



## LAFCO MEETING AGENDA

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

October 2, 2013

1:15 PM

**CHAIRPERSON: Mike Wasserman • VICE-CHAIRPERSON: Susan Vicklund Wilson**

**COMMISSIONERS: Pete Constant, Cindy Chavez, Sequoia Hall, Margaret Abe-Koga, Linda J. LeZotte**

**ALTERNATES: Johnny Khamis, Yoriko Kishimoto, Terry Trumbull, Cat Tucker, Ken Yeager**

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### NOTICE TO THE PUBLIC

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1. Pursuant to Government Code §84308, and the Regulations of the Fair Political Practices Commission (FPPC), §18438, 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.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov). 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.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov).
4. Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commissioners less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office, 70 W. Hedding Street, 11th Floor, San Jose, California, during normal business hours. (Government Code § 54957.5.)
5. In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408)299-6415.

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COMMISSIONERS: Pete Constant, Cindy Chavez, Sequoia Hall, Margaret Abe-Koga, Linda J. LeZotte, Mike Wasserman, Susan Vicklund Wilson

ALTERNATE COMMISSIONERS: Johnny Khamis, Yoriko Kishimoto, Terry Trumbull, Cat Tucker, Ken Yeager

EXECUTIVE OFFICER: Neelima Palacherla

1. **ROLL CALL**
2. **WELCOME NEW LAFCO COMMISSIONER CINDY CHAVEZ AND ALTERNATE COMMISSIONER KEN YEAGER**
3. **COMMISSIONER SUSAN VICKLUND WILSON: RECIPIENT OF THE 2013 CALAFCO LIFETIME ACHIEVEMENT AWARD**  
**Possible Action:** Accept report and provide further direction as necessary.
4. **PUBLIC COMMENTS**  
This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on this agenda. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.
5. **APPROVE MINUTES OF AUGUST 7, 2013 LAFCO MEETING**

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**PUBLIC HEARING**

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6. **MORGAN HILL URBAN SERVICE AREA (USA) AMENDMENT 2012 MONTEREY – SOUTH OF WATSONVILLE** (Continued from April 3 and June 5, 2013)  
**Possible Action:**  
CEQA Action  
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:
  1. Find that the Initial Study and Mitigated Negative Declaration approved by the City of Morgan Hill on December 7, 2011 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.
  2. 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.
  3. Find that a monitoring program was approved by the City of Morgan Hill as Lead Agency and that the monitoring program ensures compliance with the mitigation measures identified in the Mitigated Negative Declaration that would mitigate or avoid significant impacts associated with the urban service area amendment, over which LAFCO has responsibility.**Project Action**
  - 1a. Option 1: Deny the Urban Service Area (USA) amendment request.
  - 1b. Option 2: Approve inclusion of a smaller area consisting of APNs 779-040-056, 001, 003 and 004 within the City's USA. The Santa Clara Valley Water District Parcel (APN 779-04-067) will remain outside the City limits and USA and will serve as a natural buffer to limit impacts to adjacent agricultural lands and to limit growth inducing impacts on adjacent unincorporated lands.

2. Request that the City of Morgan Hill, through its current General Plan Update process, consider the vast availability of vacant lands within its existing boundary and address comprehensively the necessity, timing and location of future expansions such that an expansion does not adversely impact surrounding agricultural lands or open space lands, and such that it results in orderly growth that facilitates efficient service delivery.
  3. Request that the City of Morgan Hill, through its General Plan Update process, examine its inventory of vacant land and develop targeted strategies that encourage better utilization of vacant lands within its boundary.
  4. Request that the City of Morgan Hill submit a report to LAFCO on the progress it has achieved with regard to Recommendations #2 and #3, prior to submitting the next USA expansion proposal to LAFCO.
  5. Request that the City of Morgan Hill withhold submitting applications for USA expansion proposals to LAFCO until after the completion of its General Plan Update process and until it has significantly reduced its vacant land inventory to five or fewer years.
  6. Direct LAFCO staff to review LAFCO's Urban Service Area Policies and propose revisions as necessary, for Commission consideration.
- 7. SPECIAL DISTRICTS SERVICE REVIEW DRAFT REPORT: PHASE 2**
- Possible Action:**
- a. Consider the Draft Report for the Special Districts Service Review: Phase 2.
  - b. Accept public comments.
  - c. Direct staff to revise the Report as necessary to address comments received through October 9th and set December 4, 2013 as the date for the public hearing to consider adoption of the Final Report.

