. Now, stung by historic drought in California and the Colorado River basin, special district water managers must contend with a world-class water delivery system clearly inadequate for the variability of a changing climate. The Association of California Water Agencies, a Sacramento-based association representing special districts and agencies that supply 90 percent of California’s water explained the climate problem that water managers face:

*“Less snow is falling in the Sierra Nevada and melting faster, with peak runoff levels occurring earlier in the year. The Department of Water Resources is projecting that the California snowpack will decline by 25 to 40 percent by 2050, thereby significantly reducing the amount of water that is stored at higher elevations for use during the summer and fall.”<sup>57</sup>*

Brandon J. Goshi, manager of water policy and strategy for the Metropolitan Water District of Southern California, offered a similar climate assessment in a November 22, 2016, letter to Little Hoover Commission Chair Pedro Nava:

*“The past ten years, and in particular, the unprecedented drought conditions of the past five years, have given us a glimpse of the water supply and demand challenges that climate change will pose. Local rainfall in Southern California has been sharply below normal for that period, and our source waters have already experienced the range of higher temperatures and reduced snowpack that is being foreseen by climate change scientists.”*

At the Commission’s hearing, executives of two special districts in the business of water delivery – one in Southern California, another in Northern California –



testified about their responses to this “new normal” within California’s climate. Each explained to the Commission how they are identifying and creating new water supplies to ease dependence on water imported from faraway high-country reservoirs.

### **The Rancho California Water District (Riverside County)**

The Temecula-based Rancho California Water District, created in 1965 with 5,000 customer accounts, serves 45,000 customers now in a rapidly-suburbanized part of eastern Riverside County. Residential and commercial users dominate the customer base. Yet the region’s traditional agricultural sector of citrus, avocados and wine grapes, while fewer than 5 percent of customer accounts, still accounts for 40 percent of water use, the district stated in written testimony.

Presently, the district’s groundwater basin supplies 43 percent of demand. Treated imported water from the Metropolitan Water District (MWD) – 500 percent more costly than local well water, according to the district’s testimony – supplies an additional 32 percent of local demand. Another 18 percent comes from district purchases of untreated water from MWD to recharge its groundwater aquifer. The remaining 7 percent comes from recycled water, a rising source locally and for water districts statewide.<sup>58</sup> Ultimately, at buildout of its still-developing service area, the district expects to supply double its current demand for water – a daunting challenge in an era of climate uncertainty.<sup>59</sup> Key to meeting that challenge, the district reported, is a 50-year Long Range Financial Plan that envisions \$2.4 billion for new and replacement infrastructure and facilities, according to the district’s written testimony.

At the October 2016 hearing, Jeffrey D. Armstrong, district general manager, detailed for the Commission three significant initiatives to broaden supply options. All showcase the ingenuity with which Southern California water districts are meeting the needs of growing populations with less water:

**Permanent Conservation.** “On the climate change side there’s really two things,” he told the Commission. “There’s the supply side. And then there is the demand management side that we’re doing.” Mr. Armstrong said

the district has reduced water demand by more than 20 percent through conservation alone. Though mandatory conservation targets have been lifted by the state, he said, “We still are asking our customers to conserve and be efficient. A lot of the changes that took place in the last year, I think, are permanent changes. Where in Southern California you see grass and medians converted to California-friendly landscapes and those then put on drip systems, when we look at some of those accounts, their water use dropped by 70 percent. I don’t think anybody’s going to change those back to grass. So some of those savings really are long term and continue,” Mr. Armstrong told the Commission.

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***“We are one of the agencies where every one of our customers does have a meter, including our agricultural customers. We know for every one of our agricultural accounts what type of crop they have planted on their grove or farm, and we know the amount of acreage that they have there. So we know the amount of water that should be used there to be efficient and we build water budgets for our agricultural customers and tell them what efficient water use is, and if they go over that they pay a higher penalty. We take those penalties and we hold those in reserves and we use those to roll back into efficiency programs to help our agricultural customers become more efficient. And one of those we’re doing right now is, we’re calling it a crop swap, where we have primarily avocados, wine grapes and citrus. Avocados use twice as much water as wine grapes. But some of those areas where avocados are planted are very suitable for wine grapes and we’re going to help fund the conversion from avocados to wine grapes. It reduces the water use in half and still maintains the economic benefits of agriculture in our community, the viability of the farming as well as tourism that comes from that.”***

Jeffrey D. Armstrong, General Manager, Rancho California Water District, addressing the Commission October 27, 2016.

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**Crop Swap.** In late 2016 the Rancho California Water District unveiled a program to pay farmers up to \$15,000 per acre to replace thirsty avocado crops with less water-intensive wine grapes, thanks to a \$2 million grant from the Department of Water Resources and \$1 million from the U.S. Bureau of Reclamation. The district estimates it will save nearly 4,000 acre-feet of water in the next decade, enough to meet demands of nearly 8,000 households.<sup>60</sup>

**Additional water storage options.** In 2010, the district built a \$10 million pipeline to buy untreated water in wet years and channel it into its Lake Vail reservoir for additional supply in dry years. Four years later, the district spent \$55 million in reserve funds to buy 7,500

acres of land surrounding the reservoir. The purchase allowed the district to remove legal restrictions that previously maintained a fixed lake level for boating and recreation. Mr. Armstrong told the Commission, “When we acquired the land, that removed the recreational rights. It allows us to use the full capacity of that lake and reservoir for water supply purposes, and we’ve done that during the drought. We really reduced the amount of water in that lake.... In terms of climate change, where we’re hearing about longer periods without rain followed by periods of greater rainfall, it really gives us opportunity to take advantage of that climate change because we can draw the capacity down and then when the bigger events happen we can fill the reservoir back up.”

## How Other Districts are Preparing for Significant Climate Impacts

- The **Los Angeles-based Metropolitan Water District** invested \$450 million to pay customers to remove lawns and replace them with drought-resilient landscaping.
- The **Eastern Municipal Water District** in Perris, Riverside County, reuses 100 percent of its wastewater through investments in recycled water. Recycled wastewater represents more than a third of the district’s water supplies and supports agriculture, commercial and industrial uses, as well as irrigation for public parks and outdoor spaces. The district also incentivized customers to remove four million square feet of turf and replace it with drought-proof landscaping.
- The **San Diego Water Authority** is raising the San Vicente Dam to create 100,000 acre- feet (32 billion gallons) of new storage capacity and reduce dependence on imported water. It also is constructing the Carlsbad Desalinization Project to provide an extra 56,000 acre-feet (18 billion gallons) of usable water annually.
- The **Santa Rosa-based Sonoma County Water Agency** invested \$843,000 in a comprehensive climate vulnerability assessment to identify climate change risks and develop adaptation options for its water supply, flood control and sanitation facilities.
- The **Soquel Creek Water District** in Capitola, Santa Cruz County, is developing a groundwater model to simulate climate change scenarios in preparation to spend up to \$70 million on an advanced water purification project for groundwater recharge.

Sources: Wendy Ridderbusch, Director of State Relations, Association of California Water Agencies, Sacramento, CA, September 13, 2016, Personal communication. Also, Paul D. Jones II, General Manager, and Deborah S. Cherney, Deputy General Manager, November 14, 2016, letter to Little Hoover Commission Chair Pedro Nava.



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***“Water agencies engaging in climate change planning must think carefully and thoughtfully about the right combination of funding to achieve a stable and reliable financing portfolio. Just as a family household puts money away in a savings account to purchase a new automatic dishwasher when the old one breaks down, a water agency will set aside funds in a designated reserve fund for a specific project. For instance, a water storage project, which could cost hundreds of millions of dollars to complete, from the initial feasibility studies all the way to completion. The funding is responsibly and separately saved for future use. In addition to utilizing reserves to help build water infrastructure the ability to maintain reasonable reserves is a critical factor in providing reliable service, mitigating rate increases and supporting an agency’s overall financial strength. Reserve levels directly affect an agency’s bond rating, and ultimately, its ability to access debt markets at favorable interest rates, ensuring the ability to finance and construct the infrastructure necessary to renew existing systems and expand service levels to meet future needs. And while our member agencies rely upon several different sources of state and federal income to augment these infrastructure funds, the reality is that the majority of funding of water in California is derived from the water districts themselves.”***

Wendy Ridderbusch, Director of State Relations.  
Association of California Water Agencies. Testimony  
at October 27, 2016, hearing.

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## **The East Bay Municipal Utility District (Alameda County)**

Unlike the Rancho California Water District with its rich natural underground reservoir, the Oakland-based East Bay Municipal Utility District (EBMUD) serves 1.4 million customers in Alameda and Contra Costa counties with almost no groundwater basins. The water district instead taps the Mokelumne River in the central Sierra Nevada for 90 percent of its supply. The district leads

its mountain water westward from the Pardee and Camanche reservoirs via three above-ground aqueducts across the Central Valley into the East Bay. But EBMUD, too, is diversifying its water sources as high-country winter snowpack dwindles and climate uncertainty looms. Alexander R. Coate, district general manager, testified to the Commission about several major initiatives to broaden supplies. The district, which in written testimony, called itself “a water industry leader in addressing climate change,” has, indeed, set a lesson for special districts statewide by preparing a formal climate change vulnerability assessment of risks to its system and customers. Among initiatives described in testimony:

**Diversifying.** In 2010, the East Bay Municipal Utility District opened – with its partnering agency, the Sacramento County Water Agency – the \$1 billion Freeport Regional Water Project south of downtown Sacramento to divert supplies from the American and Sacramento rivers during dry years. The project is the culmination of a 40-year district legal strategy to gain rights to additional Central Valley Project water to supplement its Sierra Nevada supplies. Mr. Coate told Commissioners the river water supplied up to approximately one-half the drinking water in its East Bay region in 2015.

**Conservation.** “Conservation is a way of life. We’ve been conserving for decades,” Mr. Coate told the Commission. “California’s known for its droughts and we’ve embraced that approach. In 2005, 2006 and 2007, we were selling 200 million gallons of water per day. That’s the same amount of water we were selling in the early 1970s, except we had 30 percent more people that we’re providing it to. And since 2005, 2006 and 2007, our customers have conserved and conserved again. We’re the only business that is out there trying to get people to use less of their product. It’s a very unique business model. The last year of the drought, just a year ago, our customers were using 128 millions of gallons per day,” he said.

**Regional partnerships:** Mr. Coate also described to the Commission the Bay Area Regional Water Supply Reliability partnership, which aims for collective readiness for climate impacts. “We’re also very focused on partnerships, on leveraging those,” he said. “They work well, and in the Bay Area right now we’re are partnering with a total of eight water agencies that represent six million customers on a regional reliability study and using

funding from the U.S. Bureau of Reclamation focused not necessarily on building a lot of new facilities, but looking at how we can interconnect and network our facilities and make improvements within our facilities so that we can share resources, both infrastructure resources and water resources to improve the reliability for our customers.”

Mr. Coate testified: “That’s particularly helpful for emergencies when somebody might be in need and another agency would be able to provide resources.”

Mr. Coate urged the state to provide districts the flexibility to meet climate impacts, not with “one-size-fits-all mandates,” but with their own individual and regional approaches. “Flexibility allows us to come up with approaches where we can figure it out. We have been for decades. We were very prepared for this drought,” he said, “and able to have no impact to the economy and still keep our customers with water.”

Mr. Coate, asked for recommendations the Commission might make to the state, also noted, “We really can use additional information, research information. We have an understanding that climate change is happening, but the error bars on the models are pretty big. So we’re working in, kind of using a sensitivity analysis approach. It’s like putting brackets around things. But research could narrow that and help us understand what’s going to happen in our region, more specifically so.

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***“We’re the only business that is out there trying to get customers to use less of their product.”***

Alexander R. Coate. General Manager, East Bay Municipal District, addressing the Commission October 27, 2016.

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## **The Wastewater World Already is Complicated; Now Comes Climate Change**

Nonstop, behind the scenes of California’s daily living, 66 independent special districts and 37 dependent county districts collect billions of gallons of wastewater and treat it for re-use or disposal into rivers, bays and the Pacific Ocean. Sanitation district managers, overseeing vast expanses of costly infrastructure – miles of small

## **How East Bay Municipal Utilities District (EBMUD) is Vulnerable to Climate Change**

- “Changes in the timing, intensity, location and amount of precipitation could have impacts on the reliability of EBMUD’s water supply. Droughts may become more frequent. In addition, storm tracks are predicted to move northwards, which could decrease average precipitation for EBMUD.”
- An increase in temperature can lead to an increase in customer demand for water.
- Forested areas within the district could lead to increased water demand for fire suppression.
- Higher average water temperatures in district reservoirs in the Sierra Nevada could require more water to maintain a cool pool for fish.
- More intense storms and wildfires near district reservoirs could increase sediment and nutrient levels in water storage areas, requiring more treatment.
- Water shortages and drought may lead to more frequent and severe water rationing.
- Costs may increase to bring in supplemental supplies or develop still more projects to diversify supplies.

## **What the District is Doing About it**

- Planning to adjust its water supply portfolio as impacts of climate change manifest.
- Identifying a wide range of supplemental supply, recycled water and conservation projects.
- Incorporating climate change considerations into all master plans.
- Collaborating with other agencies to assess vulnerabilities and adaptation strategies.

Source: East Bay Municipal Utility District. Urban Water Management Plan 2015. “Appendix J: Climate Change Vulnerability Assessment.” Pages J1-J5. Oakland, CA. file:///C:/Users/wasserjd/Downloads/UWMP-2015-\_BOOK-FINALweb\_secure%20(1).pdf. Accessed September 28, 2016.

lateral pipelines leading to bigger trunk lines leading to regional pumping stations and treatment plants – widely expect their agencies to “experience the first significant infrastructure impacts of climate change” with all the attendant costs and regulatory challenges – as one district manager testified in 2013 to the Assembly Select Committee on Sea Level Rise and the California Economy.<sup>61</sup> One national estimate suggests “the total estimated cost of wastewater agencies to adapt to climate change in the U.S. is between \$123 billion and \$252 billion above existing wastewater system infrastructure upgrade, renewal and replacement programs.”<sup>62</sup>

At the October 27, 2016, hearing, the Commission learned about the formidable wastewater treatment complexities inherent within a central expectation of climate change – long periods of too little water mixed with short explosive bursts of too much water.

### **The East Bay Municipal Utilities District (Wastewater Division)**

Mr. Coate, who also oversees collection and treatment of wastewater for 680,000 customers, said his chief climate adaptation concerns are the forecasts for powerful Pacific storms and precipitation deluges that get into wastewater systems, overwhelm them and cause untreated discharges into the ocean. Mr. Coate, in written testimony for the

Commission’s October 27, 2016, hearing, stated:

*“During and after heavy storms, rain and groundwater enter underground sewer pipes through cracks, increasing the volume of water in the system, and eventually causing overflows. This is called “infiltration and inflow” and is a common occurrence in cities across the country with older infrastructure. Climate change is expected to impact the level of infiltration and inflow via the frequency and magnitude of more extreme wet weather storm events and rising groundwater levels due to sea level rise.”*

The concern is reasonable. After a 2013 superstorm in Detroit, 110 million gallons of raw sewage flowed into the Detroit River, overwhelming the city’s aging sanitation system.<sup>63</sup> St. Petersburg’s similar issues were noted earlier in this chapter. California has its own problems: 250,000 gallons of untreated wastewater entered the Los Angeles River and polluted the Pacific Ocean when a spring 2011 storm dumped up to 10 inches of rain over parts of Los Angeles region.<sup>64</sup>

Mr. Coate also testified about a unique adaptive response to these concerns in his district’s service area, which may be worth considering in some form in other regions with pre-1950s development patterns:

### **Wastewater Facilities Will Be Hardest Hit by Climate Change**

*“Wastewater treatment facilities will be among the hardest hit by climate change, in part because treatment plants are generally located at the low point in each watershed to make efficient use of gravity for conveyance purposes. This means that in coastal areas, wastewater facilities are often located along the coast or within an estuary and have ocean or bay outfalls with a direct hydraulic connection to their facility. Inland facilities also typically have geographically low-lying plants and outfalls within river valleys and floodplains. As the sea level rises – an expected 0.6 to 1.4 meters for the California coast – and storm surges increase in coastal areas, facility outfall elevations may need to be increased or may require pumping in order to discharge. Inundation of facilities, including higher coastal groundwater levels causes more inflow of brackish or salty water that, in turn, requires higher volumes or treatment levels and makes water recycling more energy intensive. Increased inland flooding events will put critical infrastructure and service at risk of failure.”*

Jessica Gauger, Manager of Legislative Affairs. California Association of Sanitation Agencies. October 11, 2016, letter to Commission Chair Pedro Nava.

**Mandatory sewer lateral repairs at point of sale.** On November 28, 2014, a regional private sewer lateral ordinance went into effect within EBMUD’s wastewater service area, requiring inspections when a property is sold or undergoing a remodel of more than \$100,000, of private lateral sewer lines that connect the property to the district system. When a sewer line needs repair, the buyer or seller – or both – must pay to have it fixed. Many of these aging and broken pipes act as conduits for stormwater to enter and overwhelm the district’s treatment plant and spill partially-treated sewage into San Francisco Bay. The ordinance, in effect in Alameda, Albany, Emeryville, Oakland, Piedmont, Kensington, El Cerrito and Richmond Annex, results from a 2009 order by the U.S. Environmental Protection Agency and San Francisco Bay Regional Water Quality Control Board to fix the district’s older, cracked sewer lines.<sup>65</sup> The City of Berkeley, since October 2006, has implemented similar requirements for inspections and repairs as part of real estate transactions.<sup>66</sup>

### **Sanitation Districts of Los Angeles County**

In Southern California, extended drought and water shortages have created the opposite problem for sanitation district managers: too little water creates an additional, costly range of complexities for wastewater treatment. Nonetheless, years of drought also has triggered a surge in recycled water production throughout Southern California, and is creating an entirely new water supply to supplement imported water. In testimony, Philip L. Friess, head of the technical services department of the Sanitation Districts of Los Angeles County, a unique collaboration of 24 individual sanitation districts serving 78 cities and 5.5 million people, described a wastewater agency and region leading the nation in addressing key anticipated water-supply impacts of climate change.

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***“Today, the Sanitation Districts are one of the top producers of beneficially reused recycled water in California and the United States.”***

Philip L. Friess, head of technical services department, Sanitation Districts of Los Angeles County, in written October 27, 2016, testimony to the Commission.

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Organizationally, each of the 24 districts in this regional collaboration is an independent special district with their own ability to issue debt and set customer rates for their individual infrastructure needs. Collectively, as a regional super-district, they also finance, maintain and operate a regional wastewater collection and treatment system run by a single Whittier-based headquarters staff. Individual districts each collect property taxes, charge fees for wastewater services, keep a share of reserve funds – equal to six months of operations and maintenance expenses, plus one year of debt service – and are overseen by individual boards made up of mayors of cities included in the district.

### **When Faraway Imported Water Runs Short**

Mr. Friess told the Commission, “With regard to recycled water, the Sanitation Districts recycled water program is of great importance to Southern California’s efforts at climate change adaptation. Recycled water is considered a drought-proof local water supply because it is available consistently, whether it rains or not, and helps make local communities in Southern California more resilient to the impacts of climate change on water supply.” He further testified, “Recycled water currently comprises 7.5 percent of Los Angeles County’s overall water supply. And area water managers are seeking to implement new water recycling projects to increase the amount of recycled water in the water supply, and I’ll highlight two of those.”

Both highlighted projects involve forward-looking regional partnerships of special districts, the kind that increasingly will be necessary to alleviate the impacts of climate change in years and decades ahead:

**An end to imported water recharging groundwater basins.** The Sanitation Districts of Los Angeles County, with more than a half century of recycling treated wastewater for groundwater recharge, is partnering on its newest recycled water project with the Water Replenishment District of Southern California (WRD) and the Los Angeles County Flood Control District. A \$110 million Groundwater Reliability Improvement Project facility, designed to produce an additional 19 million gallons of treated wastewater daily for groundwater recharge, marks an historic shift in ending the use of imported water for that purpose. Mr. Friess, in written testimony to the Commission, cited remarks by the



replenishment district's board chair, Willard H. Murray, Jr., at its 2016 groundbreaking. Mr. Murray, highlighting the momentous break with a distant water supply becoming increasingly unreliable as the climate changes, said: "The Los Angeles region has a long and sometimes colorful history of importing water to quench our thirst. With this project WRD will be turning a corner in our water history. WRD's future will be built on water recycling, drought-proofing our water supplies and ending our reliance on imported water."

## How Climate Change Investments Stimulate Job Creation

Climate change investments on the scale of \$2.7 billion and \$110 million to reduce dependence on imported water and increase use of recycled water have more than conservation and environmental ramifications; they are job and income generators. These economic benefits largely stay in the region and ripple outward to support businesses involved in construction, architecture, engineering, scientific research and development services, reported a 2011 study of Los Angeles-area projects by the Los Angeles-based Economic Roundtable.

The study, mindful of the region's "increasing pressure to reduce reliance on imported water by using what we have more efficiently," sampled the multiplier impacts of \$1.2 billion in recent area water efficiency projects involving recycled water, stormwater and groundwater management. The study estimated that every \$1 million invested generated 12.6 to 16.6 year-long jobs depending on the type of project. That compared with new housing construction (11.3 jobs per \$1 million invested) and motion picture production (8.3 jobs per \$1 million).

Study author and senior researcher Patrick Burns stated, "Los Angeles needs to use the water it has more efficiently, and a dividend from doing this is that we will open doors for job seekers, including young adults eager to gain skills in the emerging field of water-use efficiency."

Source: The Economic Roundtable. December 6, 2011. "Water Use Efficiency and Jobs." Los Angeles, CA. <https://economicrt.org/publication/water-use-efficiency-and-jobs>. Accessed December 28, 2016.

**Treated wastewater to inland groundwater basins, not discharged to the ocean.** Likewise, the Sanitation Districts of Los Angeles County also is partnering with the Metropolitan Water District (MWD) on a proposed water purification facility at the districts' Joint Water Pollution Control plant in Carson. The aim: to divert up to 150 million gallons daily of wastewater currently discharged into the Pacific Ocean via 60 miles of pipeline to groundwater recharge basins in Los Angeles and Orange counties. "That's a \$2.7 billion capital cost plant," Mr. Friess told the Commission at the October 2016 hearing. "The water it produces will be about \$1,600 per acre foot. And if that's approved (by the MWD board of directors) that would be about eight to 10 years in the future." Mr. Friess added, "They have finished the feasibility study. They are in design for a demonstration facility to kind of fine tune the design parameters. I think the approval to move forward with the full-scale project hopefully would occur next year (2017)."

The Commission has learned that similar water reuse efforts are well underway in neighboring Orange County, where the Orange County Sanitation District and Orange County Water District have jointly partnered since 2008 on the Groundwater Replenishment System. The joint groundwater system produces enough new water for nearly 850,000 residents in north and central Orange County and recharges 130 million gallons of water per day. It is described by the water district as "the world's largest project of its kind."<sup>67</sup>

## Humans vs. Wildlife: The Regulatory Conflicts of Too Little Water

As the use of recycled water grows exponentially in years ahead, this trend, too, will be on a collision course with climate change and extended periods of drought. Producing recycled water means districts discharge less treated wastewater into streams and rivers – which has an unintended consequence of altering the watery habitats of sensitive species. For wastewater districts, extended drought sets up conflicting regulatory demands from federal, state and regional government agencies over human needs for recycled water versus habitat's need for instream flow. Explained Mr. Friess to the Commission, "As aquatic species experience greater stress, the need to maintain minimum flows to the

streams to sustain them is garnering increased interest from the resource agencies. And these trends may reduce the availability of recycled water that we can use for water supply purposes at the same time the drought conditions are sharply increasing the demand for the recycled water.”

#### **A new regulatory framework for adaptive management.**

“One aspect we’d like to highlight is the need for the state to explore how the regulatory framework for water quality and water quantity should adapt to climate change, as well,” Mr. Friess testified to the Commission. “The issue is that the regulations to protect water quality and plants, fish and wildlife are all based on preserving what is, or what was, at some point in time. However, it can be expected that even with reductions in greenhouse gas emissions, many of the impacts of climate change are going to occur anyway. Therefore the question that has to be addressed,” said Mr. Friess, “is whether the status quo can be preserved, whether an adaptive approach has to be taken to resetting the baseline for what it is we’re trying to protect. This would require a new approach by regulatory agencies, one that is very difficult,” he said. “But if we don’t move in this direction the danger is we’re going to spend a lot of resources trying to maintain the old normal, even when that baseline is no longer tenable.”

### **A Rising Ocean and 1,000-Year Storms: What Awaits Flood District Managers?**

As a coastal state, California faces the impacts of sea level rise and, according to widespread scientific consensus, increasingly severe storms with potential to overwhelm flood defenses. Prolonged historic rainstorms of the type that poured more than 50 inches in and around Houston as a result of Hurricane Harvey in August 2017<sup>68</sup> – and 15 inches in 10 hours onto South Carolina in October 2015 (described as a 1,000-year storm)<sup>69</sup> – point to what California might face in years ahead.

A November 2013 Department of Water Resources (DWR) report, “California’s Flood Future,” states that Orange, San Mateo and Santa Clara counties have the largest populations exposed within 100-year floodplains, those areas that have a 1-in-100 (or 1 percent) probability of flooding in any given year. In Los Angeles, Orange and Santa Clara counties, 60 percent of residents –

approximately 15 million people in all – are similarly exposed within 500-year floodplains. The department also reports that \$575 billion worth of structures are exposed within 500-year floodplains statewide – 40 percent of them in Los Angeles, Orange and Santa Clara counties.<sup>70</sup>

Protecting them – and millions more people and buildings statewide – are flood control districts. Each has an immense responsibility to think ahead and limit flooding scenarios that could cripple the state’s \$2.6 trillion economy and damage its global standing as a reliable trade partner. Typically, throughout California, flood control districts are dependent county districts or divisions housed within departments of public works overseen by county boards of supervisors. But independent special districts also perform flood control operations. Representatives of two of these independent districts testified at the Commission’s October 27, 2016, hearing about infrastructure investments to defend their populations and regional economies from climate-induced superstorms and rising seas.

#### **Fresno Metropolitan Flood Control District**

In April 1956, following a series of destructive 1950s floods, voters by a margin of 5-1 in the cities of Fresno and Clovis, and the County of Fresno, established an independent regional flood control district to hold back waters from the nearby Sierra foothills that frequently inundated their flat, lowland geography. Two decades later the 400-square-mile district added groundwater recharge to its portfolio – a far-seeing move that gives it unique advantage for the irregular precipitation trends which scientists consider a likely impact of climate change.

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***“Among the major floods our region has endured are the floods of 1872, 1884, 1925, 1937, 1938, 1950, 1955 and 1969. It is remarkable to consider how much of our history has been shaped by the benefits and also the destructive power of water.”***

Alan Hofmann, general manager, the Fresno Metropolitan Flood Control District, in written testimony for the Commission’s October 27, 2016, hearing.

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The district, governed by six appointed representatives of the cities and one representative from the county, has used its property taxes (which account for 41 percent of revenue),<sup>71</sup> bonding authority, developer fees, 2006 Proposition 1E grants and other resources, including reserves, to build a system particularly resilient to fluctuating rainfall and snowmelt. The district has constructed one of the few systems statewide that can simultaneously control flood water in wet years and steer it to facilities to recharge its underground aquifer for drinking water supplies in dry years.

“I would note that our system recharges over 70 percent of the rainfall that is captured within it,” district general manager Alan Hofmann told the Commission. “Most of the times you would say, ‘there’s too much rain,’ and the first thing you’re looking at is ‘how can we get rid of it?’ We take a different approach to stormwater, to say, ‘there’s too much, where *else* can we put it?’”

In written testimony, the district reported that “on a yearly average, approximately 17,000 acre-feet of locally-generated stormwater runoff generated with the urban drainage areas can be retained.” At 325,851 gallons per acre-foot, that is approximately 5.5 billion gallons annually for an underground aquifer classified as “high priority critical overdraft” by the 2014 Sustainable Groundwater Management Act. The cities of Fresno and Clovis also have rights to imported surface water for groundwater recharge.

**Dual-purpose infrastructure for flood control and groundwater recharge.** Mr. Hofmann said the district collects Sierra Nevada snowmelt and rainwater in four large detention basins in higher elevations of the foothills and leads water to nearly 80 detention or “ponding” basins for groundwater recharge beneath the Fresno-Clovis metropolitan area. Storm drains in the two cities similarly steer water to neighborhood detention basins, which are planted in grass and often also serve as recreational facilities and soccer fields during the dry season. The groundwater recharge system, he said, was largely conceived and built in the pre-Propositions 13 and 218 era, and would be difficult to replicate today with the need for two-thirds votes for special taxes.

The flood control district, though engineered to protect residents against a 200-year storm event, still doesn’t consider itself entirely safe from the historic storms that

a changing climate may bring to California. “Fresno gets its share of thunderstorms, high-magnitude short-duration storms,” Mr. Hofmann told the Commission. He stated in written testimony that the district, which still sees localized flooding during those storms, has begun discussions “on the implementation of a higher capacity standard for basins that could accommodate such a standard to capture and store more stormwater.”

One identified possible way to help finance an expansion, in addition to district revenue, is the Proposition 1 water bond passed by California voters in 2014, Mr. Hofmann told the Commission.

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***“So what are we doing to deal with climate change or different stormwater patterns? We take a different approach because we’ve been doing this for years. This is our purpose (as a special district). We regularly look at rainfall patterns. We recognize that when we look at the historical 30-year averages, the average annual rainfall has actually increased from nine inches back in the 1960s to today about 11 or 11 and a half inches. So we’ve continued to modify our design standards in our ponding basins and in our collection systems because that’s our sole purpose. It’s pretty easy to do that and not be held back by bureaucracy or political impediments. We can, what we say, get things done.”***

Alan Hofmann, general manager, the Fresno Metropolitan Flood Control District, testifying at the Commission’s October 27, 2016, hearing.

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## **Santa Clara Valley Water District**

The Commission’s 2014 *Governing California Through Climate Change* report paid particular attention to climate vulnerabilities in Santa Clara County, stating that many of “Silicon Valley’s storied technology campuses risk inundation as water levels rise in San Francisco Bay.” The Commission report cited a December 20, 2012, *Scientific American* article about the endangered county’s sea level rise challenges that stated bluntly: “Facebook is just one of the well-known companies in Silicon Valley’s

technology mecca that will face the effects of climate change in years ahead. Others located near the water here include Google, Yahoo!, Dell, LinkedIn, Intuit, Intel, Cisco, Citrix and Oracle.”

The Santa Clara Valley Water District, which has responsibilities for flood control alongside its traditional role of providing water to nearly two million of the region’s residents, stands on the front lines of keeping San Francisco Bay from spilling into the below-sea-level offices of these companies, as well as the Bay Area’s largest wastewater treatment plant.<sup>72</sup> At the Commission’s hearing, Melanie Richardson, the water district’s interim chief operating officer – watersheds – described an ambitious \$850 million plan to get ahead of climate-induced sea level rise well before it is too late. The district’s plan, a first of its kind in the Bay Area, provides an important example for special districts statewide in the power of partnerships to prepare and build now for coming climate change impacts.

**Multi-government partnerships for mega-projects.**

The district, in partnership with the U.S. Army Corps of Engineers and California State Coastal Conservancy, has begun a major levee-construction and wetlands restoration program to protect populations and companies that represent a thriving key sector of the California and national economy. Collectively, the three agencies aim to fortify 18 miles of the county’s San Francisco Bay shoreline against up to three feet of sea level rise for the next 50 years.

“Right now the entire Santa Clara County shoreline is protected by salt pond levees that are not really engineered for flood protection, and therefore the entire coastline is vulnerable to not only the 100-year coastal flooding event, but to sea level rise,” Ms. Richardson told the Commission. “The shoreline study (formally known as the South San Francisco Bay Shoreline Study) is the first study of its kind in the Bay area to develop a specific plan to provide flood risk management in light of sea level rise in the bay.”

Added Ms. Richardson, “The study is proceeding in phases because 18 miles of coastline is a lot to do all at once.”

A first four-mile phase of levee construction and restoration of 2,900 acres of tidal marsh habitat is scheduled to begin construction as early as 2018 and

take approximately three years to finish, Ms. Richardson told the Commission. That phase will bring protection to the north San Jose shoreline between Alviso Slough and Coyote Creek, an area of homes, tech companies and the county’s largest wastewater treatment plant, all about 11 feet below sea level and considered most at risk to sea level rise. The first-phase cost is \$174 million, said Ms. Richardson, with the federal government paying 40 percent (\$71 million). The remaining 60 percent (\$103 million) is funded jointly by the Santa Clara Valley Water District and the California Coastal Conservancy. Their 60 percent share includes \$42 million for the levee and related structures, \$58 million for wetlands restoration and \$3 million for recreation.

Santa Clara County property owners, as well as property owners throughout the nine-county Bay Area, also are helping finance this massive sea level rise project, said Ms. Richardson. A 2012 Santa Clara Valley Water District parcel tax approved by more than two-thirds of county taxpayers – the Safe Clean Water and Natural Flood Protection Program, or Measure B – provided \$15 million for design and construction of the first phase, as well as \$5 million for studies of the remaining 14 miles. In addition, Measure AA, the \$500 million, 20-year Clean and Healthy Bay parcel tax passed by more than two thirds of Bay Area voters in June 2016, will contribute \$60 million over time toward the entire 18-mile flood and sea level rise protection project, Ms. Richardson testified. Ms. Richardson told the Commission that conversations are underway with the U.S. Army Corps of Engineers regarding the next phases. “Prior to starting the next phase of the shoreline study in other economically impacted areas, our district is out in front analyzing conditions in the Palo Alto, Mountain View and Sunnyvale shorelines to determine where the next piece that makes the most economic sense should be worked on,” she testified.

When discussing the entire \$850 million price tag to protect the Silicon Valley region against an uncertain future, Ms. Richardson pointed to the financial power of partnerships. “That’s why it’s so important for us to have participation by our federal partners,” she said. “It’s a very expensive project for local entities to undertake alone.”



## RECOMMENDATIONS

Locally and regionally, special districts are clearly thinking about an uncertain future, whether they call it changing weather patterns or climate change. The dozen approaches outlined show a handful of special districts getting ready for what's coming and no doubt, their executives occasionally lie awake at night thinking about the many what if's that accompany their responsibilities. These forward motions by California districts might, in some or even most cases, be among the most advanced nationally for climate change adaptation. Yet, there is clearly more that trade associations for these districts – and also state government – can do to help and also to stay out of their way with regulatory overreach. Among options considered by the Commission and recommended here:

***Recommendation 15: The Legislature should place a requirement that special districts with infrastructure subject to the effects of climate change should formally consider long-term needs for adaptation in capital infrastructure plans, master plans and other relevant documents.***

Most special districts, especially the legions of small districts throughout California, have their hands full meeting their daily responsibilities. Many have few resources and little staff time to consider long-range issues, particularly those with the heavy uncertainty of climate change adaptation. Making climate change a key planning and operational consideration would formally and legally elevate issues of adaptation and mitigation, especially for districts where immediate concerns make it too easy to disregard the future.

***Recommendation 16: The California Special Districts Association (CSDA), in conjunction with its member districts, should document and share climate adaptation experiences with the Integrated Climate Adaptation and Resilience Program's adaptation information clearinghouse being established within the Governor's Office of Planning and Research (OPR). Similarly, CSDA and member districts should step up engagement in the state's current Fourth Assessment of climate threats, a state research project designed to support the implementation of local adaptation activities. The CSDA also should promote climate adaptation information sharing among its members to help districts with fewer resources plan for climate impacts and take actions.***

The OPR clearinghouse promises to be the definitive source of climate adaptation planning information for local governments throughout California. An OPR representative at the Commission's October 2017 hearing invited more district participation in state climate adaptation processes. It is critical that special districts and their associations assume a larger participatory role – both within state government and among their memberships – to expand the knowledge base for local governments statewide.

***Recommendation 17: The state should conduct a study – by either a university or an appropriate state department – to assess the effect of requiring real estate transactions to trigger an inspection of sewer lines on the property and require repairs if broken.***

Every California property owner has the responsibility to adapt to climate change. This begins at home with maintenance and upgrading of aging sewer laterals. Requiring inspections and repairs during individual property transactions is an optimum way to slowly rebuild a region's collective wastewater infrastructure in the face of climate change. At the community level, repairs will help prevent excess stormwater during major climate events from overwhelming wastewater systems and triggering sewage spills into public waterways.

The Oakland-based East Bay Municipal Utility District has instituted an ordinance that requires property owners to have their private sewer laterals inspected if they buy or sell a property, build or remodel, or increase the size of their water meter. If the lateral is found to be leaking or damaged, it must be repaired or replaced. The state should consider implementing this policy statewide.

***Recommendation 18: State regulatory agencies should explore the beginnings of a new regulatory framework that incorporates adaptable baselines when defining a status quo as climate impacts mount.***

With climate change what has happened historically will often be of little help in guiding regulatory actions. State regulations designed to preserve geographical or natural conditions that are no longer possible or no longer exist already are creating problems for special districts. Wastewater agencies, for example, face conflicting regulations as they divert more wastewater flows to water recycling for human needs and less to streams historically home to wildlife that may or may not continue

to live there as the climate changes. While it is not easy for regulators to work with moving targets or baselines, climate change is an entirely new kind of status quo that requires an entirely new approach to regulation.

***Recommendation 19: The California Special Districts Association, and special districts, as some of the closest-to-the-ground local governments in California, should step up public engagement on climate adaptation, and inform and support people and businesses to take actions that increase their individual and community-wide defenses.***

Special districts are uniquely suited to communicate with and help prepare millions of Californians for the impacts of climate change. Nearly all have public affairs representatives increasingly skilled at reaching residents through newsletters, social media and public forums. District staffs grapple constantly with new ways to increase their visibility. Many will find they can build powerful new levels of public trust by helping to prepare their communities for the uncertainty ahead.

***Recommendation 20: The California Special Districts Association and special districts should lead efforts to seek and form regional partnerships to maximize climate adaptation resources and benefits.***

Water, wastewater and flood control districts are already bringing numerous agencies to the table to pool money, brainpower and resources for big regional projects. The East Bay Municipal Utility District has arrangements with many Bay Area and Central Valley water agencies to identify and steer water to where it is most needed for routine demands and emergencies alike. The Metropolitan Water District and Sanitation Districts of Los Angeles County also increasingly pool their joint resources to steer more recycled water to groundwater recharge basins for dry years. Likewise, the Santa Clara Valley Water district and other state and federal agencies are collectively planning and funding 18 miles of levees to protect the region from sea level rise. These partnerships among special districts and other government agencies clearly hint at what will be increasingly necessary as climate impacts begin to mount.

# Appendices

## Appendix A

### Public Hearing Witnesses

The list below reflects the titles and positions of witnesses at the time of the hearing.

#### *Public Hearing on Special Districts*

*August 25, 2016*

*Sacramento, California*

Michael Coleman, Principal, CaliforniaCityFinance.com

Jon Coupal, President, Howard Jarvis Taxpayers Association

Amber King, Senior Legislative Advocate, Association of California Health Care Districts

John Leopold, Chair, California Association of Local Agency Formation Commissions, Santa Cruz County District 1 Supervisor and Santa Cruz County Local Agency Formation Commission member

Stephen Lucas, Executive Officer, California Association of Local Agency Formation Commissions and Butte County Local Agency Formation Commission

Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association

Michael Schwartz, Fire Chief, North Tahoe Fire Protection District

#### *Public Hearing on Special Districts*

*October 27, 2016*

*Sacramento, California*

Jeffrey D. Armstrong, General Manager, Rancho California Water District

Louise Bedsworth, Deputy Director, Governor's Office of Planning and Research

Alexander R. Coate, General Manager, East Bay Municipal Utility District

Philip L. Friess, Department Head, Technical Services, Sanitation Districts of Los Angeles County

Alan Hofmann, General Manager, Fresno Metropolitan Flood Control District

Melanie Richardson, Interim Chief Operating Officer – Watersheds, Santa Clara Valley Water District

Wendy Ridderbusch, Director of State Relations, Association of California Water Agencies

## Appendix B

### Meeting Participants

The list below reflects the titles and positions of participants at the time of the meeting.