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**ITEMS FOR ACTION / DISCUSSION**

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8. **REVISION OF THE AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN LAFCO OF SANTA CLARA COUNTY AND THE COUNTY OF SANTA CLARA**
- Possible Action:**
- a. Approve revisions to the Amended and Restated Memorandum of Understanding between LAFCO of Santa Clara County and the County of Santa Clara.
  - b. Direct staff to prepare a plan and timeline for conducting the performance evaluation of the LAFCO Executive Officer, in coordination with the County Executive's Office.
9. **AGENCY RESPONSES TO RECOMMENDATIONS IN LAFCO'S SPECIAL DISTRICTS SERVICE REVIEW REPORT: PHASE 1**
- Possible Action:** Accept report and provide direction as necessary.

**10. UPDATE ON SPECIAL STUDY ON THE IMPACTS OF THE POTENTIAL DISSOLUTION OF THE SARATOGA FIRE PROTECTION DISTRICT AND ANNEXATION OF ITS TERRITORY TO SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT**

Possible Action: Accept report and provide direction as necessary.

**11. EXECUTIVE OFFICER'S REPORT**

**11.1 UPDATE ON ELECTRONIC AGENDA PACKETS FOR LAFCO**  
For Information Only.

**11.2 REPORT ON THE 2013 CALAFCO ANNUAL CONFERENCE**  
For Information Only.

**12. PENDING APPLICATIONS / UPCOMING PROJECTS**

- Proposed Annexation of 830 Los Trancos Road to West Bay Sanitary District
- Proposed Annexation of APN 182-34-011 to the West Bay Sanitary District
- Proposed Urban Service Area Amendment and Sphere of Influence Amendment to the City of Monte Sereno

**13. COMMISSIONER REPORTS**

**14. NEWSPAPER ARTICLES / NEWSLETTERS**

- CALAFCO Newsletter: The Sphere

**15. WRITTEN CORRESPONDENCE**

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**CLOSED SESSION**

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**16. CONFERENCE WITH LEGAL COUNSEL**

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

**17. ADJOURN**

Adjourn to the regular LAFCO meeting on Wednesday, December 4, 2013, at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

**LAFCO MEETING:** October 2, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** COMMISSIONER SUSAN VICKLUND WILSON: RECIPIENT OF THE  
2013 CALAFCO LIFETIME ACHIEVEMENT AWARD

### **STAFF RECOMMENDATION**

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Accept report and provide further direction as necessary.

### **BACKGROUND**

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#### **Commissioner Vicklund Wilson Receives CALAFCO's Lifetime Achievement Award for Long-term Service to LAFCO and CALAFCO and for Leadership**

At the 2013 CALAFCO Annual Conference, Commissioner Susan Vicklund Wilson was awarded CALAFCO's Lifetime Achievement Award. Considered to be CALAFCO's most prestigious award, the award recognizes any individual who has made extraordinary contributions to the LAFCO community in terms of longevity of service, exemplary advocacy of LAFCO-related legislation, proven leadership in approaching a particular issue or issues, and/or demonstrated support in innovative and creative ways of the goals of LAFCOs throughout California.

#### **Served Over Eighteen Years as Public Member Commissioner for LAFCO**

Commissioner Vicklund Wilson has actively served as a Public Member Commissioner on LAFCO for over 18 years. She is now serving her fifth four-year term and is currently the vice-chairperson of LAFCO. She has served as Chairperson of LAFCO in 1999, 2004, and 2010. She is a staunch supporter of LAFCO's mandate and the work of the Commission, having served on many ad-hoc and technical advisory committees for LAFCO projects.