***Advisory Committee Meeting on Special Districts  
November 16, 2016  
Sacramento, California***

Peggy Broussard Wheeler, Vice President, Rural Healthcare and Governance, California Hospital Association

Ken Cohen, Executive Director, Association of California Healthcare Districts

Arthur J. Faro, Board President, Sequoia Healthcare District, San Mateo County

Barbara Glaser, Senior Legislative Advocate, California Hospital Association

Colin Grinnell, Chief Consultant, Senate Government and Finance Committee

Jack Hickey, Board Member, Sequoia Healthcare District, San Mateo County

Barry Jantz, Chief Executive Officer, Grossmont Healthcare District, San Diego County

Amber King, Senior Legislative Advocate, Association of California Healthcare Districts

Sheretta Lane, Vice President of Finance and Policy, District Hospital Leadership Forum

Misa Lennox, Associate Consultant, Assembly Local Government Committee

Lee Michelson, Chief Executive Officer, Sequoia Healthcare District, San Mateo County

Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association

Bobbi Palmer, Executive Director, Fallbrook Healthcare District, San Diego County

Mona Palacios, Executive Officer, Alameda County Local Agency Formation Commission

Lou Ann Texeira, Executive Officer, Contra Costa County Local Agency Formation Commission

***Roundtable Discussion on Special Districts  
June 22, 2017  
Sacramento, California***

Debby Cherney, Deputy General Manager, Eastern Municipal Water District

Steve Heide, Finance Manager, Chino Valley Independent Fire District

José Henríquez, Executive Officer, El Dorado Local Agency Formation Commission

Gay Jones, Board Member, California Association of Local Agency Formation Commissions, Sacramento Metro Fire District, Board Member and Sacramento LAFCO Commissioner

Jill Kanemasu, Acting Division Chief, Local Government Programs & Services Division, Office of State Controller Betty T. Yee

George Lolas, Chief Operating Officer, Office of State Controller Betty T. Yee

Amber King, Senior Legislative Advocate, Association of California Health Care Districts

Steve Lucas, Executive Officer, Butte Local Agency Formation Commission

Jimmy MacDonald, Consultant, Senate Government and Finance Committee

Scott Morgan, Deputy Director of Administration and State Clearinghouse Director, Governor's Office of Planning and Research

Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association

Sarah Rubin, Program Manager, Public Engagement, Institute for Local Government

Wendy Ridderbusch, Director of State Relations, Association of California Water Agencies

Herb Schultz, CEO, Desert Healthcare District

Gareth Smythe, Executive Fellow, Governor's Office of Planning and Research

Christina Valencia, Chief Financial Officer, Inland Empire Utilities Agency

## Appendix C

### Cover Photo Credits

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<http://pixel-ca-dwr.photoshelter.com/index>. Accessed on August 30, 2017.

Also, courtesy of iStock photos. <http://www.istockphoto.com/>. Accessed on August 30, 2017.

# Notes

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- 3 Kyle Packham. Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. August 25, 2016. Written testimony to the Commission.
- 4 Wendy Ridderbusch. Director of State Relations. Association of California Water Agencies. Sacramento, CA. December 12, 2016. Written Communication.
- 5 Peter Detweiler. Former Chief Consultant. Senate Local Government Committee. Sacramento, CA. July 5, 2016. Personal Communication.
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- 7 Kyle Packham. Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. August 25, 2016. Oral testimony to the Commission.
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- 23 Kyle Packham. Refer to endnote 3.
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- 25 Jill Kanemasu. Refer to endnote 1.
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# Little Hoover Commission Members

**Chairman Pedro Nava** (*D-Santa Barbara*) Appointed to the Commission by former Speaker of the Assembly John Pérez in April 2013 and reappointed by Speaker of the Assembly Anthony Rendon in 2017. Government relations advisor. Former state Assemblymember from 2004 to 2010. Former civil litigator, deputy district attorney and member of the state Coastal Commission. Elected chair of the Commission in March 2014.

**Vice Chairman Sean Varner** (*R-Riverside*) Appointed to the Commission by Governor Edmund Brown Jr. in April 2016. Managing partner at Varner & Brandt LLP where he practices as a transactional attorney focusing on mergers and acquisitions, finance, real estate and general counsel work.

**David Beier** (*D-San Francisco*) Appointed to the Commission by Governor Edmund G. Brown Jr. in June 2014. Managing director of Bay City Capital. Former senior officer of Genentech and Amgen. Former counsel to the U.S. House of Representatives Committee on the Judiciary. Serves on the board of directors for the Constitution Project.

**Iveta Brigis** (*D-Los Gatos*) Appointed to the Commission by Governor Edmund G. Brown Jr. in April 2017. Open Sourcing People Operations Program lead at Google Inc. since 2014, and looks after re:Work, Google's initiative to open source data-driven HR practices.

**Senator Anthony Cannella** (*R-Ceres*) Appointed to the Commission by the Senate Rules Committee in January 2014. Elected in November 2010 and re-elected in 2014 to represent the 12th Senate District. Represents Merced and San Benito counties and a portion of Fresno, Madera, Monterey and Stanislaus counties.

**Joshua LaFarga** (*NPP-Wilmington*) Appointed to the Commission by Speaker of the Assembly Anthony Rendon in June 2017. Director of public and government affairs and as recording secretary and executive board member at LiUNA! Local 1309.

**Assemblymember Chad Mayes** (*R-Yucca Valley*) Appointed to the Commission by former Speaker of the Assembly Toni Atkins in September 2015. Elected in November 2014 to represent the 42nd Assembly District. Represents Beaumont, Hemet, La Quinta, Palm Desert, Palm Springs, San Jacinto, Twentynine Palms, Yucaipa, Yucca Valley and surrounding areas.

**Don Perata** (*D-Orinda*) Appointed to the Commission in February 2014 and reappointed in January 2015 by the Senate Rules Committee. Political consultant. Former president pro tempore of the state Senate, from 2004 to 2008. Former Assemblymember, Alameda County supervisor and high school teacher.

**Assemblymember Bill Quirk** (*D-Hayward*) Appointed to the Commission by Speaker of the Assembly Anthony Rendon in 2017. Elected in November 2012 to represent the 20th Assembly District. Represents Hayward, Union City, Castro Valley, San Lorenzo, Ashland, Cherryland, Fairview, Sunol and North Fremont.

**Senator Richard Roth** (*D-Riverside*) Appointed to the Commission by the Senate Rules Committee in February 2013. Elected in November 2012 to represent the 31st Senate District. Represents Corona, Coronita, Eastvale, El Cerrito, Highgrove, Home Gardens, Jurupa Valley, March Air Reserve Base, Mead Valley, Moreno Valley, Norco, Perris and Riverside.

**Janna Sidley** (*D-Los Angeles*) Appointed to the Commission by Governor Edmund Brown Jr. in April 2016. General counsel at the Port of Los Angeles since 2013. Former deputy city attorney at the Los Angeles City Attorney's Office from 2003 to 2013.

**Helen Torres** (*NPP-San Bernardino*) Appointed to the Commission by Governor Edmund Brown Jr. in April 2016. Executive director of Hispanas Organized for Political Equality (HOPE), a women's leadership and advocacy organization.

“Democracy itself is a process of change, and satisfaction and complacency are enemies of good government.”

Governor Edmund G. “Pat” Brown,  
addressing the inaugural meeting of the Little Hoover Commission,  
April 24, 1962, Sacramento, California

**LAFCO MEETING: October 4, 2017**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Analyst**  
**SUBJECT: EXECUTIVE OFFICER'S REPORT**

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**8.1 UPDATE ON RECRUITMENT FOR NEW LAFCO ANALYST POSITION**

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**For Information Only.**

The application submittal period for the new LAFCO Analyst job opening concluded on July 31, 2017. The County Employee Services Agency (ESA) received over thirty applications and has reviewed these applications to identify those that meet the minimum qualifications. Once staff receives a final list of qualified applicants from ESA, staff will schedule and conduct candidate interviews and a job offer will be extended to one applicant.

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**8.2 MEETINGS WITH APPLICANTS ON POTENTIAL LAFCO APPLICATIONS**

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**For Information Only.**

On September 5, 2017, Executive Officer Palacherla met with Rocke Garcia, a real estate investor/developer, concerning various lands located in the southern part of the county.

In late September, staff responded to inquiries from both the Town of Los Altos Hills' Planning Director and County Supervisor Cortese's staff concerning the Town's potential annexation of an unincorporated parcel located within its Urban Service Area boundary.

In late September, staff also responded to inquiries from an attorney working for the City of Mountain View concerning LAFCO's boundary change process and policies on annexing federal lands. Staff also advised the attorney of the location of the City's boundaries in the vicinity of Moffett Field. The Moffett Field area includes federal lands and most of the area is located within the unincorporated area. In recent years, there have been various development plans under consideration for Moffett Field; and implementation of some of these plans may require the City to first seek and receive LAFCO's approval to change its boundaries.

### **8.3 MIDPENINSULA REGIONAL OPEN SPACE DISTRICT'S MT. UMUNHUM SUMMIT OPENING EVENT**

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#### **For Information Only.**

On September 16<sup>th</sup>, Executive Officer Palacherla attended the Midpeninsula Regional Open Space District's event for the opening of Mt. Umunhum summit. Attendees consisted of various local and state government officials including Commissioner Yeager and Alternate Commissioner Kishimoto; local agency staff; representatives of environmental organizations; and media personnel, among others. The event provided an informal opportunity for EO Palacherla to conduct outreach on LAFCO.

The District purchased the Mt Umunhum property in 1986 and with the assistance of local, state, and federal funds, was able to clean, restore, and complete the necessary improvements (e.g. roads and trail alignments, parking areas) to now allow public access to the summit area of the mountain.

### **8.4 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING**

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#### **For Information Only.**

On September 11, 2017, Executive Officer Palacherla attended the quarterly meeting of the Santa Clara County Special Districts Association (SDA) and provided a report on various LAFCO activities of interest to special districts, including informing the Association about the Little Hoover Commission Report, and LAFCO's response to the Civil Grand Jury Report.

The meeting included a presentation by guest speaker, Honorable Marico Sayoc (Mayor of Town of Los Gatos). The meeting also included a report by the representative of the California Special Districts Association (CSDA) on the Little Hoover Commission Report and on the CSDA's District Transparency Certificate of Excellence Programs. Special district members/staff in attendance at the meeting provided updates on current projects / issues of interest to the group. The next meeting of the SDA is scheduled for December 4<sup>th</sup>.

### **8.5 BAY AREA LAFCO STAFF MEETINGS**

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#### **For Information Only.**

On August 17, 2017, Analyst Noel attended the Bay Area LAFCOs meeting, which is a semi-annual meeting of Executive Officers and Analysts from the nine Bay Area LAFCOs. The group discussed various current and upcoming projects at each LAFCO, and their experiences with developing strategic plans. The group also received a presentation on the new Bay Area Greenprint.

On August 23, 2017, Clerk Abello attended the Bay Area LAFCO Clerks meeting, which is also a semi-annual meeting of Clerks from the nine Bay Area LAFCOs. The group shared information on website management tools, different policies on records retention, options for electronic recordkeeping, changes in the State Board of Equalization's processes, collection of Joint Powers Authorities agreements and amendments, and the

new Bay Area Greenprint on-line mapping resources. The group also discussed various current and upcoming projects at each LAFCO.

## **8.6 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING**

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### **For Information Only.**

Analyst Noel attended the August 9<sup>th</sup> meeting of the Inter-Jurisdictional GIS Working Group that includes various county departments that use and maintain GIS data, particularly LAFCO related data. The meeting was hosted by County Parks Department GIS staff, who discussed and demonstrated how they use and maintain GIS data for mapping county parklands, natural resources, trails, roads, and various onsite infrastructure. The Group also received updates from the participants on various GIS boundaries/data changes and discrepancies. The next meeting will be hosted by the County Surveyor's Department.







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September 13, 2017

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70 South First Street  
San Jose, CA 95113

Re: Proposed Motion for Reconsideration Regarding Lucky Road USA and SOI Amendment in Monte Sereno

Dear Mr. Woodward:

As you are aware, the LAFCO of Santa Clara County (“LAFCO”) denied the Monte Sereno Urban Service Area and Sphere of Influence Amendment at its meeting on June 7, 2017. Government Code section 56895 of the Cortese-Knox-Herzberg Local Government Reorganization Act of 2000 (“Act”) provides for the sole mechanism for the Commission to reconsider a resolution making determinations. It specifically provides that “any person or affected agency may file a written request with the executive officer requesting amendments to or a reconsideration of the resolution.” The deadline set by this section is mandatory and “the person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations.”

A request for reconsideration under the Act, of the resolution denying the Monte Sereno application was not made by any person or agency, including a Commissioner. LAFCO’s bylaws, which provide for the use of Rosenberg’s Rules of Order, specifically state in Section 2 that the bylaws are not intended to preempt state law and in the event of a conflict between the provisions set forth in the bylaws and those set forth in the Act, the provisions of the Act shall prevail.

Your argument that this is an erroneous interpretation and would result in absurd results if a Commissioner makes a mistake is not supported by law. Government Code section 56895(i) specifically provides that “clerical errors or mistakes may be corrected pursuant to Section 56883”. Section 56883 allows the Executive Officer, before the completion of a proceeding, to correct clerical errors or mistakes made through inadvertence, surprise, or excusable neglect, upon written request by any member of the commission. Furthermore, a correction made



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

Mr. Perry J. Woodward  
September 13, 2017  
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pursuant to Section 56883 shall not be cause for filing a request for reconsideration under the Act.

While the timeframe for reconsideration under the Act has long passed, the City of Monte Sereno can resubmit the urban service area amendment application to LAFCO. Section A.2 of LAFCO's Urban Service Area policies provides that LAFCO will review a city's urban service area once a year, if desired by the city. However, Government Code section 56884 provides that no similar proposal involving the same or substantially same territory shall be initiated for one year after the date of denial resolution. Therefore, unless the Commission grants an exception to these limitations or waives the requirements after making specific findings, the City of Monte Sereno can reapply at the earliest in June 2018, should it desire. To do so, the City will need to adopt a new resolution and submit such resolution along with all application materials and fees to LAFCO.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mala Subramanian'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mala Subramanian  
of Best Best & Krieger LLP  
General Counsel  
LAFCO of Santa Clara County

cc: LAFCO Commissioners  
Neelima Palacherla, Executive Officer

August 21, 2017

Perry J. Woodward  
pwoodward@hopkinscarley.com  
T. 408.299.1359  
F. 408.998.4790

**Via Federal Express**

Hon. Ken Yeager  
Vice-Chair, LAFCO  
70 W. Hedding St., 10<sup>th</sup> Floor  
San Jose, CA 95110

**Re: Proposed LAFCO Motion for Reconsideration at August 2, 2017 Board Meeting (Lucky Road Annexation, Monte Sereno)**

Dear Vice-Chair Yeager:

During the last Santa Clara County LAFCO (“LAFCO”) Board Meeting on August 2, 2017, while you were serving as acting Chair, an unusual and troubling circumstance occurred. As I am certain you will recall, a Commissioner sought to make a *parliamentary* motion for reconsideration as to a decision that had been rendered at the last board meeting. To be specific, reconsideration was sought as to the June 7, 2017 denial of the Monte Sereno Urban Service Area and Sphere of Influence Amendment 2016 (Lucky Road). I represent the land owners affected by that denial.

To my surprise, in response to the Commissioner’s stated intention to move for reconsideration, LAFCO Counsel instructed the Board that it could not reconsider that earlier decision. Commissioners asked if the matter could be placed on the agenda for discussion at the next meeting and were told by LAFCO Counsel that her “opinion would be the same.” The Board was told in definitive terms that Government Code section 56895 barred reconsideration. However, that statute clearly applies only to applicants, affected individuals or organizations – not to LAFCO Commissioners themselves. The difference is as fundamental as the statutory right to seek reconsideration as opposed to the *parliamentary* motion for reconsideration; that an attorney as experienced as LAFCO Counsel could have been mistaken on such a basic point is truly remarkable.

The statute cited by LAFCO Counsel provides that “any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution” provided they “file the written request within 30 days.” Government Code

Hon. Ken Yeager  
Vice-Chair, LAFCO  
August 21, 2017  
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section 56895(a) and (b). On this basis, LAFCO Counsel told the Board that reconsideration in LAFCO matters is controlled exclusively by Government Code section 56895, and that under that statute reconsideration requests must be made in writing within 30 days of the decision.

Since more than 30 days had passed (LAFCO only meets every other month), LAFCO Counsel informed the body that the applicant's only option was to re-apply and again pay the required fees. LAFCO Counsel also pointed out that such requests can only be made once a year, although she did not cite the law on that point. The Board, seemingly caught off-guard, was apparently persuaded that this advice was correct. This advice was wrong on the law and caused the Board to not pursue reconsideration further. Since there was no opportunity to do so at the August 1, 2017 LAFCO Board Meeting, I now write to make you and your fellow LAFCO Board members aware that this advice from LAFCO Counsel was obviously mistaken. In fact, LAFCO Counsel's mistaken view of the law would on its face lead to absurd results as will be discussed below.

Consider that from LAFCO's inception until April 2014, the Board looked to Robert's Rules of Order to provide guidance on parliamentary issues or questions. At its meeting of April 2, 2014, at the recommendation of its Executive Officer Neelima Palacherla, the LAFCO Board adopted modified bylaws that switched from Robert's Rules of Order to Rosenberg's Rules of Order. For your convenience, I have attached as Exhibit A a copy of the staff report recommending this change to modernize and simplify the parliamentary rules for the LAFCO Board. See Item 7.

I have also attached as Exhibit B a copy of Rosenberg's Rules of Order. As you and your fellow Commissioners are well aware, board members sometimes feel the need to change their mind regarding an issue before them. Just as Robert's Rules did before the switch, Rosenberg's Rules of Order expressly provides for *parliamentary* motions for reconsideration. Specifically, Rosenberg's Rules address such motions in details. *The following is the exact language as it appears in Rosenberg's Rules:*

#### ***The Motion to Reconsider***

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Accordingly, a *parliamentary* motion to reconsider under Rosenberg's Rule would have been timely if it had been made at the June 7, 2017 meeting. However, as Rosenberg's Rules expressly state, a parliamentary motion to reconsider could nevertheless have been made at the August 1, 2017 meeting provided that at least five of the Commissioners had voted to allow the motion to reconsider to be made at that time. However, the discussion never progressed to that point because LAFCO Counsel misinformed the body that in her view no such motion could be made. In essence, LAFCO Counsel was saying that Government Code section 56895(a) and (b) — first effective on January 1, 2000, and which merely continued prior law on the subject with the additional requirement that the written request set forth new or different facts or law to warrant reconsideration — was in fact the statutory elimination of the *parliamentary* motion for reconsideration by a voting LAFCO Commissioner. There is nothing in the legislative history or the statute itself that suggests that is what the Legislature intended.

Despite the absurdity that would result, LAFCO Counsel told the Commissioners that all motions for reconsideration had to conform to the requirements of Government Code section 56895. That statute provides that “any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution” provided they “file the written request within 30 days.” This statute is plainly addressed to when people or agencies *other than LAFCO Commissioners themselves* seek to re-visit a decision.

If LAFCO Counsel’s interpretation was correct, it would lead to absurd results. For example, if just moments after a Commissioner had voted to approve a project, the Commissioner realized that a mistake had occurred during voting (for example, simply saying “aye” instead of “nay”), what would be the Commissioner’s options? Under Rosenberg’s Rules, the solution is simple: The Commissioner would ask the Chair to be recognized and then make a motion for reconsideration to correct the vote. Makes sense.