She is particularly interested in the preservation of agricultural and open space lands in Santa Clara County. As the Co-Chair of two of LAFCO's subcommittees, she helped develop LAFCO's Policies for the Gilroy Agricultural Lands Area (adopted in 1997) and LAFCO's Agricultural Mitigation Policies (adopted in 2007). Both of these policies were very controversial and developed through lengthy consensus building processes and are

crucial to LAFCO's continued efforts to preserve agricultural lands and discourage sprawl.

Commissioner Vicklund Wilson is also very interested in promoting efficient service delivery, and improving the transparency, accountability and governance of local agencies. She served on the technical advisory committees for LAFCO's 2012 Audit and Service Review of the El Camino Healthcare District and LAFCO's 2011 Countywide Water Service Review.

### **Served Nine Years on CALAFCO's Executive Board and Nine Years on CALAFCO's Legislative Committee**

Commissioner Vicklund Wilson is also a dedicated supporter of CALAFCO, having served on the CALAFCO Executive Board for a total of nine years (2003-2011). During that time, she held several leadership positions as Board Secretary (2006-2007), Treasurer (2007-2008), Vice-Chair (2008-2010) and Chairperson of CALAFCO (2011). She also served as Co-Chair of CALAFCO's Structural Options Committee (2009-2010), where she played a significant leadership role in the discussions concerning the restructuring of CALAFCO. The Association's membership was deeply divided on the issue of restructuring CALAFCO. Commissioner Vicklund Wilson, along with other likeminded commissioners and LAFCO staff, worked tirelessly on this issue and helped the membership reach a consensus that preserved the unity and strength of CALAFCO.

Commissioner Vicklund Wilson also served on the CALAFCO Legislative Committee for 9 years (2004-2012) and provided invaluable assistance in reviewing proposed legislation and crafting provisions to further LAFCO goals (using her skills and background as a private practice attorney). She has strongly advocated for changes in State law that strengthen LAFCO's ability to meet its mandate, such as provisions to extend the sunset for streamlined island annexations. In 2006, Commissioner Vicklund Wilson, along with other CALAFCO and LAFCO staff, participated in discussions between the California Public Utilities Commission (CPUC) and CALAFCO to promote better communication between water companies and LAFCOs. As an outcome of that effort, the CPUC adopted a resolution requesting that private utilities cooperate with LAFCO's data requests for municipal service reviews.

### **Active Participant at CALAFCO Annual Conferences Since 1995**

Commissioner Vicklund Wilson has attended nearly all of CALAFCO's Annual Conferences since 1995. She has generously shared her experience and expertise in LAFCO matters with her colleagues and LAFCO staff while serving as a moderator or panelist for several CALAFCO conference sessions. She has moderated sessions on "Agriculture on the Urban Edge", "CEQA Basics" and "Annexation as a means to Preserve Open Space" and has presented on panels on "Sustaining Agriculture: Exploring LAFCO's Role", "General LAFCO Procedures and Authorities: LAFCO 201", and "LAFCO's Role in Oversight of Local Agencies." Lastly, she also served as Program Chair for the CALAFCO 2005 Annual Conference in Monterey.

**LAFCO MEETING MINUTES  
WEDNESDAY, JUNE 5, 2013**

**CALL TO ORDER**

**Chairperson Mike Wasserman** called the meeting to order at 1:15 p.m.

**1. ROLL CALL**

The following commissioners were present:

- **Chairperson Mike Wasserman**
- **Commissioner Sequoia Hall**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Linda J. LeZotte**
- **Commissioner Susan Vicklund Wilson**
- **Alternate Commissioner Johnny Khamis**
- **Alternate Commissioner Yoriko Kishimoto**
- **Alternate Commissioner Terry Trumbull**
- **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**

**Chairperson Wasserman** announced that newly elected Supervisor Cindy Chavez will be appointed to LAFCO by the County Board of Supervisors at its next meeting.

Doug Muirhead, resident of Morgan Hill, requested that the recipients of notice for agenda of regular LAFCO meetings be likewise notified when agendas for Finance Committee and Technical Advisory Committee meetings are released. Mr. Muirhead suggested that staff speak to applicants and interested public and get feedback about their perception of LAFCO.

**3. APPROVE MINUTES OF JUNE 5, 2013 LAFCO MEETING**

The Commission approved the minutes of the June 5, 2013 LAFCO meeting.

Motion: LeZotte

Second: Wilson

**MOTION PASSED**

AYES: Hall, Khamis, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

4. **RESOLUTION COMMEMORATING THE 50<sup>th</sup> ANNIVERSARY OF LAFCO**

Dunia Noel, LAFCO Analyst, presented the staff report.

Motion: Hall

Second: Abe-Koga

The Commission adopted **Resolution No. 2013-03** commemorating the 50th anniversary of LAFCO's founding and honoring Santa Clara LAFCO commissioners, who over these 50 years, served on LAFCO and helped LAFCO fulfill its mandate. Said Resolution, by reference hereto, is made part of these minutes.

**MOTION PASSED**

AYES: Hall, Khamis, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

5. **EL CAMINO HEALTHCARE DISTRICT'S RESPONSE TO LAFCO'S RECOMMENDATIONS**

Ms. Palacherla presented the staff report.

In response to an inquiry by **Commissioner LeZotte**, Mike King, Chief Financial Officer, El Camino Healthcare District (ECHD), explained that the ECHD Board of Directors has adopted a policy to establish separate funds and approved a resolution designating the purpose and appropriate minimum amounts for each fund; however, the actual amounts in each fund were not known at that time. In response to an inquiry by **Alternate Commissioner Khamis**, Mr. King explained that most tax exempt bonds have a call date prior to which time the debt cannot be pre-paid and that the call date for the ECHD bonds is still three years out.

David Reeder, Member, ECHD Board of Directors, provided a presentation on the actions taken by ECHD to implement LAFCO's recommendations. He concluded that ECHD through its hardwork in the last two years has become more transparent and has a better governance structure as a result of the service review, and requested that the Commission formally close the service review process.

**Alternate Commissioner Khamis** thanked ECHD for cooperating with LAFCO staff during the service review process. **Commissioner Wilson** acknowledged the work that ECHD has done to implement the service review recommendations. She explained that the service review is an ongoing process and stated that staff will continue to monitor ECHD's progress. **Commissioner Abe-Koga** commended ECHD for its cooperation, noted the progress made, and stated that the service review process has been productive. She requested that future ECHD budgets include more detailed information similar to city budgets. **Chairperson Wasserman** complimented ECHD for obtaining the transparency certificate and noted the improvements to ECHD's governance. In response to an inquiry by **Chairperson Wasserman**, Ms. Palacherla informed that special districts must submit their budget to the County annually, whereas LAFCO is only required to conduct a service reviews once every five years. **Chairperson Wasserman** informed that the Commission will continue to monitor ECHD's progress.

**Commissioner Wilson** moved to approve the staff recommendation and **Commissioner LeZotte** seconded. In response to an inquiry by Chairperson Wasserman, Ms. Palacherla

advised that recommendation “a” would allow the Commission to provide direction in addition to those listed in recommendations b” and “c”. In response to a follow-up inquiry by the Chairperson regarding the necessity of the CIP, Ms. Palacherla advised that the ECHD owns a building that is rented out to the YMCA and that the ECHD has established a Capital Improvement Fund to maintain the building. In response to an inquiry by **Chairperson Wasserman** regarding recommendation “c”, Ms. Palacherla advised that the Service Review and Audit Report determined that the Corporation benefitted from receiving financial support from the district over several years and therefore was able to establish a better financial standing which allowed the Corporation to later purchase the hospital in Los Gatos. Ms. Subramanian informed that the District has been giving funds to the Hospital Corporation for uses other than property purchases. Ms. Palacherla advised that as an example, ECHD transfers revenues in excess of the Gann Limit as capital outlays to the Corporation and the District has noted that such transfers will continue to occur. **Commissioner Abe-Koga** expressed agreement with staff recommendation and stated that there is still a financial connection between the two entities since the transferred revenues maybe used by the Hospital Corporation for its own capital improvement projects.