On the other hand, under LAFCO Counsel’s erroneous interpretation, the Commissioner who misspoke would have only one option. The Commissioner would have to wait until after the meeting in order to make a written request under Government Code section 56895 sometime within the next 30 days. The written request would need “to state what new or different facts that could not have presented previously” warrant reconsideration. Then, prior to the next meeting the Executive Director would give full public notice. The Executive Director would then have the reconsideration motion placed on the agenda at the next LAFCO meeting. The cumbersomeness of this process and its attendant expense would be borne entirely by the Commissioner, since the Commissioner would also have to pay a fee in the amount of \$2,619 as a deposit plus actual costs. A copy of the LAFCO Fee Schedule is attached as Exhibit C. Obviously, if the Legislature had intended to create such a wholly unprecedented procedure as this, and to eliminate *parliamentary* motions for reconsideration in the LAFCO context, it would surely have said so. There is nothing to indicate that is what the Legislature wanted to do when it enacted Government Code section 56895 to create an additional reconsideration process for use by the general public.

As any fair-minded person can see, LAFCO Counsel’s view of the law would place a tremendous burden on any Commissioner who feels the need to change their mind regarding an issue before them. Government Code section 56895 is available to the affected public at large, but *parliamentary* motions to reconsider under Rosenberg’s Rules of Order are available to members of the LAFCO Board. Accordingly, if any Commissioner feels the need to change their vote as to the June 7, 2017 denial of the Monte Sereno Urban Service Area and Sphere of Influence Amendment 2016 (Lucky Road), they can rest assured that they have the right under the law to bring a motion for reconsideration in conformity with Rosenberg’s Rules of Order during the upcoming October 4, 2017 meeting. If five members vote to allow reconsideration – in the words of Rosenberg’s Rules – “then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for

Hon. Ken Yeager  
Vice-Chair, LAFCO  
August 21, 2017  
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the first time.” In fact, given the misleading advice by LAFCO Counsel and in order to avoid any question as to the application of the Brown Act (“no action or discussion shall be undertaken on any item not appearing on the posted agenda, ...”), I respectfully request that this matter be placed on the agenda for possible action at the upcoming October 4, 2017 LAFCO Board Meeting.

Sincerely,

HOPKINS & CARLEY  
A Law Corporation



Perry J. Woodward

PJW/emt

cc: Chairperson Sequoia Hall  
Commissioner Rob Rennie  
Commissioner Mike Wasserman  
Commissioner Sergio Jimenez  
Commissioner John L. Varela  
Commissioner Susan Vicklund Wilson  
Alternate Commissioner Sylvia Arenas  
Alternate Commissioner Yoriko Kishimoto  
Alternate Commissioner Terry Trumbull  
Alternate Commissioner Cindy Chavez  
Alternate Commissioner Russ Melton  
Executive Director Neelima Palacherla  
LAFCO Counsel Malathy Subramanian

8602758437.1







**LAFCO MEETING MINUTES  
WEDNESDAY, APRIL 2, 2014**

**CALL TO ORDER**

**Chairperson Susan Vicklund Wilson** called the meeting to order at 1:23 p.m.

**1. ROLL CALL**

The following commissioners were present:

- **Chairperson Susan Vicklund Wilson**
- **Commissioner Cindy Chavez**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Mike Wasserman**
- **Commissioner Johnny Khamis**
- **Alternate Commissioner Yoriko Kishimoto** (voted in place of Commissioner Linda LeZotte)
- **Alternate Commissioner Cat Tucker**

The following staff members were present:

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

**2. PUBLIC COMMENTS**

There were no public comments.

**3. APPROVE MINUTES OF FEBRUARY 5, 2014 LAFCO MEETING**

The Commission approved the minutes of February 5, 2014 LAFCO meeting.

Motion: Chavez Second: Khamis

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None ABSTAIN: None ABSENT: Hall, LeZotte

**MOTION PASSED**

**4. CONSENT CALENDAR: WEST BAY SANITARY DISTRICT SPHERE OF INFLUENCE (SOI) AMENDMENT AND ANNEXATION (830 LOS TRANCOS ROAD)**

The Commission adopted **Resolution No. 2014-02**, providing a favorable recommendation to the Local Agency Formation Commission of San Mateo County

relating to West Bay Sanitary District's Sphere of Influence amendment and annexation of a 9.43 acre parcel (APN: 182-36-031) located at 830 Los Trancos Road to the District.

Motion: Wasserman

Second: Abe-Koga

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

**MOTION PASSED**

5. **SAN JOSE URBAN SERVICE AREA (USA) AMENDMENT 2014 AND EVERGREEN NO. 202 REORGANIZATION**

Ms. Palacherla presented the staff report.

This being the time and place for the public hearing, **Chairperson Wilson** declared the public hearing open, determined that there are no members of the public who wished to speak on the item, and ordered the public hearing closed.

In response to an inquiry by **Commissioner Chavez**, Ms. Palacherla informed that the USA amendment proposal will establish the USA boundary based on new information about the correct slope line. **Alternate Commissioner Kishimoto** suggested that the large trees located in the area be considered when amending the USA boundary. **Commissioner Khamis** stated that San Jose's ordinances will protect these trees once the area becomes part of the city and **Commissioner Wasserman** expressed agreement. **Commissioner Khamis** moved for approval of San Jose's request and **Commissioner Chavez** seconded.

**Alternate Commissioner Kishimoto** moved for a substitute motion to direct San Jose to modify the proposal and keep Tree #16 outside of the proposed USA boundary. The substitute motion failed as there was no second.

The Commission adopted **Resolution No. 2014-03** conditionally approving the San Jose USA Amendment 2014 and Evergreen No. 202 reorganization.

Motion: Khamis

Second: Chavez

AYES: Chavez, Khamis, Abe-Koga, Wasserman, Wilson

NOES: Kishimoto

ABSTAIN: None

ABSENT: Hall, LeZotte

**MOTION PASSED**

6. **PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2015**

Ms. Palacherla presented the staff report.

This being the time and place for the public hearing, **Chairperson Wilson** declared the public hearing open, determined that there are no members of the public who wished to speak on the item, and ordered the public hearing closed.

In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla advised that the FY2015 budget is three percent higher than the FY2014 adopted budget due to the increase in staff cost. She clarified that the proposed budget is \$100,000 more than the actual FY2014 expenses because some anticipated expenses, such as consultant costs, did

not occur in FY2014 and are now transferred to FY2015. **Commissioner Wasserman** moved for adoption of the proposed LAFCO budget.

In response to an inquiry by **Commissioner Chavez**, Ms. Palacherla reported that the majority of LAFCO fees are based on actual staff time and cost. She informed that LAFCO's cost to agencies takes into account the revenues from fees, carryover funds and interest earnings. In response to a follow-up inquiry by **Commissioner Chavez**, Ms. Palacherla advised that the State law stipulates that the allocation of cost to cities, the county and districts be proportional to their representation on LAFCO. She stated that the special districts in Santa Clara County have agreed to an alternative method of allocating LAFCO costs amongst themselves.

The Commission: (1) adopted the Proposed LAFCO Budget for Fiscal Year 2014-2015; (2) found that the Proposed LAFCO Budget for Fiscal Year 2015 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; and (3) authorized staff to transmit the Proposed LAFCO Budget adopted by the Commission including the estimated agency costs as well as the LAFCO public hearing notice on the adoption of the Fiscal Year 2015 Final Budget to the cities, the special districts, the County, the Cities Association and the Special Districts Association.

Motion: Wasserman

Second: Abe-Koga

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

**MOTION PASSED**

## 7. PROPOSED LAFCO BYLAWS

Ms. Noel presented the staff report.

**Commissioners Wasserman** and **Khamis** welcomed the proposed use of Rosenberg's Rules of Order. **Alternate Commissioner Kishimoto** suggested that the Bylaws include a provision to discourage members from abstaining to vote unless there is a conflict of interest. At the request of the **Chairperson**, Ms. Subramanian stated that the Commission cannot prohibit its members from abstaining to vote; however, as a policy decision, abstentions can be discouraged except when there is a conflict of interest.

**Commissioners Chavez** and **Khamis** informed that the San Jose City Council discourages abstentions. A brief discussion ensued between **Commissioner Chavez** and Ms. Subramanian and the Commission directed staff to review how San Jose and other cities address this issue. **Commissioner Wasserman** expressed concerns about requiring that members not abstain from voting and noted that he would not like to digress from the simplicity of the Rosenberg's Rules. **Alternate Commissioner Kishimoto** suggested that as a compromise, the policy could indicate that the Commission "strongly discourage" its members from abstaining to vote. **Commissioner Wasserman** accepted the amendment to the motion. **Commissioner Khamis** expressed support for the amended motion provided that staff bring back a proposed policy at the next meeting.

The Commission adopted the Bylaws and directed staff to bring back a policy to discourage members from abstaining to vote.

Motion: Wasserman

Second: Khamis

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

**MOTION PASSED**

**8. SARATOGA FIRE PROTECTION DISTRICT SPECIAL STUDY DRAFT REPORT**

Ms. Palacherla provided a brief background on the Saratoga Fire Protection District (SFD) Special Study Draft Report and introduced the consultant for the project, Richard Berkson, Principal, Economic Planning Systems. Mr. Berkson provided a PowerPoint presentation on the Draft Report.

In response to an inquiry by **Commissioner Wasserman**, Ms. Subramanian advised that LAFCO may initiate the dissolution of SFD; however, the voters within the district may eventually decide whether or not to dissolve it. **Commissioners Khamis and Wasserman** requested that the Commission receive copies of the PowerPoint presentation in advance.

In response to an inquiry by **Commissioner Khamis**, Mr. Berkson informed that annual savings of about \$80,000 to \$150,000 may be realized by eliminating the business manager position, benefits for board members and overhead expenses. In response to another inquiry by **Commissioner Khamis**, Ms. Palacherla informed that staff provided a presentation to the Saratoga City Council in 2012.

In response to an inquiry by **Commissioner Abe-Koga**, Mr. Berkson informed that he had several conversations with Santa Clara County Central Fire Protection District (CCFD). He stated that CCFD has not taken a position on the issue but indicated that they are able to proceed with the reorganization if directed. He noted that the information in the report about staffing and resources is based on his discussions with CCFD. In response to another inquiry by **Commissioner Abe-Koga**, Mr. Berkson indicated that the Draft Report did not study the option of SFD serving the entire City of Saratoga. **Commissioner Wasserman** noted that SFD representatives have indicated no interest in serving the entire Saratoga. In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla informed that the Draft Report is available on the LAFCO website.

In response to an inquiry by **Alternate Commissioner Kishimoto**, Mr. Berkson reported that CCFD is committed to maintaining the existing fire station regardless of reorganization because its location is critical to the delivery of service in that region. In response to succeeding inquiries by **Alternate Commissioner Kishimoto**, Mr. Berkson indicated that there may be opportunities for local representation by creating an advisory committee to the CCFD governing board. He stated that, in addition to the one percent property tax, the residents also pay for the bond measure and the EWAS fees. Mr. Berkson indicated that other than LAFCO's terms and conditions, there is no guarantee that SFD savings will be spent in the area. **Alternate Commissioner Kishimoto** noted that the use of \$1.8 million should be negotiated.

Harold Toppel, Counsel, SFD, informed that should LAFCO initiate dissolution, SFD will seek a restraining order to stop the process and have a judge make the findings

rather than try to secure signatures from registered voters or property owners to protest LAFCO's decision. He informed that if a sufficient protest is not filed against dissolution, no election will be required. Mr. Toppel urged the Commission to accept the Draft Report, make it available to the public and to end further action on SFD dissolution. In response to an inquiry by **Alternate Commissioner Kishimoto**, Mr. Toppel stated that the City of Saratoga is uninterested in having SFD provide fire services to the entire city since the whole area, both the portion within SFD boundaries and the rest of Saratoga, receives the same level of service from CCFD. He added that while SFD board makes policy decisions, fire services are implemented uniformly by CCFD and the residents do not know the difference.

In response to a follow-up inquiry by **Alternate Commissioner Kishimoto**, Mr. Toppel informed that the policy decisions that SFD makes are regarding fire service to the hillside area, capital improvements and equipment issues, and operation of the EWAS. He further stated that without the SFD, residents will not have accounting reports on the cost of fire services and will not be able to attend separate SFD Board meetings. Mr. Toppel noted that SFD Board members are well known in the community and they are able to communicate with residents in the local coffee shops and not just at meetings. He further stated that whether or not contested elections are held is not a measure of accountability especially when the district is not improperly operated. **Chairperson Wilson** determined that there are no members of the public who wished to speak on the item.

**Chairperson Wilson** provided a brief background on why the study on SFD was initiated. She noted that even though there is \$100,000 savings, it is not significant compared to the \$5 million budget. She informed that the Commission has not heard from Saratoga residents and expressed agreement in continuing the item to the August meeting. **Chairperson Wilson** proposed that staff present the final report and recommendations on the process and options at the June meeting. **Commissioners Wasserman** and **Abe-Koga** expressed no objection to the amended motion.

**Commissioner Khamis** cautioned that SFD may spend more on legal representation than the savings projected from dissolution of SFD. As an example of how local communities opt to pay more in taxes in order to enjoy certain services, **Commissioner Wasserman** noted that Monte Sereno residents chose to pay more for police services from a different provider.

The Commission accepted the report, directed staff to present the Final Report at the June meeting, along with staff recommendations on the process and options.

Motion: Wasserman

Second: Abe-Koga

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

**MOTION PASSED**

9. **RESPONSES FROM AGENCIES TO RECOMMENDATIONS IN LAFCO'S SPECIAL DISTRICTS SERVICE REVIEW REPORT: PHASE 2**

Ms. Noel presented the staff report.

**Commissioner Chavez** requested that transparency issues must be addressed immediately when found. She also requested staff to prioritize the service review recommendations to indicate their importance and urgency.

The Commission accepted the report.

Motion: Wasserman Second: Khamis

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None ABSTAIN: None ABSENT: Hall, LeZotte

**MOTION PASSED**

10. **CALAFCO REGIONAL FORUMS**

Ms. Noel presented the staff report.

A brief discussion ensued relating to the proposed CALAFCO regional forum. **Chairperson Wilson** described the importance for LAFCO members to attend CALAFCO conferences and other educational opportunities, including the regional forums. She indicated that LAFCO members must be aware of the various regional issues and perspectives because CKH Act is very broad and, for instance, water is one of the factors that LAFCO has to consider in its decisions.

The Commission supported attendance at CALAFCO regional forums.

Motion: Abe-Koga Second: Kishimoto

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None ABSTAIN: None ABSENT: Hall, LeZotte

**MOTION PASSED**

11. **AB 2762 (ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT) CORTESE-KNOX-HERTZBERG (CKH) ACT OMNIBUS BILL**

Ms. Palacherla presented the staff report.

**Commissioner Wasserman** expressed concern that the proposed revisions included a "state-mandated local program." In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla advised that the changes proposed in the Omnibus Bill are mostly non-substantive and noted that the references is to a section which was inadvertently edited in the last update. She advised that it is in the bill's analysis and is not part of the bill itself. A brief discussion ensued among **Chairperson Wilson**, **Commissioner Wasserman**, and Ms. Palacherla and it was proposed that staff be directed to confirm with CALAFCO that the bill adds no new duties to LAFCOs. At the request of **Commissioner Kishimoto**, **Commissioner Wasserman** clarified his motion to state that the item be brought back to the Commission if the bill adds new duties to LAFCO.

The Commission directed staff to confirm with CALAFCO that the Omnibus Bill does not impose a new State mandated program for LAFCOs and authorized the Chairperson to sign a letter of support upon such confirmation.

Motion: Wasserman                                Second: Chavez

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

**MOTION PASSED**

**12. EXECUTIVE OFFICER'S REPORT**

No report.

**13. PENDING APPLICATIONS**

Ms. Palacherla advised that there is a pending application from the West Bay Sanitary District.

**14. COMMISSIONER REPORT**

No report.

**15. NEWSPAPER ARTICLES / NEWSLETTERS**

No report.

**16. WRITTEN CORRESPONDENCE**

Chairperson Wilson noted the correspondence included in the agenda packet.

**17. CLOSED SESSION**

The Commission adjourned to closed session at 3:25 p.m.

**18. ADJOURN**

**Chairperson Wilson** announced no report from the Closed Session and adjourned the meeting at 4:10 p.m. to the next regular meeting on June 4, 2014.

Approved:

\_\_\_\_\_  
Susan Vicklund Wilson, Chairperson  
Local Agency Formation Commission of Santa Clara County

By: \_\_\_\_\_  
Emmanuel Abello, LAFCO Clerk







# Rosenberg's Rules of Order

REVISED 2011

*Simple Rules of Parliamentary Procedure for the 21st Century*

*By Judge Dave Rosenberg*



## MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

## About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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## ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



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## INTRODUCTION

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The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

### Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.


### The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:



*First*, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

*Second*, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

*Third*, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

*Fourth*, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

*Fifth*, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

*Sixth*, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

*Seventh*, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

*Eighth*, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

*Ninth*, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

*Tenth*, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

## Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move ...”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”


The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion.** The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”



**The motion to amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

**The substitute motion.** If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

"Motions to amend" and "substitute motions" are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a "motion to amend" or a "substitute motion" is left to the chair. So if a member makes what that member calls a "motion to amend," but the chair determines that it is really a "substitute motion," then the chair's designation governs.

A "friendly amendment" is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, "I want to suggest a friendly amendment to the motion." The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year." The proper procedure would be as follows:

*First*, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

*Second*, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

*Third*, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate


The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.



**Motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**Motion to limit debate.** The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

### Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

### Counting Votes

The matter of counting votes starts simple, but can become complicated.


Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in



California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?  
Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote? Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

### The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.





## Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

**Order.** The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

## Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.



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**LAFCO FEE SCHEDULE**  
**Effective April 22, 2010**

	Type of Proposal	Fee
1.	City Conducted Annexations *	\$1,154 + SBE Fees
2.	100% Consent LAFCO Heard Change of Organization Proposals	\$5,914 + SBE Fees
3.	Deposit Fees ***	
	Non-100% Consent LAFCO Heard Change of Organization Proposals***	\$11,868 deposit + Actual Costs + SBE
	Urban Service Area (USA)/Sphere of Influence (SOI) Amendments	\$11,574 deposit + Actual Costs
	Out of Agency Contract for Services (OACS) Requests	\$9,670 deposit+ Actual Costs
	Pre-Application Meeting for district formations /incorporations (Mandatory, preferably prior to seeking signatures on petition)	\$1,562 + Actual Costs
	District Formation, Consolidation, Dissolution and City Incorporation and Dissolution	\$11,481 deposit + SBE fees + Actual Costs
	Reconsideration Requests	\$2,619 deposit + Actual Costs
4.	Research Fees	\$173 / hour

All fees / deposits are payable at time the application is filed.

\* Please make one check (\$1,154) payable to LAFCO and a separate check payable to State Board of Equalization (SBE). The SBE fee must be included with the application packet. The SBE fee is based on acreage; please see the SBE schedule of fees to determine the SBE fee.

\*\*\* Deposit fees are initial payments towards actual costs of processing applications. **Staff time spent on pre-application assistance will be counted towards the deposit.** Actual costs include staff time, any consultant fees and miscellaneous costs such as noticing, copying etc. If actual costs are less than deposit, LAFCO will refund the difference to the applicant. If processing costs begin to exceed the deposit, additional fees are required. LAFCO approval will be conditional upon final payment within 35 days of LAFCO hearing date. Payment of appropriate SBE fees is required where applicable; please see SBE fee schedule.



## **AGENDA ITEM # 12.2**

September 19, 2017

Mr. Sequoia Hall  
Chairperson  
Local Agency Formation Commission of Santa Clara County  
777 North First Street, Suite 410  
San Jose, California 95112

**Re: President's Special Acknowledgement Award - Workers' Compensation Program**

Dear Mr. Hall:

This letter and enclosed certificate are to formally acknowledge the dedicated efforts of the Local Agency Formation Commission of Santa Clara County's Governing Body, management and staff towards proactive loss prevention and workplace safety for earning the President's Special Acknowledgement Award! The Award is to recognize members with no "paid" claims during the prior **five consecutive program years** in the Workers' Compensation Program.

A "paid" claim for the purposes of this recognition represents the first payment on an open claim during the prior program year. Your agency's efforts have resulted in no "paid" workers' compensation claims for the prior 5 consecutive program years including 2016-17. This is an outstanding accomplishment that serves as an example for all SDRMA members!