**Commissioner Hall** proposed that ECHD executive level staff be required to file the same financial disclosures as those in other public agencies to ensure that there is no conflict of interest in the award of public funds.

The Commission (a) requested that the ECHD continue to make improvements to its budget document and process, adopt a Capital Improvement Plan, integrate the various fund financing decisions into the District’s budget process, and provide a copy of the District’s FY 2015 Budget to LAFCO; and (b) requested that the ECHD encourage the El Camino Hospital Corporation (Corporation) to consider how its acquisitions outside ECHD boundaries would benefit the District and its residents.

Motion: Wilson

Second: LeZotte

**MOTION PASSED**

AYES: Hall, Khamis, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**6. UPDATE ON IMPLEMENTATION OF RECOMMENDATIONS FROM LAFCO’S SPECIAL DISTRICTS SERVICE REVIEW REPORT: PHASE 1**

Dunia Noel, LAFCO Analyst, presented the staff report.

The Commission accepted the report.

Motion: Khamis

Second: LeZotte

**MOTION PASSED**

AYES: Hall, Khamis, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**7. RESCIND LAFCO POLICIES ON DISCLOSURE OF POLITICAL EXPENDITURES REGARDING LAFCO PROCEEDINGS**

Ms. Palacherla presented the staff report.

The Commission rescinded the LAFCO Policies on Disclosure of Political Expenditures Regarding LAFCO Proceedings.

Motion: LeZotte

Second: Hall

**MOTION PASSED**

AYES: Hall, Khamis, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**8. ANNUAL REPORT**

Ms. Palacherla presented the staff report.

Alternate Commissioner Khamis and Chairperson Wasserman expressed appreciation to staff for their work.

The Commission accepted the 2012-2013 Annual Report (July 1, 2012 to June 30, 2013).

Motion: Khamis

Second: LeZotte

**MOTION PASSED**

AYES: Hall, Khamis, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**9. EXECUTIVE OFFICER'S REPORT**

**9.1 UPDATE ON SPECIAL DISTRICTS SERVICE REVIEW: PHASE 2**

Ms. Noel presented the staff report.

**9.2 UPDATE ON SPECIAL STUDY ON IMPACTS OF THE POTENTIAL DISSOLUTION OF THE SARATOGA FIRE PROTECTION DISTRICT AND ANNEXATION OF ITS TERRITORY TO SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT**

Ms. Noel presented the staff report.

**9.3 UPDATE REGARDING PARTICIPATION ON REGIONAL AND COUNTYWIDE ISSUES**

Ms. Noel presented the staff report.

**10. PENDING APPLICATIONS / UPCOMING PROJECTS**

**10.1 West Bay Sanitary District SOI Amendment and Annexation (830 Los Trancos Road)**

Ms. Palacherla indicated that the applicant is yet to complete the application requirements.

In response to an inquiry by **Alternate Commissioner Trumbull**, Ms. Palacherla informed that the LAFCO of San Mateo County is the principal LAFCO for West Bay

Sanitary District. Ms. Palacherla informed that the District is included in the service review of sewer and wastewater districts but the review will focus on services provided to the few parcels located in Santa Clara County. **Alternate Commissioner Trumbull** stated that there are complaints regarding sewage overflow from the District.

In response to an inquiry by **Alternate Commissioner Tucker**, Ms. Palacherla advised that the Morgan Hill Urban Service Area (USA) Amendment 2012 Monterey-South of Watsonville has been continued to the October 2, 2013 LAFCO meeting.