It is through the efforts of members such as Local Agency Formation Commission of Santa Clara County that SDRMA has been able to continue providing affordable workers' compensation coverage to over 439 public agencies throughout California. While 270 members or 61% in the workers' compensation program had no "paid" claims in program year 2016-17, 127 members or 29% had no paid claims for the prior 5 consecutive years.

In addition to this annual recognition, members with no "paid" claims during 2016-17 earned 2 credit incentive points (CIPs) reducing their annual contribution amount and members with no "paid" claims for the prior 5 consecutive program years earned 3 additional bonus CIPs. Also, members without claims receive a lower "experience modification factor" (EMOD) which also reduces their annual contribution amount.

Included with this letter and certificate is your press release template so your agency may showcase this important accomplishment.

On behalf of the SDRMA Board of Directors and staff, it is my privilege to congratulate your Governing Body, management and staff for your commitment to proactive loss prevention and safety in the workplace.

Sincerely,  
Special District Risk Management Authority



Jean Bracy, President  
Board of Directors



*President's Special Acknowledgement Award*

THE PRESIDENT OF THE SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

HEREBY GIVES SPECIAL RECOGNITION TO

**Local Agency Formation Commission of Santa Clara County**

The President's Special Acknowledgement Award is to recognize members with no "paid" claims during the prior five consecutive program years in the Workers' Compensation Program. A "paid" claim for the purposes of this recognition represents the first payment on an open claim during that same period. Congratulations on your excellent claims record!



Jean Bracy, SDA, SDRMA Board President

September 19, 2017

Date

September 19, 2017

Mr. Sequoia Hall  
Chairperson  
Local Agency Formation Commission of Santa Clara County  
777 North First Street, Suite 410  
San Jose, California 95112

**Re: President's Special Acknowledgement Award – Property/Liability Program**

Dear Mr. Hall:

This letter and enclosed certificate, are to formally acknowledge the dedicated efforts of the Local Agency Formation Commission of Santa Clara County's Governing Body, management and staff towards proactive risk management and loss prevention training for earning the President's Special Acknowledgement Award! The Award is to recognize members with no "paid" claims during the prior **five consecutive program years** in the Property/Liability Program.

A "paid" claim for the purposes of this recognition represents the first payment on an open claim during the prior program year and excludes property claims. Your agency's efforts have resulted in no "paid" property/liability claims for the prior 5 consecutive program years including 2016-17. This is an outstanding accomplishment that serves as an example for all SDRMA members!

It is through the efforts of members such as Local Agency Formation Commission of Santa Clara County that SDRMA has been able to continue providing affordable property/liability coverage to over 500 public agencies throughout California. While 408 members or 81% in the property/liability program had no "paid" claims in program year 2016-17, 259 members or 52% had no paid claims for the prior 5 consecutive years.

In addition to this annual recognition, members with no "paid" claims during 2016-17 earned 2 credit incentive points (CIPs) reducing their annual contribution amount and members with no "paid" claims for the prior 5 consecutive program years earned 3 additional bonus CIPs. Also, members with no "paid" claims for at least 3 consecutive program years may receive a lower "risk factor" which also helps to reduce the annual contribution amount.

Included with this letter and certificate is your press release template so your agency may showcase this important accomplishment.

On behalf of the SDRMA Board of Directors and staff, it is my honor to congratulate your Governing Body, management and staff for your commitment to proactive risk management and loss prevention training.

Sincerely,  
Special District Risk Management Authority



Jean Bracy, President  
Board of Directors





*President's Special Acknowledgement Award*

THE PRESIDENT OF THE SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY  
HEREBY GIVES SPECIAL RECOGNITION TO

**Local Agency Formation Commission of Santa Clara County**

The President's Special Acknowledgement Award is to recognize members with no "paid" claims during the prior five consecutive program years in the Property/Liability Program. A "paid" claim for the purposes of this recognition represents the first payment on an open claim during that same period and excludes property claims. Congratulations on your excellent claims record!

  
\_\_\_\_\_  
Jean Bracy, SDA, SDRMA Board President

September 19, 2017  
\_\_\_\_\_  
Date





**ADDITIONAL AGENDA ITEM # 12A**

*Sergio Jimenez*  
COUNCILMEMBER  
DISTRICT 2

September 29, 2017

LAFCO of Santa Clara County  
777 North First Street, Suite 410  
San Jose, CA 95112  
(408) 993-4705  
www.santaclaralafco.org

**RE: Monte Sereno Urban Service Area Amendment and Sphere of Influence Amendment 2016 (Lucky Rd)**

Dear LAFCO Board,

As a member of the LAFCO board who initially voted against the Monte Sereno Urban Service Area and Sphere of Influence Amendment 2016, I now write to request that the matter be placed on the agenda for the meeting of October 4, 2017.

Specifically, I am requesting that a parliamentary motion to reconsider under Rosenberg Rules (as described in the attached letter from attorney Perry Woodward to the LAFCO board) be placed on the agenda as an action item. This is necessary so that the Board can reconsider and approve the City of Monte Sereno's Urban Service Area and Sphere of Influence Amendment which was previously heard and denied on April 12, 2017.

Sincerely,

Sergio Jimenez  
Councilmember, District 2  
City of San José

# hopkins carley

San Jose  
70 South First Street  
San Jose, CA 95113  
T. 408.286.9800  
F. 408.998.4790

Palo Alto  
200 Page Mill Road, Suite 200  
Palo Alto, CA 94306  
T. 650.804.7600  
F. 650.804.7630

August 21, 2017

Perry J. Woodward  
pwoodward@hopkinscarley.com  
T. 408.299.1359  
F. 408.998.4790

Via Federal Express

Hon. Ken Yeager  
Vice-Chair, LAFCO  
70 W. Hedding St., 10<sup>th</sup> Floor  
San Jose, CA 95110

**Re: Proposed LAFCO Motion for Reconsideration at August 2, 2017 Board Meeting (Lucky Road Annexation, Monte Sereno)**

Dear Vice-Chair Yeager:

During the last Santa Clara County LAFCO ("LAFCO") Board Meeting on August 2, 2017, while you were serving as acting Chair, an unusual and troubling circumstance occurred. As I am certain you will recall, a Commissioner sought to make a *parliamentary* motion for reconsideration as to a decision that had been rendered at the last board meeting. To be specific, reconsideration was sought as to the June 7, 2017 denial of the Monte Sereno Urban Service Area and Sphere of Influence Amendment 2016 (Lucky Road). I represent the land owners affected by that denial.

To my surprise, in response to the Commissioner's stated intention to move for reconsideration, LAFCO Counsel instructed the Board that it could not reconsider that earlier decision. Commissioners asked if the matter could be placed on the agenda for discussion at the next meeting and were told by LAFCO Counsel that her "opinion would be the same." The Board was told in definitive terms that Government Code section 56895 barred reconsideration. However, that statute clearly applies only to applicants, affected individuals or organizations – not to LAFCO Commissioners themselves. The difference is as fundamental as the statutory right to seek reconsideration as opposed to the *parliamentary* motion for reconsideration; that an attorney as experienced as LAFCO Counsel could have been mistaken on such a basic point is truly remarkable.

The statute cited by LAFCO Counsel provides that "any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution" provided they "file the written request within 30 days." Government Code

Hon. Ken Yeager  
Vice-Chair, LAFCO  
August 21, 2017  
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section 56895(a) and (b). On this basis, LAFCO Counsel told the Board that reconsideration in LAFCO matters is controlled exclusively by Government Code section 56895, and that under that statute reconsideration requests must be made in writing within 30 days of the decision.

Since more than 30 days had passed (LAFCO only meets every other month), LAFCO Counsel informed the body that the applicant's only option was to re-apply and again pay the required fees. LAFCO Counsel also pointed out that such requests can only be made once a year, although she did not cite the law on that point. The Board, seemingly caught off-guard, was apparently persuaded that this advice was correct. This advice was wrong on the law and caused the Board to not pursue reconsideration further. Since there was no opportunity to do so at the August 1, 2017 LAFCO Board Meeting, I now write to make you and your fellow LAFCO Board members aware that this advice from LAFCO Counsel was obviously mistaken. In fact, LAFCO Counsel's mistaken view of the law would on its face lead to absurd results as will be discussed below.

Consider that from LAFCO's inception until April 2014, the Board looked to Robert's Rules of Order to provide guidance on parliamentary issues or questions. At its meeting of April 2, 2014, at the recommendation of its Executive Officer Neelima Palacherla, the LAFCO Board adopted modified bylaws that switched from Robert's Rules of Order to Rosenberg's Rules of Order. For your convenience, I have attached as Exhibit A a copy of the staff report recommending this change to modernize and simplify the parliamentary rules for the LAFCO Board. See Item 7.

I have also attached as Exhibit B a copy of Rosenberg's Rules of Order. As you and your fellow Commissioners are well aware, board members sometimes feel the need to change their mind regarding an issue before them. Just as Robert's Rules did before the switch, Rosenberg's Rules of Order expressly provides for *parliamentary* motions for reconsideration. Specifically, Rosenberg's Rules address such motions in details. *The following is the exact language as it appears in Rosenberg's Rules:*

#### ***The Motion to Reconsider***

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Accordingly, a *parliamentary* motion to reconsider under Rosenberg's Rule would have been timely if it had been made at the June 7, 2017 meeting. However, as Rosenberg's Rules expressly state, a *parliamentary* motion to reconsider could nevertheless have been made at the August 1, 2017 meeting provided that at least five of the Commissioners had voted to allow the motion to reconsider to be made at that time. However, the discussion never progressed to that point because LAFCO Counsel misinformed the body that in her view no such motion could be made. In essence, LAFCO Counsel was saying that Government Code section 56895(a) and (b) — first effective on January 1, 2000, and which merely continued prior law on the subject with the additional requirement that the written request set forth new or different facts or law to warrant reconsideration — was in fact the statutory elimination of the *parliamentary* motion for reconsideration by a voting LAFCO Commissioner. There is nothing in the legislative history or the statute itself that suggests that is what the Legislature intended.

Hon. Ken Yeager  
Vice-Chair, LAFCO  
August 21, 2017  
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Despite the absurdity that would result, LAFCO Counsel told the Commissioners that all motions for reconsideration had to conform to the requirements of Government Code section 56895. That statute provides that "any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution" provided they "file the written request within 30 days." This statute is plainly addressed to when people or agencies *other than LAFCO Commissioners themselves* seek to re-visit a decision.

If LAFCO Counsel's interpretation was correct, it would lead to absurd results. For example, if just moments after a Commissioner had voted to approve a project, the Commissioner realized that a mistake had occurred during voting (for example, simply saying "aye" instead of "nay"), what would be the Commissioner's options? Under Rosenberg's Rules, the solution is simple: The Commissioner would ask the Chair to be recognized and then make a motion for reconsideration to correct the vote. Makes sense.

On the other hand, under LAFCO Counsel's erroneous interpretation, the Commissioner who misspoke would have only one option. The Commissioner would have to wait until after the meeting in order to make a written request under Government Code section 56895 sometime within the next 30 days. The written request would need "to state what new or different facts that could not have presented previously" warrant reconsideration. Then, prior to the next meeting the Executive Director would give full public notice. The Executive Director would then have the reconsideration motion placed on the agenda at the next LAFCO meeting. The cumbersomeness of this process and its attendant expense would be borne entirely by the Commissioner, since the Commissioner would also have to pay a fee in the amount of \$2,619 as a deposit plus actual costs. A copy of the LAFCO Fee Schedule is attached as Exhibit C. Obviously, if the Legislature had intended to create such a wholly unprecedented procedure as this, and to eliminate *parliamentary* motions for reconsideration in the LAFCO context, it would surely have said so. There is nothing to indicate that is what the Legislature wanted to do when it enacted Government Code section 56895 to create an additional reconsideration process for use by the general public.

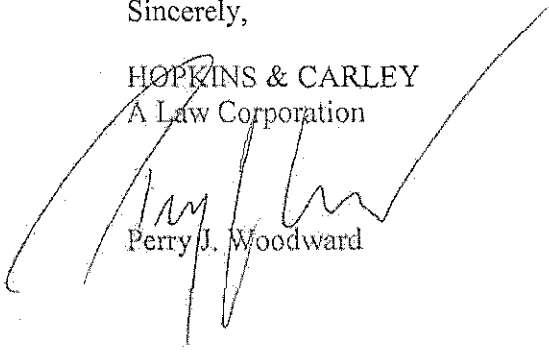
As any fair-minded person can see, LAFCO Counsel's view of the law would place a tremendous burden on any Commissioner who feels the need to change their mind regarding an issue before them. Government Code section 56895 is available to the affected public at large, but *parliamentary* motions to reconsider under Rosenberg's Rules of Order are available to members of the LAFCO Board. Accordingly, if any Commissioner feels the need to change their vote as to the June 7, 2017 denial of the Monte Sereno Urban Service Area and Sphere of Influence Amendment 2016 (Lucky Road), they can rest assured that they have the right under the law to bring a motion for reconsideration in conformity with Rosenberg's Rules of Order during the upcoming October 4, 2017 meeting. If five members vote to allow reconsideration – in the words of Rosenberg's Rules – "then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for

Hon. Ken Yeager  
Vice-Chair, LAFCO  
August 21, 2017  
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the first time." In fact, given the misleading advice by LAFCO Counsel and in order to avoid any question as to the application of the Brown Act ("no action or discussion shall be undertaken on any item not appearing on the posted agenda, ..."), I respectfully request that this matter be placed on the agenda for possible action at the upcoming October 4, 2017 LAFCO Board Meeting.

Sincerely,

HOPKINS & CARLEY  
A Law Corporation



Perry J. Woodward

PJW/emt

cc: Chairperson Sequoia Hall  
Commissioner Rob Rennie  
Commissioner Mike Wasserman  
Commissioner Sergio Jimenez  
Commissioner John L. Varela  
Commissioner Susan Vicklund Wilson  
Alternate Commissioner Sylvia Arenas  
Alternate Commissioner Yoriko Kishimoto  
Alternate Commissioner Terry Trumbull  
Alternate Commissioner Cindy Chavez  
Alternate Commissioner Russ Melton  
Executive Director Neelima Palacherla  
LAFCO Counsel Malathy Subramanian

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RESOLUTION NO. 2017-03

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION  
OF SANTA CLARA COUNTY DENYING THE PROPOSAL BY THE CITY OF MONTE  
SERENO FOR AN URBAN SERVICE AREA AMENDMENT AND SPHERE OF INFLUENCE  
AMENDMENT**

**MONTE SERENO URBAN SERVICE AREA AMENDMENT AND  
SPHERE OF INFLUENCE AMENDMENT 2016 (LUCKY ROAD)**

**WHEREAS**, an application by the City of Monte Sereno to amend the City's Urban Service Area (USA) boundary and Sphere of Influence boundary (SOI) in order to include approximately 7.4 acres of land, consisting of four parcels (APNs 510-31-023, 510-31-066, 510-31-076, 510-31-077) and a portion of a fifth parcel (APN 510-31-078), located in the vicinity of Lucky Road was heretofore filed with the Local Agency Formation Commission of Santa Clara County (LAFCO); and

**WHEREAS**, the City of Monte Sereno adopted Resolution No. 3616 on April 19, 2016 seeking LAFCO's approval of the amendment of the City's USA and SOI boundaries; and

**WHEREAS**, the Executive Officer has reviewed the proposal and prepared a report ("Staff Report"), including her analysis and recommendations, and set the proposal for public hearing on October 5, 2016 and provided the required hearing notice; and

**WHEREAS**, LAFCO called for and held a public hearing on October 5, 2016, and at the request of the applicant, continued the public hearing to December 7, 2016; and on December 7, 2016, at the request of the applicant, continued the public hearing to February 1, 2017; and on February 1, 2017, at the request of the applicant, continued the public hearing to April 12, 2017; and

**WHEREAS**, at a public hearing held on April 12, 2017, the Commission considered the proposal and at its own request, continued the public hearing to June 7, 2017; and

**WHEREAS**, the Commission considered the Staff Report and received all oral and written comments which were made, presented or filed; and

**WHEREAS**, LAFCO as a Responsible Agency has complied with the California Environmental Quality Act (CEQA) incident to its consideration of this proposal; and

**NOW, THEREFORE**, the LAFCO of Santa Clara County, does hereby resolve, determine and order as follows:

**SECTION 1:**

1. The Monte Sereno Urban Service Area Amendment and Sphere of Influence Amendment 2016 (Lucky Road) is denied because the proposal is inconsistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act and the policies of Santa Clara LAFCO as described in the Staff Report, which is incorporated herein by reference, by the following vote.

**RESOLUTION NO. 2017-03**


**AYES:** HALL, JIMENEZ, RENNIE, TRUMBULL, YEAGER

**NOES:** WASSERMAN, VARELA


**ABSENT:** None

**ABSTAIN:** None

**PASSED AND ADOPTED** by the Local Agency Formation Commission of Santa Clara County, State of California, on June 7, 2017.

  
Sequoia Hall, Chairperson  
LAFCO of Santa Clara County

**ATTEST:**

  
Emmanuel Abello, LAFCO Clerk

**APPROVED AS TO FORM:**

  
Malathy Subramanian, LAFCO Counsel





**LAFCO MEETING MINUTES  
WEDNESDAY, JUNE 7, 2017**

**CALL TO ORDER**

The meeting was called to order at 1:20 p.m.

**1. ROLL CALL**

The following commissioners were present:

- **Chairperson Sequoia Hall**
- **Commissioner Sergio Jimenez**
- **Commissioner Rob Rennie**
- **Commissioner John L. Varela**
- **Commissioner Mike Wasserman**
- **Commissioner Ken Yeager**
- **Alternate Commissioner Russ Melton**
- **Alternate Commissioner Terry Trumbull** (voting in place of Commissioner Susan Vicklund Wilson)

The following staff members were present:

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

**3. PUBLIC COMMENTS**

There was none.

**3. RESOLUTION OF COMMENDATION FOR LINDA J. LEZOTTE**

The Commission unanimously adopted and presented the Resolution of Commendation for former LAFCO Commissioner Linda J. LeZotte.

Doug Muirhead, a resident of Morgan Hill, stated that LAFCO has a challenging mission to promote orderly growth, and protect agricultural lands and open space, and outgoing Commissioner LeZotte made fair and balanced decisions, and came up with good solutions for challenging situations throughout her service on LAFCO and in her other roles.

4. **MINUTES OF APRIL 12, 2017 LAFCO MEETING**

The Commission approved the minutes of the April 12, 2017 LAFCO meeting.

Motion: Wasserman

Second: Jimenez

AYES: Hall, Jimenez, Rennie, Trumbull, Varela, Wasserman, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

5. **Continued from October 5, 2016, December 7, 2016, February 1, 2017 and April 12, 2017 meetings: MONTE SERENO URBAN SERVICE AREA AND SPHERE OF INFLUENCE AMENDMENT 2016 (LUCKY ROAD)**

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

Ms. Palacherla informed that copies of correspondence received after the April meeting were provided to commissioners, as well as information about the Saratoga USA amendment application. She further informed that Jeannie Hamilton, City Planner, City of Monte Sereno, is in the audience.

Perry Woodward, counsel to the property owners, informed that the Santa Clara County Civil Grand Jury has released a report about LAFCO's recent review of Morgan Hill's urban service area expansion application which identifies the need to clarify whether or not LAFCO's policies on island annexation are mandatory. He stated that at the April meeting, it was stated that LAFCO had not made prior exceptions to the policy. He cited a LAFCO approval of a San Jose USA expansion in 2013 (Evergreen #202) where LAFCO did not require island annexations. He requested that LAFCO consider the proposed Monte Sereno USA expansion based on its own merits and without requiring the city to annex its pockets.

Nick Petredis, counsel to the property owners, informed that the application is meritorious as it represents sound planning, environmental consideration and a collaborative approach. He informed that it is a logical boundary extension, the house is historic, the area is contiguous to the city and the USA expansion will not induce growth since the neighbors have no interest to be annexed. He added that the application has environmental benefits since it will connect six properties to the sewer system. He also informed that there is collaboration between the city and the applicant since the city is willing to annex the area. He noted that the city could use this project as an example to encourage pocket annexations.

In response to an inquiry by **Commissioner Rennie**, Mr. Petredis informed that there is no topographic map for the area but that Westfall Engineers did an estimate and has determined that two additional homes can be built. Ms. Hamilton apologized that there was no city representative present at the April meeting due to staff transition. She indicated that city staff is unable to confirm the maximum number of units possible in the expansion area but she added that the proposal would not be considered as growth inducing. She informed that the City is less inclined to annex pockets since the residents have rejected annexation twice. She added that while the City welcomes those who want to be annexed, it has limited resources to annex and serve all of its pockets.

In response to an inquiry by **Commissioner Yeager**, Ms. Hamilton indicated that it is not clear why pocket residents oppose annexation but she observed that some prefer annexation to a particular city or zip code. She informed that a city she previously worked in took advantage of the streamlined annexation process and annexed many of its pockets but one of the pockets preferred annexation to another jurisdiction.

**Commissioner Yeager** clarified that the city that Ms. Hamilton is referring to took advantage of the streamlined annexation process for all the good reasons of urban planning and the notion that the cities should provide urban services. In response to his inquiry, Ms. Hamilton indicated that it would be difficult to use the streamlined process in Monte Sereno since its residents want to be a party to decisions in their community, and she noted a recent upheaval when the city council tried to implement state-mandated zoning regulations allowing for all types of housing.

**Commissioner Rennie** noted that he was seeking a compromise and inquired if the city is making any progress at all related to island annexations. He indicated that the city could have complied with the 2013 conditions for approval if they were attainable. In response to his inquiry, Ms. Hamilton indicated that the city is working to annex the La Hacienda property although there is ongoing litigation and she is unable to discuss details.

In response to an inquiry by **Chairperson Hall**, Ms. Hamilton indicated that she does not know why Monte Sereno withdrew from an agreement between the County and the west valley cities related to hillside preservation.

**Commissioner Jimenez** stated that it is important that policies are implemented without exception and he inquired if the approval of San Jose's Evergreen #202 USA expansion demonstrates the flexibility of LAFCO policies as stated by Mr. Woodward. Ms. Palacherla informed that the purpose of Evergreen #202 USA expansion was to correct the USA boundary by making it coterminous with the 15% slope line as established by San Jose's urban limit line/green line policy, and was based on a finding that there was a discrepancy between the USA and the 15 percent slope line. She reported that the parcels were annexed to avoid splitting assessment lines but a conservation easement was secured beyond the 15% slope line. She advised that San Jose's expansion is uniquely different from the Monte Sereno application, and she informed that San Jose has policies against growth beyond the 15% slope line, and the city has already annexed many of its pockets. In response to another inquiry by **Commissioner Jimenez**, Ms. Subramanian informed that LAFCO would consider the Civil Grand Jury Report and the Commission's response at the August meeting. She advised that the law requires LAFCO to respond but it does not require it to agree to the findings or implement their recommendations.

**Commissioner Wasserman** informed that the residents in a Los Gatos pocket have opposed annexation for over 40 years, and even after the County has improved the affected roads. He informed that pocket residents prefer to remain unincorporated so they can build larger homes or keep livestock. He questioned why LAFCO is opposed to this USA expansion request when it generally wants people annexed and prefers that the cities provide urban services. He informed that the application would not result in sprawl but would connect seven properties to sewer and transfer the County's responsibilities for street maintenance and public safety to Monte Sereno. He expressed support for approval based on these reasons.

**Alternate Commissioner Trumbull** expressed agreement about the environmental benefits of the sewer connection. He indicated, however, that the approval of the request violates policies and there is currently no strong argument for LAFCO to do that. He informed that as a former member of the County Planning Commission, he is aware that pockets confuse service providers and that serving a sprawling community is up to seven times more expensive. He warned against changing policies just to accommodate certain applications and expressed concern that Monte Sereno is not a party to the joint County-cities agreement regarding hillside preservation in the west valley. He stated his opposition to the motion.

**Chairperson Hall** expressed his opposition to the motion since Monte Sereno has not taken any action toward pocket annexations while the other cities recognize that eliminating pockets improves service efficiency and saves taxpayer money, and some cities even took advantage of the streamlined process when their residents opposed annexation. He suggested that Monte Sereno follow Saratoga's example by removing from its USA a pocket that it does not plan to annex. He observed that there has to be a reason why Monte Sereno is expanding its USA boundary to an area that was not in its original USA. He further stated that the Civil Grand Jury report came out too late to be included on the current agenda.

**Commissioner Wasserman** informed that LAFCO policies, like those of other bodies, were adopted at a time when they were considered appropriate, and they could be replaced or exceptions could be made. He indicated that there is no one policy that fits all circumstances. He noted that the USA expansion proposal is for sewer service and based on his site visit, he does not believe that the application would have an adverse effect on the community.

**Commissioner Varela** iterated his prior comments and informed that this application would be denied repeatedly if LAFCO strictly applies its policies. He suggested that LAFCO make an exception in order to set a good precedent and to demonstrate that the Commission is open-minded and looking to move forward.

**Commissioner Rennie** observed that while the application has its positive aspects, he is hesitant to support it without the City annexing any of its islands since that will set a precedent for future incremental expansions.

A motion to approve the USA/SOI amendment request.

Motion: Wasserman

Second: Varela

AYES: Varela, Wasserman, Yeager

NOES: Hall, Jimenez, Rennie, Trumbull

ABSTAIN: None

ABSENT: None

### **MOTION FAILED**

A motion to deny the USA/SOI amendment request.

**Commissioner Jimenez** indicated that his vote demonstrates his support for the LAFCO policies and his opposition for eroding them or making them flexible, especially in the light of the Civil Grand Jury report. He indicated that LAFCO must decide on an application based on the policies that are in place. He observed that the Civil Grand Jury

Report may have valid points and noted that these issues would keep coming back if they are not addressed.

The Commission denied the USA/SOI amendment request.

Motion: Trumbull

Second: Jimenez

AYES: Hall, Jimenez, Rennie, Trumbull, Yeager      NOES: Varela, Wasserman

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

**6. FINAL LAFCO BUDGET FOR FISCAL YEAR 2018**

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

Ms. Palacherla informed that the only change on the budget since the April meeting is the addition of a separate line item for office space rent as requested by Commissioner Wasserman.

**Commissioner Varela** questioned the need to allocate \$100,000 for consultant fees for improving the community's understanding of the importance of agricultural lands. He stated that as a member of the Santa Clara County Farm Bureau he is aware that over 20,000 acres, mostly in District 1, have gone fallow in the last 20 years. He indicated that while large farms are doing well, small farmers are finding it difficult to stay in business. He questioned the need to study the preservation of agricultural lands when the farmers themselves no longer want to farm. In response to his inquiry, Ms. Palacherla advised that staff is proposing to use \$75,000 for the communications plan but there is no specific plan at this time.

**Chairperson Hall** indicated that the primary mission of LAFCO is to preserve agricultural lands. **Commissioner Varela** stated that the problem is how to make farmers continue farming and **Chairperson Hall** expressed agreement. **Commissioner Rennie** likewise expressed agreement and noted that he toured the farmlands in the South County. He observed that given the nature of the area, a study would give LAFCO a better understanding for how to do its mission of saving farmlands.

**Commissioner Wasserman** expressed agreement and indicated that there is an ongoing study to identify prime agricultural lands in South County and to determine a strategy to save them, such as clustering of farmlands. He noted that smaller parcels may no longer be viable for farming. **Commissioner Valera** noted the proliferation of McMansions and gated communities in the South County and indicated that an average home is being sold at \$2.5 million. He expressed his interest for various jurisdictions to work together and find a way to save open space and to let the farmers continue farming.

**Chairperson Hall** expressed disagreement with the idea that small farms are not profitable as he indicated that many farmers have offered to operate a four-acre farm that the Santa Clara Valley Open Space Authority had recently acquired. He informed that there are many farming models with interesting business opportunities.

**Commissioner Varela** expressed agreement and invited commissioners to attend the Farm Bureau meetings. At the request of **Commissioner Rennie**, **Commissioner Varela** indicated that he would invite LAFCO members to Farm Bureau meetings through the LAFCO Executive Officer. At the request of **Chairperson Hall**, **Commissioner Varela** indicated that he would ensure that those who have subscribed to the Farm Bureau’s email list would regularly receive updates.

**Chairperson Hall** determined that there are no more speakers from the public and declared the public hearing closed.

The Commission:

1. Adopted the Final Budget for Fiscal Year 2017-2018.
2. Found that the Final LAFCO Budget for Fiscal Year 2018 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the Final LAFCO Budget adopted by the Commission including the estimated agency costs to the cities, the special districts, the County, the Cities Association and the Special Districts Association.
4. Direct the County Auditor–Controller to apportion LAFCO costs to the cities; to the special districts; and to the County; and to collect payment pursuant to Government Code §56381.

Motion: Yeager

Second: Rennie

AYES: Hall, Jimenez, Rennie, Trumbull, Varela, Wasserman, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

**7. STRATEGIC COMMUNICATIONS AND PUBLIC OUTREACH PLAN/ IMPLEMENTATION**

Ms. Noel presented the staff report.

Doug Muirhead, in reference to Commissioner Valera’s invitation to the Farm Bureau meetings, informed that the Farm Bureau’s executive director has indicated to him that their meetings are not open to the public. He suggested that staff attend meetings of various groups and jurisdictions with LAFCO-related agenda items in order to explain LAFCO’s goals and policies and to ensure balanced discussions at those meetings. He likewise proposed that LAFCO participate in the community outreach efforts of its partners, including the County Parks, the open space districts and the Santa Clara Valley Water District, to gain visibility and public support, and to reach out to decision makers.

**Chairperson Hall** determined that there are no more speakers from the public.

**Commissioner Yeager** expressed concern that the proposal could be similar to the rebranding efforts of some agencies in the county and he inquired as to the need for such an effort. Ms. Noel advised that the communications plan was recommended at the last Strategic Planning Workshop, and that while staff produced brochures and reports, there is a need for professionally created materials and targeted messages. Ms. Palacherla indicated that the target audience is composed of the local agencies, cities, special

districts, elected officials, planning commissioners, farm bureaus, chambers of commerce and environmental organizations among others. She observed that many of these agencies and groups generally agree with LAFCO's mission and goals, and this effort may help people understand the connection between LAFCO's actions and their shared goals.

In response to the inquiry of **Commissioner Jimenez**, Ms. Palacherla advised that the proposed allocation would remain in the budget if the Commission takes no action.

**Commissioner Varela** suggested that one idea for outreach is through the Morgan Hill Chamber of Commerce's Friday Night Music Series where LAFCO could pay \$10,000 to have a display tent and a five-minute talk time onstage. He encouraged the importance of partnership with the Chamber of Commerce.

**Chairperson Hall** indicated that LAFCO does not have enough resources for this type of community outreach. He stated that LAFCO has a good website and indicated that LAFCO must invest in professionally developed collateral materials to communicate LAFCO's messages efficiently as staff does not have this type of expertise.

**Alternate Commissioner Trumbull** proposed to appoint a commissioner to the consultant selection panel. **Commissioner Rennie** offered to participate in the consultant selection process. He indicated that based on his experience as a former product manager, he understands that a different skillset is required to develop communication materials and that staff is focused on other skills. He advocated for developing a communications plan as he believed that most people do not understand what LAFCO does. He noted that the targeted communications will help explain LAFCO's decisions to the public which in turn will help LAFCO make better decisions.

**Commissioner Wasserman** requested that staff provide information on how the \$75,000 would be spent and the public benefit it would provide. He expressed concern about spending public resources for the communication strategy and materials since members of the public rarely interact with LAFCO unless they need to annex a property. He moved to defer the item to the next meeting and directed staff to provide additional information with options. Ms. Palacherla advised that the purpose of issuing the RFP is to hire a consultant who would determine the best communications strategies and mechanisms to communicate how LAFCO's work affects people's daily lives and why LAFCO does what it does. **Commissioner Wasserman** indicated that regardless of whether the public is aware about and appreciate what LAFCO does, they would only come if they need LAFCO services. He stated that he is requesting more information to understand the public benefit of the effort. **Commissioner Rennie** suggested that LAFCO consider how the communications materials can help advance LAFCO policies. As an example, he explained that the communications materials may be used to explain that island annexations promote efficient delivery of services and save tax dollars.

In response to an inquiry by **Chairperson Hall**, **Commissioner Rennie** indicated that he would be willing to work with staff on the communications plan. Ms. Noel advised that a key step in the process is a strategic planning session with the Commission to develop consensus on the focus of the communications efforts but it requires a consultant to guide the Commission through the planning process. **Chairperson Hall** stated that the staff time is focused on applications and service reviews and, therefore, staff has limited

resources to lead the communications planning process with its current workload. He stated that LAFCO is an important agency that affects lives in the County. In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla advised that the \$75,000 is sufficient to cover the costs for designing and implementing a communications plan. Ms. Noel advised that the scope of services listed the specific materials, including fact sheets on various topics like preservation of agricultural lands, transparency and public accountability, island annexations and affordable housing, among others. **Commissioner Wasserman** requested that the proposal does not become a continuing project in the future budgets and suggested that the new staff assume some of the responsibilities related to this effort. He also suggested that staff prioritize performing key LAFCO functions in a timely manner before launching outreach efforts. Ms. Palacherla informed that staff had focused on applications and service review functions and thus the lag in launching this effort.

The Commission deferred approval of the RFP and directed staff to provide additional information.

Motion: Wasserman

Second: Varela

AYES: Jimenez, Rennie, Trumbull, Varela, Wasserman, Yeager

NOES: Hall

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

**8. SECOND AMENDMENT TO AGREEMENT FOR LEGAL SERVICES**

Ms. Palacherla presented the staff report.

The Commission approved the second amendment to the agreement for legal services between LAFCO and the law firm of Best Best & Krieger LLP.

Motion: Jimenez

Second: Yeager

AYES: Hall, Jimenez, Rennie, Trumbull, Varela, Wasserman, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

**9. EXECUTIVE OFFICER'S REPORT**

In response to an inquiry by **Commissioner Jimenez**, Ms. Noel indicated that the various meetings listed in the report are generally staff-level and involve preliminary discussions on various issues.

**9.1 INDEPENDENT SPECIAL DISTRICT SELECTION COMMITTEE MEETING: MAY 16, 2017**

The Commission noted the report.

**9.2 INQUIRY FROM SAN MARTIN NEIGHBORHOOD ALLIANCE CONCERNING SEWAGE SPILL AND SEWER LINE IN SAN MARTIN COMMUNITY**

The Commission noted the report.



**9.3 MEETING WITH MIDPENINSULA REGIONAL OPEN SPACE DISTRICT STAFF**

The Commission noted the report.

**9.4 UPDATE ON RECRUITMENT FOR NEW LAFCO ANALYST POSITION**

The Commission noted the report.

**9.5 SAN JOSE FOOD WORKS IMPLEMENTATION KICK-OFF MEETING**

The Commission noted the report.

**9.6 UPDATE ON THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION**

The Commission noted the report.

**9.7 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS MEETING**

The Commission noted the report.

**9.8 INTER-JURISDICTIONAL GIS WORKING GROUP MEETINGS**

The Commission noted the report.

**10. PENDING APPLICATIONS / UPCOMING PROJECTS**

Ms. Palacherla informed that staff received an application for annexation to the West Valley Sanitation District.

**11. COMMISSIONER REPORTS**

**12. NEWSPAPER ARTICLES / NEWSLETTERS**

**13. WRITTEN CORRESPONDENCE**

Ms. Palacherla directed attention to the letter from the South Santa Clara Valley Memorial District's legal counsel, dated June 6, 2017, in response to correspondence from Robert Armendariz of American Legion Post 217.

She also informed that the Civil Grand Jury Report was released on June 5, 2017, and LAFCO has until September 5, 2017 to provide a formal response. She indicated that staff will work with the Chairperson and Vice-Chairperson to prepare a draft response to the report which the Commission will consider at its August meeting.

**14. CLOSED SESSION  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

The Commission adjourned to Closed Session at 2:52 p.m., and reconvened to an open meeting at 3:05 p.m.

**Chairperson Hall** announced that there is no report from the Closed Session.

**13. ADJOURN**

The Commission adjourned at 3:06 PM to the regular LAFCO meeting on August 2, 2017 at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

Approved on \_\_\_\_\_.

\_\_\_\_\_  
Sequoia Hall, Chairperson  
Local Agency Formation Commission of Santa Clara County

By: \_\_\_\_\_  
Emmanuel Abello, LAFCO Clerk

October 5, 2016

**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**

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#### **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**

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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**

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### **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 Petreidis (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. Petreidis, 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. Petreidis, 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. Petreidis 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**

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### **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**

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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**

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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**

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### **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**

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#### **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 not 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 Hillside 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 not 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.

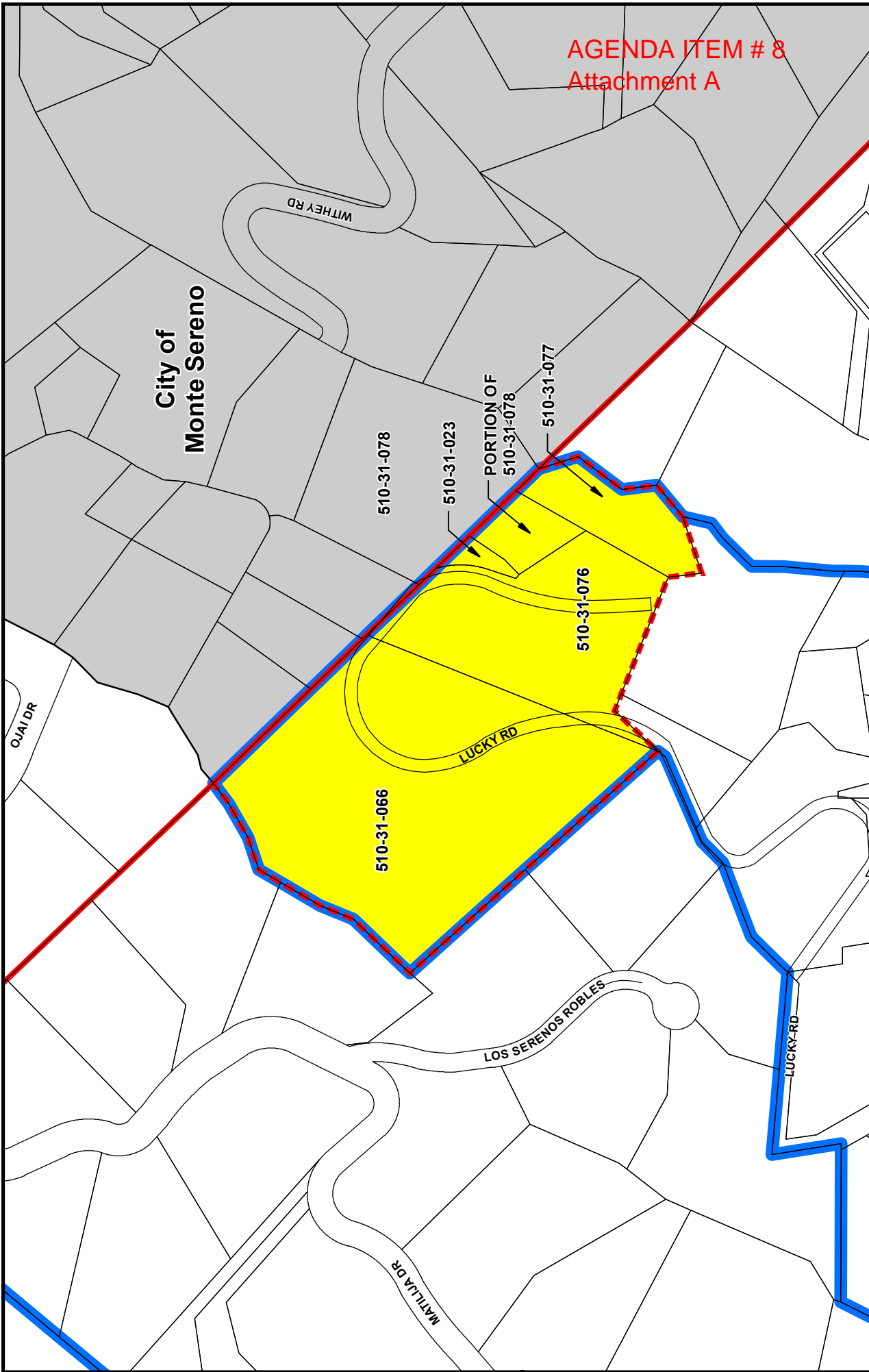
The City has a policy requiring the City to have the support of a majority of affected landowners before annexing its islands. City staff have indicated that this policy remains effective and that the City will not initiate annexation of its unincorporated islands unless and until property owners in 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**