11. **COMMISSIONER REPORTS**

12. **NEWSPAPER ARTICLES / NEWSLETTERS**

The Commission noted the CALAFCO Quarterly (July 2013).

13. **WRITTEN CORRESPONDENCE**

14. **ADJOURN**

The meeting was adjourned at 2:25 p.m. to the next meeting on Wednesday, October 2, 2013 in the Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

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

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



**AGENDA ITEM # 6**

**Morgan Hill Urban Service Area (USA) Amendment 2012  
Monterey – South of Watsonville (Continued from April 3 and June 5, 2013)**

April 3, 2013 Staff Report:

[http://www.santaclara.lafco.ca.gov/agenda/Full\\_Packets/2013Packets/2013Oct/2013Apr03MH.pdf](http://www.santaclara.lafco.ca.gov/agenda/Full_Packets/2013Packets/2013Oct/2013Apr03MH.pdf)



**LAFCO MEETING: October 2, 2013**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Analyst**  
**SUBJECT: SPECIAL DISTRICTS SERVICE REVIEW DRAFT REPORT: PHASE 2**

### **STAFF RECOMMENDATION**

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1. Consider the Draft Report for the Special Districts Service Review: Phase 2.
2. Accept public comments.
3. Direct staff to revise the Report as necessary to address comments received through October 9<sup>th</sup> and set December 4, 2013 as the date for the public hearing to consider adoption of the Final Report.

### **PURPOSE**

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The purpose of this public hearing is to consider and accept public comments on the "Special Districts Service Review Draft Report: Phase 2." No final action on the Draft Report will be taken at this hearing. Interested parties and the public may continue to provide comments on the Draft Report. All comments received by Wednesday, October 9<sup>th</sup> will be considered in the preparation of a Revised Draft Report which will be made available on the LAFCO website in late October.

### **BACKGROUND**

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#### **Nine Special Districts Included in the Special Districts Service Review: Phase 2**

The Special Districts Service Review Phase 2 Draft Report reviews seven districts that provide sanitary sewer or wastewater collection services (i.e. Lake Canyon Community Services District, Lion's Gate Community Services District, Burbank Sanitary District, County Sanitation District No. 2-3, Cupertino Sanitary District, West Valley Sanitation District, and West Bay Sanitary District) and two open space districts (i.e. Midpeninsula Regional Open Space District and Santa Clara County Open Space Authority). The Report provides recommendations to promote efficient service delivery and improvement in the transparency, accountability and governance of these districts. The Report also includes service review determinations and sphere of influence recommendations and determinations for these districts.

## **Technical Advisory Committee (TAC)**

A Technical Advisory Committee (TAC) consisting of LAFCO Commissioners Abe-Koga and LeZotte, appointed by LAFCO; and Saratoga Fire Protection District Fire Commissioner Eugene Zambetti, appointed by the Santa Clara County Special Districts Association; provided input and guidance during the review process. The TAC met on July 30<sup>th</sup> and received a status report on the project and discussed preliminary findings and next steps.

## **Preparation of the Special Districts Service Review Draft Report: Phase 2**

After completing Phase 1 of the Special Districts Service Review, Policy Consulting Associates (PCA) began working on Phase 2 of the Special Districts Service Review and collecting readily available information on the nine affected special districts. In early April, PCA sent a "Request for Information" to these districts. In late April, PCA, with LAFCO staff in attendance, interviewed representatives of eight of the nine affected districts in order to collect additional information. In late June, PCA interviewed a representative of the remaining district (i.e. Lake Canyon Community Services District).

Next, draft profiles of the districts were developed and provided to each agency for internal review and comment in order to ensure factual accuracy prior to the release of the Public Review Draft Report. The data was analyzed and an administrative draft of the Special Districts Service Review Report: Phase 2 was developed for LAFCO staff's review. A Public Review Draft Report, which included recommendations and determinations for the affected special districts, was then prepared. The County Planning Department prepared GIS maps of Phase 2 special districts for the Draft Report.

## **Release of the Draft Report for Public Review and Comment**

The "Special Districts Service Review Draft Report: Phase 2" was made available on the LAFCO website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) on September 6, 2013 and a Notice of Availability (Attachment A) was sent to all affected agencies, LAFCO commissioners, and other interested parties announcing the release of the Draft Report (Attachment B) for public review and comment.

## **NEXT STEPS**

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Based on the comments received by October 9<sup>th</sup>, the Draft Report will be revised as necessary. The Revised Draft Report with tracked changes will be available on the LAFCO Website in late October. A Notice of Availability will be sent to all affected agencies, LAFCO commissioners, and other interested parties in order to announce the availability of the Revised Draft Report. LAFCO will hold a Final Public Hearing to consider adoption of the Report and its recommendations on December 4, 2013.

## **Implementation Action Plan for Options and Recommendations in Final Report**

At the December 2013 LAFCO meeting, staff will present a plan for monitoring/implementation of the recommendations and options identified in the Report for the Commission's consideration and approval.

## **ATTACHMENTS**

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Attachment A: Notice of Availability of LAFCO's Special Districts Service Review Draft Report: Phase 2

Attachment B: Special Districts Service Review: Phase 2 Public Review Draft Report dated September 6, 2013 is available on the LAFCO website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov))



**DATE:** September 6, 2013

**TO:** Special District Board Members and Managers  
City Managers and County Executive  
City Council Members and County Board of Supervisors  
LAFCO Members  
Interested Parties

**FROM:** Neelima Palacherla, Executive Officer

**SUBJECT:** **LAFCO's SPECIAL DISTRICTS SERVICE REVIEW PHASE 2 DRAFT REPORT**  
**Notice of Availability & Public Hearing**

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The Special Districts Service Review Phase 2 Draft Report reviews seven districts that provide sanitary sewer or wastewater collection services (i.e. Lake Canyon Community Services District, Lion's Gate Community Services District, West Valley Sanitary District, County Sanitation District No. 2-3, Cupertino Sanitary District, West Valley Sanitation District, and West Bay Sanitary District) and two open space districts (i.e. Midpeninsula Regional Open Space District and Santa Clara County Open Space Authority). The Report includes a service review and sphere of influence update for each of these agencies and recommends actions to promote efficient service delivery, and improvement in the transparency, accountability and governance of these districts. The Report is now available for public review and comment on the LAFCO website at [www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov).

LAFCO will hold a public hearing in order to consider and accept comments on the Draft Report. No final action on the Draft Report will be taken at this public hearing.

**LAFCO Public Hearing:** October 2, 2013  
**Time:** 1:15 P.M. or soon thereafter  
**Location:** Board Meeting Chambers  
70 W. Hedding Street, San Jose, CA 95110

You may provide written comments on the Draft Report by mail to: LAFCO of Santa Clara County, 70 West Hedding Street, 11<sup>th</sup> Floor, East Wing, San Jose, CA 95110 OR you may email your comments to: [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Written comments received by Wednesday, October 9th will be addressed in a Revised Draft Report that will be available in late October for public review and comment on the LAFCO website. A second LAFCO public hearing to consider adopting the Report is scheduled for December 4, 2013.

Please contact me at (408) 299-5127 or Dunia Noel, LAFCO Analyst, at (408) 299-5148 if you have any questions. Thank you.



**LAFCO MEETING: October 2, 2013**  
**TO: LAFCO**  
**FROM: Mala Subramanian, LAFCO Counsel**  
**SUBJECT: REVISION OF THE AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN LAFCO OF SANTA CLARA COUNTY AND THE COUNTY OF SANTA CLARA**

### **STAFF RECOMMENDATION**

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1. Approve revisions to the Amended and Restated Memorandum of Understanding between LAFCO of Santa Clara County and the County of Santa Clara.
2. Direct staff to prepare a plan and timeline for conducting a performance evaluation for the LAFCO Executive Officer, in coordination with the County Executive's Office.