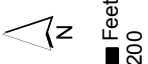
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- Attachment A: Map of Proposed Monte Sereno USA/SOI Amendment
- Attachment B: Map of Monte Sereno Unincorporated Islands
- Attachment C: City of Monte Sereno's Environmental Documents for the Proposed Monte Sereno USA and SOI Amendment (Lucky Road)
- 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



**AGENDA ITEM # 8**  
**Attachment A**

- 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
  - Assessor's Parcel Number



**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. Slepniakoff, County Surveyor

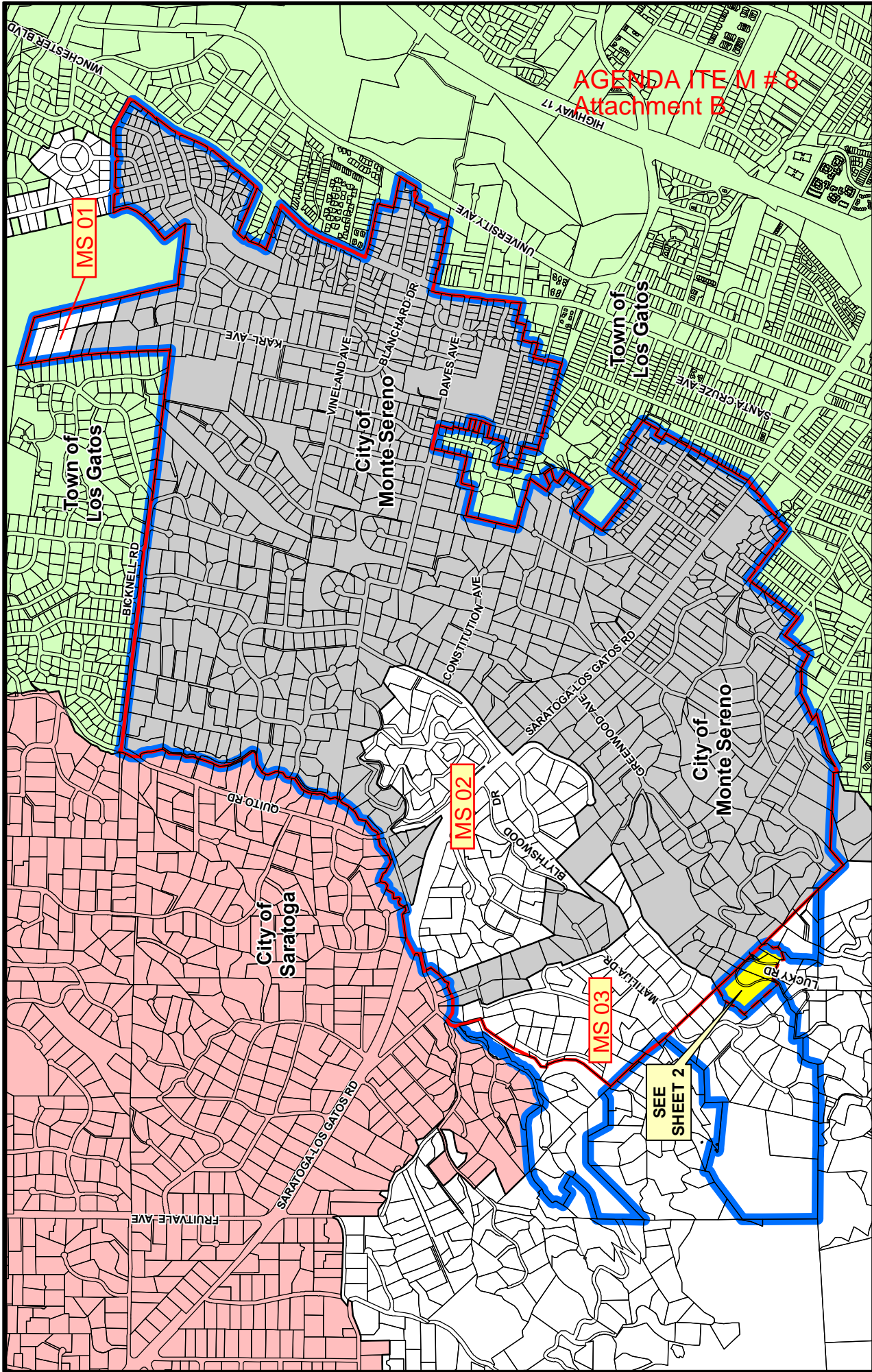
**County of Santa Clara**  
Department of Planning and Development  
Office of the County Surveyor



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







**AGENDA ITEM # 8  
Attachment B**

**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

**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. Slepniakoff, 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
- Town of Los Gatos
- City of Saratoga
- Unincorporated Lands

0 375 750 1,500 Feet





**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.

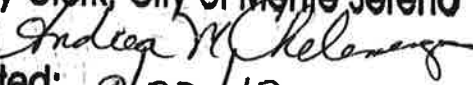
SECTION 3: The approval of the MND does not, in any manner whatsoever, represent or reflect an approval of the Project which shall be considered at a later date.

**REGULARLY PASSED AND ADOPTED** this 3<sup>rd</sup> 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



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 [ ] Draft EIR NEPA: [ ] NOI Other: [ ] Joint Document
[ ] Early Cons [ ] Supplement/Subsequent EIR [ ] EA [ ] Final Document
[ ] Neg Dec (Prior SCH No.) [ ] Draft EIS [ ] Other:
[X] Mit Neg Dec Other:

Local Action Type:

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

Development Type:

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

Project Issues Discussed in Document:

- [X] Aesthetic/Visual [ ] Fiscal [ ] Recreation/Parks [ ] Vegetation
[ ] Agricultural Land [ ] Flood Plain/Flooding [ ] Schools/Universities [ ] Water Quality
[ ] Air Quality [X] Forest Land/Fire Hazard [ ] Septic Systems [ ] Water Supply/Groundwater
[X] Archeological/Historical [X] Geologic/Seismic [X] Sewer Capacity [ ] Wetland/Riparian
[X] Biological Resources [ ] Minerals [ ] Soil Erosion/Compaction/Grading [ ] Growth Inducement
[ ] Coastal Zone [ ] Noise [ ] Solid Waste [ ] Land Use
[ ] Drainage/Absorption [ ] Population/Housing Balance [ ] Toxic/Hazardous [ ] Cumulative Effects
[ ] Economic/Jobs [ ] Public Services/Facilities [ ] Traffic/Circulation [ ] 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 an "X". If you have already sent your document to the agency please denote that with an "S".

<input type="checkbox"/> Air Resources Board	<input type="checkbox"/> Office of Historic Preservation
<input type="checkbox"/> Boating & Waterways, Department of	<input type="checkbox"/> Office of Public School Construction
<input type="checkbox"/> California Emergency Management Agency	<input type="checkbox"/> Parks & Recreation, Department of
<input type="checkbox"/> California Highway Patrol	<input type="checkbox"/> Pesticide Regulation, Department of
<input type="checkbox"/> Caltrans District # _____	<input type="checkbox"/> Public Utilities Commission
<input type="checkbox"/> Caltrans Division of Aeronautics	<input type="checkbox"/> Regional WQCB # _____
<input type="checkbox"/> Caltrans Planning	<input type="checkbox"/> Resources Agency
<input type="checkbox"/> Central Valley Flood Protection Board	<input type="checkbox"/> Resources Recycling and Recovery, Department of
<input type="checkbox"/> Coachella Valley Mtns. Conservancy	<input type="checkbox"/> S.F. Bay Conservation & Development Comm.
<input type="checkbox"/> Coastal Commission	<input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
<input type="checkbox"/> Colorado River Board	<input type="checkbox"/> San Joaquin River Conservancy
<input type="checkbox"/> Conservation, Department of	<input type="checkbox"/> Santa Monica Mtns. Conservancy
<input type="checkbox"/> Corrections, Department of	<input type="checkbox"/> State Lands Commission
<input type="checkbox"/> Delta Protection Commission	<input type="checkbox"/> SWRCB: Clean Water Grants
<input type="checkbox"/> Education, Department of	<input type="checkbox"/> SWRCB: Water Quality
<input type="checkbox"/> Energy Commission	<input type="checkbox"/> SWRCB: Water Rights
<input type="checkbox"/> Fish & Game Region # _____	<input type="checkbox"/> Tahoe Regional Planning Agency
<input type="checkbox"/> Food & Agriculture, Department of	<input type="checkbox"/> Toxic Substances Control, Department of
<input type="checkbox"/> Forestry and Fire Protection, Department of	<input type="checkbox"/> Water Resources, Department of
<input type="checkbox"/> General Services, Department of	
<input type="checkbox"/> Health Services, Department of	Other: _____
<input type="checkbox"/> Housing & Community Development	Other: _____
<input type="checkbox"/> Native American Heritage Commission	

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

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

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### Lead Agency (Complete if applicable):

Consulting Firm: _____	Applicant: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Contact: _____	Phone: _____
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, rezoning 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 rezoning 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 rezoned 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 rezoning 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.

- |                                                             |                                                        |                                                               |
|-------------------------------------------------------------|--------------------------------------------------------|---------------------------------------------------------------|
| <input type="checkbox"/> Aesthetics                         | <input type="checkbox"/> Greenhouse Gas Emissions      | <input type="checkbox"/> Population/Housing                   |
| <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Public Services                      |
| <input type="checkbox"/> Air quality                        | <input type="checkbox"/> Hydrology/Water Quality       | <input type="checkbox"/> Recreation                           |
| <input type="checkbox"/> Biological Resources               | <input type="checkbox"/> Land Use/Planning             | <input type="checkbox"/> Transportation/Traffic               |
| <input type="checkbox"/> Cultural Resources                 | <input type="checkbox"/> Mineral Resources             | <input checked="" type="checkbox"/> Utilities/Service Systems |
| <input type="checkbox"/> Geology/Soils                      | <input type="checkbox"/> Noise                         | <input type="checkbox"/> 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.

---

Name and Title	July 26, 2013
	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 as 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:

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

**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, rezoning 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 than 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:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 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:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## 4. BIOLOGICAL RESOURCES

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**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, rezoning 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 to 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:

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



**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:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**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, rezoning 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:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**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, rezoning 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:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**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, rezoning 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 <i>substantial erosion or siltation on- or off-site?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 <i>flooding on- or off-site?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**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, rezoning 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:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**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:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## 12. NOISE

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in exposure of persons to or generation of excessive ground-borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 13. POPULATION AND HOUSING

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



### 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:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 15. RECREATION

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## 16. TRANSPORTATION/TRAFFIC

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid-waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**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

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## **E. SOURCES**

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



October 5, 2016  
AGENDA ITEM # 8  
Attachment D

Councilmember: Marshall Anstandig  
Councilmember: Burton Craig  
Councilmember: Susan Garner  
Councilmember: Lana Malloy  
Councilmember: Curtis Rogers

City Manager: Brian Loventhal  
City Clerk: Andrea Chelemengos  
Finance Officer: Sue L'Heureux  
Building Official: Howard T. Bell

## City of Monte Sereno

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July 26, 2011

Ms. Neelima Palacherla  
LAFCO Executive Officer  
Santa Clara County  
70 West Hedding Street, 11<sup>th</sup> 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,

A handwritten signature in black ink, appearing to read "Brian Loventhal". The signature is fluid and cursive, with the first name "Brian" written in a larger, more prominent script than the last name "Loventhal".

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



October 5, 2016  
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](mailto:Neelima.Palacherla@ceo.sccgov.org)>; Noel, Dunia <[Dunia.Noel@ceo.sccgov.org](mailto:Dunia.Noel@ceo.sccgov.org)>

**Cc:** Brian Loventhal ([BLoventhal@cityofmontesereno.org](mailto:BLoventhal@cityofmontesereno.org)) <[BLoventhal@cityofmontesereno.org](mailto:BLoventhal@cityofmontesereno.org)>; Vladimir Rubashevsky ([vlad@reincloud.com](mailto:vlad@reincloud.com)) <[vlad@reincloud.com](mailto: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](mailto:Nicholas@Petredis.com) | [www.Petredis.com](http://www.Petredis.com) | Skype: NPPLAW

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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*

(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

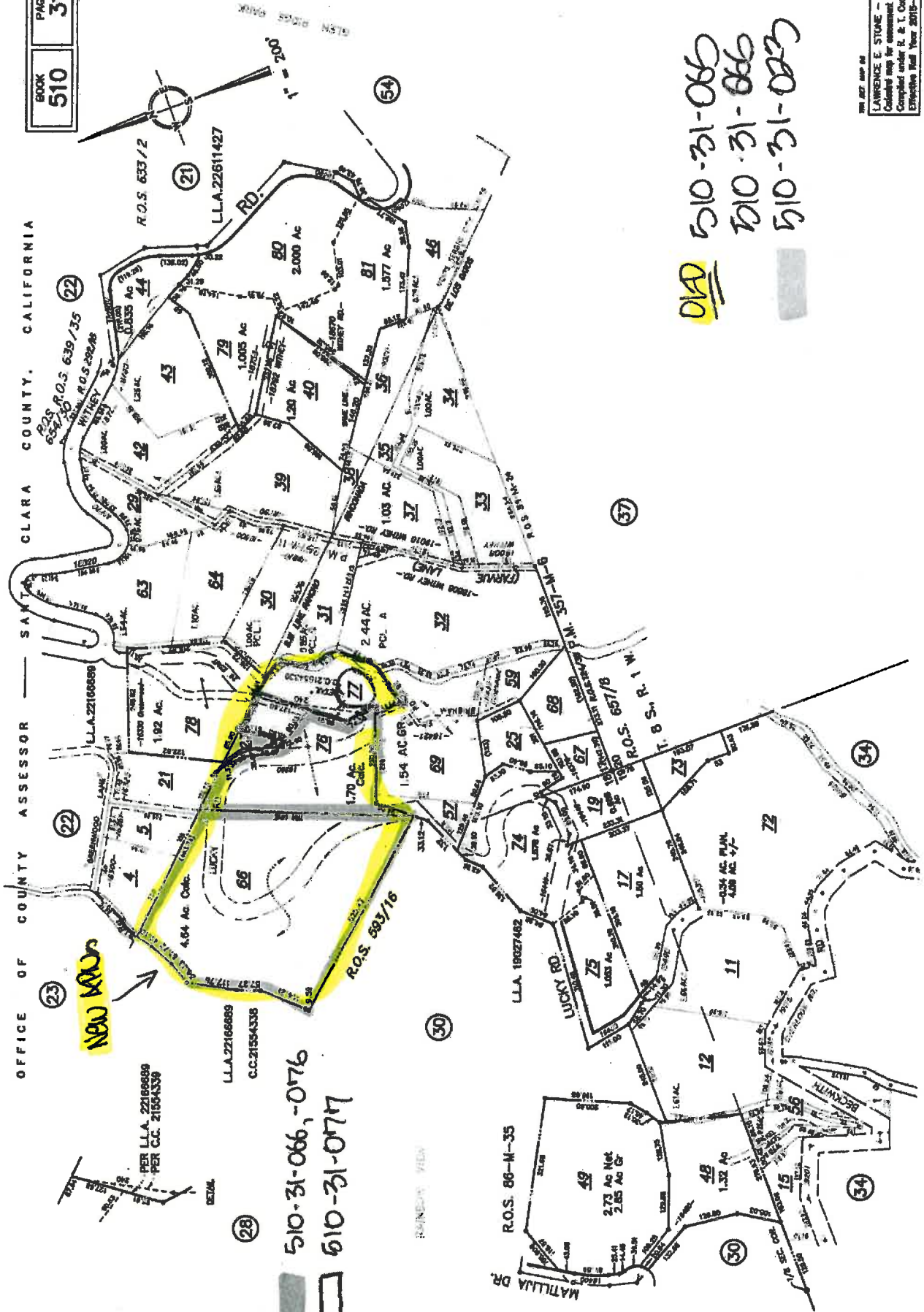
NPP:tp

Cc: Client

Brian Loventhal, City Manager

Enclosure

OFFICE OF COUNTY ASSESSOR - SANTA CLARA COUNTY, CALIFORNIA



**NEW MAPS**

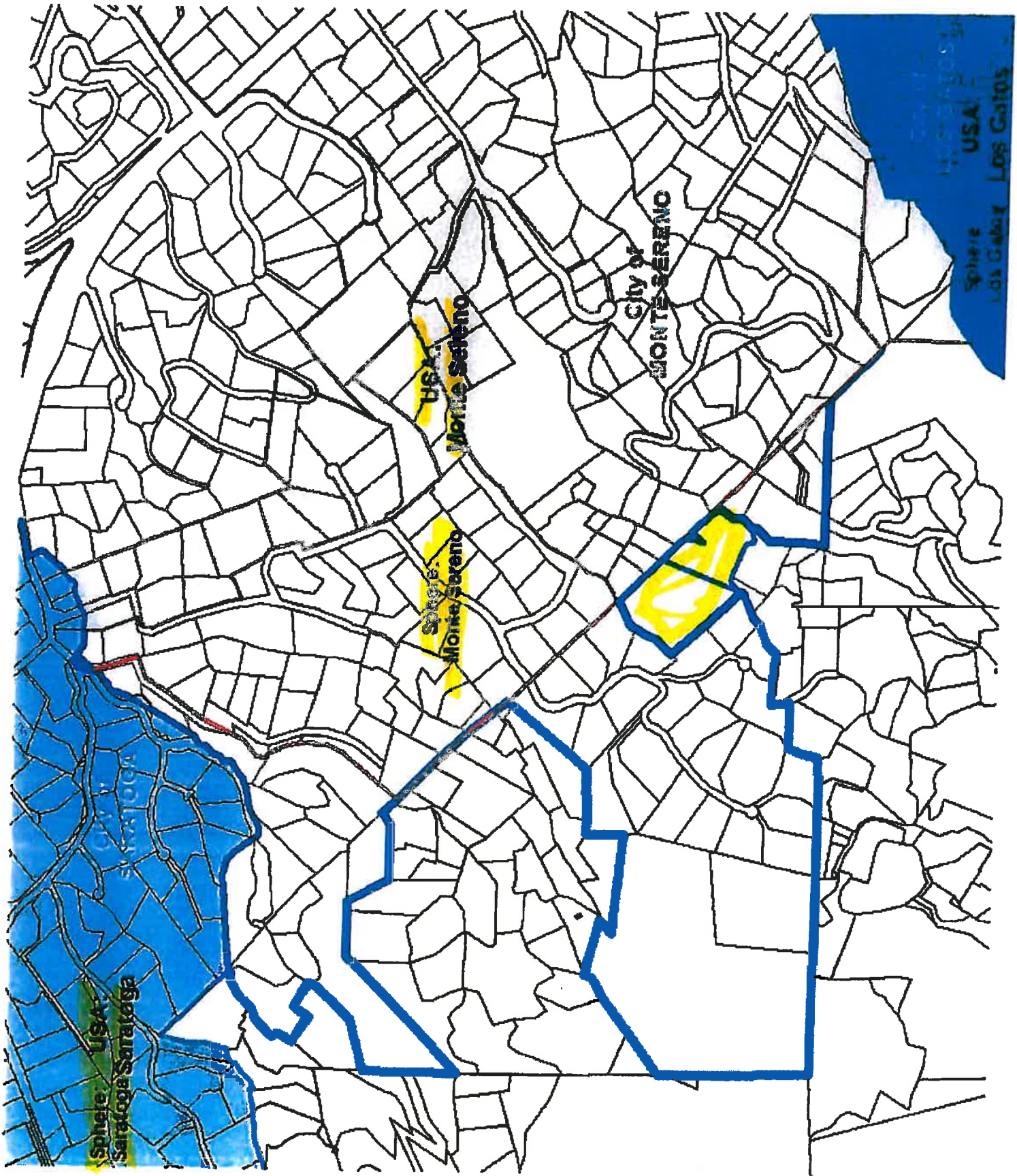
PER L.L.A. 2216689  
PER C.C. 21554338

LLA 2216689  
C.C. 21554338

510-31-066, -076  
510-31-077

**510-31-066**  
**510-31-066**  
**510-31-077**

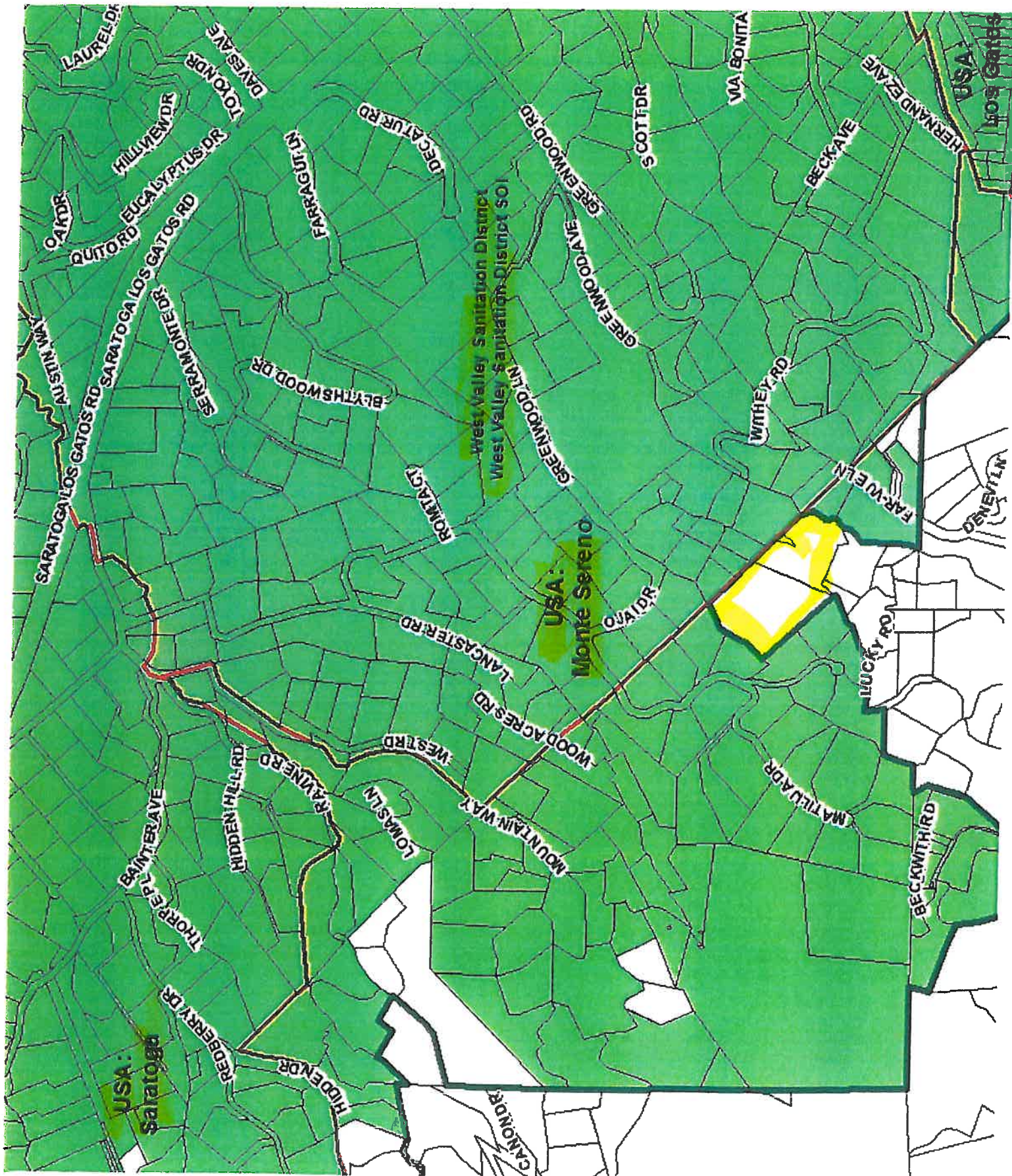














**From:** dturkus@aol.com  
**Sent:** Tuesday, September 27, 2016 7:22 PM  
**To:** Abello, Emmanuel; dturkus@aol.com  
**Subject:** City of Monte Sereno's application to expand its SOI and USA to include 7.4 acres of land located along Lucky Road

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 portion 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 intention 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 intention 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  
October 5, 2016  
Agenda Item No. 8

**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](http://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

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**From:** Nicholas Petredis [<mailto:nicholas@petredis.com>]  
**Sent:** Monday, October 03, 2016 12:56 PM  
**To:** Noel, Dunia <[Dunia.Noel@ceo.sccgov.org](mailto:Dunia.Noel@ceo.sccgov.org)>  
**Cc:** Brian Loventhal ([BLoventhal@cityofmontesereno.org](mailto:BLoventhal@cityofmontesereno.org)) <[BLoventhal@cityofmontesereno.org](mailto: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 7<sup>th</sup> 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.**

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](mailto:Nicholas@Petredis.com) | [www.Petredis.com](http://www.Petredis.com) | Skype: NPPLAW

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Supplemental Information No. 2  
October 5, 2016  
Agenda Item No. 8

**From:** Mackenzie Mossing <mackenziescvas@gmail.com>  
**Sent:** Monday, October 03, 2016 1:24 PM  
**To:** Wasserman, Mike; TaraMilius@gmail.com; District2@sanjoseca.gov;  
Susan@swilsonlaw.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



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



December 7, 2016  
AGENDA ITEM No. 11  
Document #1

**From:** Nicholas Petredis <nicholas@petredis.com>  
**Sent:** Wednesday, November 30, 2016 10:47 AM  
**To:** Noel, Dunia  
**Subject:** Monte Sereno Lucky Road Annexation

Hi Dunia,

I left you a voice mail message this morning but wanted to follow up with more information. Unfortunately we need to request a continuance of the hearing on the application to the February meeting date. The reason is I have conflict that prevents me from attending the hearing to represent my client, and my co-counsel is also unavailable (in a deposition).

Apologies for the request at this time but I reached out to you as soon as I had confirmation that I could not resolve the scheduling conflict. Please give me a call on my mobile – 650.533.5010 – when you are free to discuss. I hope this will not be issue.

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](mailto:Nicholas@Petredis.com) | [www.Petredis.com](http://www.Petredis.com) | Skype: NPPLAW

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December 7, 2016  
AGENDA ITEM No. 11  
Document #3

**From:** Mackenzie Mossing <mackenziescvas@gmail.com>  
**Sent:** Monday, October 03, 2016 1:24 PM  
**To:** Wasserman, Mike; TaraMilius@gmail.com; District2@sanjoseca.gov;  
Susan@swilsonlaw.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

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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



October 3rd, 2016

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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,

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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

December 7, 2016  
AGENDA ITEM #11  
Document #4

**From:** coalumber@aol.com  
**Sent:** Wednesday, October 05, 2016 6:40 PM  
**To:** Abello, Emmanuel  
**Subject:** Lucky road Vladimir

Hi Emmanuel,

I live at 16330 greenwood and fully support this project . Please approve it . Thanks jim z

Sent from my iPhone



April 12, 2017  
AGENDA ITEM #  
Correspondence from  
the Applicant

**From:** Nicholas Petredis <nicholas@petredis.com>  
**Sent:** Monday, March 27, 2017 9:40 AM  
**To:** Noel, Dunia  
**Cc:** Palacherla, Neelima; Abello, Emmanuel  
**Subject:** RE: Monte Sereno Luck Road  
**Attachments:** Scan.pdf; Letter\_of\_Support\_1.pdf

Hello Dunia,


Thanks again. Attached please find the letters of support from our neighbors. Other neighbors have expressed support, and strong interest in connecting to a sewer line if we are fortunate enough to have the application approved of course, but they preferred to not be formally involved in the process.

If you have any questions I know you will feel free to call. Otherwise, see you on April 12<sup>th</sup> at 10:00 am.

All Best,  
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](mailto:Nicholas@Petredis.com) | [www.Petredis.com](http://www.Petredis.com) | Skype: NPPLAW

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**From:** Noel, Dunia [<mailto:Dunia.Noel@ceo.sccgov.org>]  
**Sent:** Tuesday, March 21, 2017 5:15 PM  
**To:** Nicholas Petredis  
**Cc:** Palacherla, Neelima; Abello, Emmanuel  
**Subject:** RE: Monte Sereno Luck Road

Hi Nick,  
Scanning them and then emailing them to me and copying Neelima and Emmanuel by March 30<sup>th</sup> would be fine. Thanks.  
-Dunia Noel

---

**From:** Nicholas Petredis [<mailto:nicholas@petredis.com>]  
**Sent:** Thursday, March 16, 2017 4:53 PM  
**To:** Noel, Dunia <[Dunia.Noel@ceo.sccgov.org](mailto:Dunia.Noel@ceo.sccgov.org)>  
**Subject:** Re: Monte Sereno Luck Road

Thanks. I can scan into PDF and send if fine with you?

I'm mobile.

On Mar 16, 2017, at 16:51, Noel, Dunia <[Dunia.Noel@ceo.sccgov.org](mailto:Dunia.Noel@ceo.sccgov.org)> wrote:

Hi Nick,

If you could provide them to us by March 30th that would be greatly appreciated. How do you plan to get them to us (mail, email, or drop off)?

-Dunia

Sent from my iPad

On Mar 16, 2017, at 10:55 AM, Nicholas Petredis <[nicholas@petredis.com](mailto:nicholas@petredis.com)> wrote:

Hi,

We have some letters of support that I would like to get over to you to include in the packet for the April 12<sup>th</sup> meeting. I wanted to check on the deadline for me to get those to you?

Thanks

Nick

**Nicholas P. Petredis, Esq.**

PETREDIS LAW OFFICES  
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Chairperson and Commissioners  
LAFCO of Santa Clara County  
70 West Hedding Street  
11th Floor, East Wing  
San Jose, CA 95110

January 15, 2017

Re: Monte Sereno Urban Service Area (USA) and Sphere of Influence (SOI) Amendment 2016  
(Luck Road) -*Proposed Annexation of APN 510-31-066, -076, -077 and a portion of -078*

Dear Chairperson and Commissioners:

We are owners of 16330 Greenwood lane. We support the application to annex the property at 16290 Lucky Road. It is actually part of our neighborhood for all intents and purposes, and it makes no sense to us that it not formally part of Monte Sereno. We believe this is a chance to set a positive example for annexation that cause County residents in the unincorporated areas of Monte Sereno to reconsider their opposition to annexation into the City.

We are also very supportive of the application because if approved, the owner will abandon the septic system that was built and run a new sewer line down Lucky Road that we and other residents may then use. We also understand this would prevent the construction of yet another septic system on one of the parcels in the application.

Please consider the real environmental benefit of this application and the impact on the people that have to live with your decisions.

Sincerely,



James Zubillaga

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

January 13, 2017

Re: Monte Sereno Urban Service Area (USA) and Sphere of Influence (SOI) Amendment  
2016 (Luck Road) -*Proposed Annexation of APN 510-31-066,-076, -077 and a portion of -078*

Dear Chairperson and Commissioners:

We are the owners of 16285 Greenwood Ln. Our property is on Lucky Road very close to the area to be annexed. We write to lend our support for the annexation application referenced above. As we all know, the issue of annexation in Monte Sereno has been a contentious one, but we believe this application is an opportunity for the City and LAFCO to demonstrate a positive approach and outcome. If this application is approved, as it should be, the City may then use this as a positive example for County residents in the islands in the City.

For us, it is also an opportunity to abandon the septic system we have for our house. The owner has committed to the neighborhood that should the application be approved he will extend the sewer line down Lucky Road and size it such that parcels along the route may connect to the sewer line. This will be a HUGE environmental benefit to the entire neighborhood.

Thank you for considering our letter and the benefits to our neighborhood in your decision.



**AGENDA ITEM # 5**  
**JUNE 1, 2017**

**From:** Palacherla, Neelima  
**Sent:** Tuesday, May 16, 2017 4:46 PM  
**Cc:** Velasco, Roland; Kelly, Kieran; Strickland, Scott; 'patrick.mcgarrrity@sanjoseca.gov'; 'Sandoval, Vanessa'; Malathy Subramanian (Malathy.Subramanian@bbklaw.com); Noel, Dunia; Abello, Emmanuel  
**Subject:** April 12 LAFCO Agenda Item #5: Monte Sereno USA and SOI Amendment 2016

**Dear Commissioners,**

**RE: April 12 LAFCO Agenda Item #5: Monte Sereno USA and SOI Amendment 2016**

During its consideration of the above Agenda item, the Commission discussed whether LAFCO's conditional approval of a 2012 USA amendment application for the City of Saratoga has any parallels for the Monte Sereno 2016 USA Amendment application and requested that staff provide more information.

**I have reviewed the Saratoga USA Amendment request which was conditionally approved by LAFCO at its February 8, 2012 LAFCO meeting. It is distinct from the Monte Sereno application primarily because Saratoga submitted a plan for initiating and annexing its islands upon retraction and/or resolution of its USA boundary. LAFCO's approval of the Saratoga USA amendment was conditioned on the City carrying out its own plan for initiating and/or completing island annexations.**

**Whereas Monte Sereno has adopted a policy not to initiate island annexations except upon property owner request.**

**The following is a more detailed comparison between the two applications.**

**Monte Sereno**

Monte Sereno's three islands are each less than 150 acres (which qualifies them for a streamlined annexation process – where annexation may be approved by the City Council without conducting protest proceedings). Monte Sereno however has adopted a policy to not pursue island annexations except at a property owner's request. I have since verified with City staff and they have confirmed that there is no change in City policy towards island annexations.

**Saratoga**

In contrast, Saratoga completed the annexation of two islands which were smaller than 150 acres in size, prior to submitting the USA expansion application in 2012. The City of Saratoga also submitted a letter/plan addressing its annexation intent for each of its remaining 6 islands. The City indicated that it planned to (1.) request an USA retraction to exclude certain islands as it did not have any intention of annexing those islands, (2.) request USA retraction for a portion of certain islands prior to initiating annexation of those islands, (3.) gather information for annexing the island larger than 150 acres and (4.) start initiating annexation of the remaining islands.

**LAFCO's Conditional Approval of the Saratoga USA Amendment**

Given that Saratoga's island annexation plans hinged on a future USA amendment application to LAFCO for retraction of lands, LAFCO conditioned the USA expansion approval on Saratoga applying to LAFCO for an USA amendment (retraction) prior to initiating annexation of the islands that qualify under the streamlined annexation provision. For the island that is larger than 150 acres, LAFCO required that Saratoga prepare a plan and timeline for annexation of the island. LAFCO's conditional approval also stipulated that no further USA expansions for Saratoga would be considered by LAFCO until these conditions were met. Saratoga has since completed the USA retractions and/or island annexations. Also, Saratoga initiated annexation of the larger island but suspended further proceedings due to the high level of protest which would have required elections.

Another key difference between the Saratoga and Monte Sereno applications is the reason for the USA expansion requests: the purpose of the Saratoga USA amendment was to bring all lands owned by a certain property owner under the jurisdiction of the City of Saratoga as a portion of the lands were located in the unincorporated county. These lands

were under the Williamson Act and no development or services were proposed on the lands upon annexation (LAFCO established certain conditions to ensure compliance with Williamson Act and ag uses, as required by state law). In the case of Monte Sereno's USA amendment application, the intent is to obtain sewer service and develop the properties upon annexation.

**I have also informed the City that the Commission has requested a representative from the City be available at the LAFCO meeting in June and advised them to be prepared to respond to questions regarding relevant city policies / regulations.**

I hope this provides some clarification. Please feel free to contact me if you need further information. This information will also be included in the June 7<sup>th</sup> LAFCO Agenda packet.

Neelima.

**The LAFCO Office has moved! Please note the new address.**

**Neelima Palacherla**, Executive Officer

LAFCO of Santa Clara County

777 North First Street, Suite 410

San Jose, CA 95112

(408) 993-4713

[www.santaclaralafco.org](http://www.santaclaralafco.org)

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## Palacherla, Neelima

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**From:** Perry J. Woodward <pwoodward@hopkinscarley.com>  
**Sent:** Thursday, April 13, 2017 3:49 PM  
**To:** Palacherla, Neelima  
**Subject:** RE: Request for Retraction and Correction

Thank you. I appreciate your professionalism.

**Perry J. Woodward**  
Of Counsel

**hopkins carley**

**Hopkins & Carley** | A Law Corporation  
San Jose | Palo Alto  
70 South First Street | San Jose, CA 95113  
Direct: 408.299.1359 | Mobile: 408.891.9204  
Main: 408.286.9800 | Fax: 408.998.4790  
[pwoodward@hopkinscarley.com](mailto:pwoodward@hopkinscarley.com)  
[hopkinscarley.com](http://hopkinscarley.com)

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**From:** Palacherla, Neelima [mailto:Neelima.Palacherla@ceo.sccgov.org]  
**Sent:** Thursday, April 13, 2017 3:45 PM  
**To:** Perry J. Woodward  
**Subject:** RE: Request for Retraction and Correction

Dear Mr. Woodward,

Thank you for your email. We have reviewed the minutes of the last three LAFCO meetings to confirm commissioner attendance. You were correct in your statement that the December meeting had only 5 (voting) members and the February and the October meetings also did not have 7 (voting) members present. We apologize for any miscommunication or confusion on our part regarding this issue at the meeting yesterday.

We have also reviewed the applicant's letters requesting continuance in order to confirm the reasons for the continuance requests. As noted below, the first two requests were made due to conflicts for the property owner / representative, and not because of lack of attendance of 7 voting members.

LAFCO meeting date	# of voting commissioners in attendance	Applicant's Reason for Continuance Request
October 2016	6	Vladimir Rubashevsky (property owner) is out of the country
December 2016	5	Nick Petridis (applicant's representative) has a conflict and co-counsel is unavailable
February 2017	6	Cities member will not be present and an alternate cities member is not yet appointed

In light of your request that the full 7-member commission hear the item in June, we will inform all the commissioners and request that the full commission be in attendance at the next meeting. This email will be forwarded to the LAFCO commissioners.



Thank you.  
Neelima.

**The LAFCO Office has moved! Please note the new address.**

**Neelima Palacherla**, Executive Officer  
LAFCO of Santa Clara County  
(408) 993-4713  
777 North First Street, Suite 410  
San Jose, CA 95112  
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**From:** Perry J. Woodward [<mailto:pwoodward@hopkinscarley.com>]  
**Sent:** Wednesday, April 12, 2017 12:46 PM  
**To:** Palacherla, Neelima <[Neelima.Palacherla@ceo.sccgov.org](mailto:Neelima.Palacherla@ceo.sccgov.org)>; [malathy.subramanian@ceo.sccgov.org](mailto:malathy.subramanian@ceo.sccgov.org)  
**Subject:** Request for Retraction and Correction

Dear Ms. Palacherla and Ms. Subramanian:

At this morning's LAFCO Board meeting, you told the Board that there were five regular members and two alternates present at the December 7, 2016. This was in response to my statement to the Board that we did not have a full voting board at any meeting since the last election. I ask that please you retract that statement and immediately inform the entire board that my statement was correct.

I have again reviewed the minutes of the December 7 meeting. It shows that at the beginning of that meeting there were five voting members, including Ms. Wilson. Ms. Wilson's alternate, Mr. Trumbull may have been present but he was not eligible to vote so long as she was present to vote. Mr. Renee arrived later in the meeting but the minutes do not reflect that he voted at any point during that meeting.

However, as was the case today, Commission Yeager was absent and he had no alternate attending the meeting on his behalf. At no time during the December 7, 2016 meeting was there a full seven-member Board that was eligible to vote. As you can see, my reputation is very important to me and the impression you created this morning (to which I had no opportunity to respond as the public hearing was closed) that I was misleading the Board was unfair and simply wrong. I ask that you fix that immediately by informing your Board in writing of the correct facts and advise me once you have done so.

Perry

**Perry J. Woodward**  
Of Counsel

<image001.gif>

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