### **DISCUSSION**

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At its February 6, 2013 meeting, the LAFCO Finance Committee, composed of Commissioners Constant, Hall and Wasserman, directed LAFCO Counsel to contact the County and negotiate terms for 1) establishing a process for Executive Officer performance evaluation; 2) establishing a process for hiring/firing the Executive Officer; and 3) establishing appropriate salary ranges for all LAFCO staff.

LAFCO Counsel worked closely with the County (County Executive's Office, County Counsel's Office and Employee Services Agency) and reached preliminary agreement on the text changes to the current Memorandum of Understanding between the County and LAFCO (MOU), that are necessary to address the three identified issues. The LAFCO Finance Committee, at its August 5, 2013 meeting, considered LAFCO Counsel's recommended changes to the MOU and directed that the proposed revisions be forwarded for full Commission consideration and approval at the October LAFCO meeting. Please see **Attachment A** for a redlined and clean version of the MOU.

### **Process for Executive Officer Performance Evaluation**

The following text is proposed for inclusion in the MOU to establish a process for the conducting a performance evaluation for the LAFCO Executive Officer:

*In conjunction with a representative of the County, the LAFCO Chair and the LAFCO Finance Committee shall establish annual performance objectives for the LAFCO Executive Officer. The LAFCO Chair and the LAFCO Finance Committee shall annually evaluate the performance of the LAFCO Executive Officer against the performance objectives established. The County*

*Executive's Office shall consider input from LAFCO in the formal County performance evaluation of the LAFCO Executive Officer.*

The LAFCO Executive Officer will in turn conduct performance evaluations for the Analyst and Clerk positions.

### **Process for Hiring/Firing the Executive Officer**

No revision to the MOU is proposed to address this issue. The LAFCO Executive Officer is an employee of the County of Santa Clara. Therefore, the position is subject to all of the County's personnel rules and procedures.

### **Process for Establishing Appropriate Salary Ranges for All LAFCO Staff**

The following text is proposed for inclusion in the MOU in order to establish appropriate salary ranges for LAFCO staff positions:

*The County Executive's Office shall notify LAFCO at least ninety (90) days prior to the termination of the LAFCO Executive Officer's bargaining unit contract to allow LAFCO to timely submit requests for review of compensation and classification. During this period, LAFCO may request that the County Executive's Office review the LAFCO Executive Officer's compensation and classification to determine that they are appropriate for the position. Should the County undertake a classification study for the LAFCO Executive Officer's position, the County's Employee Service Agency ("ESA") will consult with the LAFCO Finance Committee.*

Similar text is proposed for the LAFCO Analyst and Clerk positions.

### **BACKGROUND**

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The current Memorandum of Understanding between the County and LAFCO (MOU) outlines the provisions under which the County will provide staffing and services to LAFCO. The MOU has been effective since July 2001 and was recently amended in October 2010 to reflect several changes including: 1) referencing the establishment of unique classification codes for the LAFCO Executive Officer, Analyst and Clerk positions; 2) deleting the provision pertaining to legal services provided by the County Counsel's Office (since LAFCO retained a private firm); and 3) deleting the provision pertaining to risk management (since LAFCO decided to purchase general liability insurance coverage from an outside organization).

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 which became effective in January 2001, requires among other things, LAFCOs to be autonomous agencies, independent of the County or any other local public agency or private entity. The law requires LAFCO to hire its own staff including an Executive Officer and Legal Counsel and to provide for all necessary support services including equipment, facilities and supplies; or alternately, it allows LAFCO to contract with a private or public agency for its staffing, services or facilities. The law also mandates a shared funding arrangement whereby LAFCO costs are funded proportionately by the agencies represented on LAFCO. Pursuant to the Act, LAFCO annually adopts a budget

and takes into account its program and staffing costs adequate to fulfill its statutory requirements.

### **NEXT STEPS**

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The Board of Supervisors will consider the amendment to the MOU at its October 22<sup>nd</sup> meeting. The Clerk of the Board of Supervisors will return the signed originals of the Revised MOU to LAFCO staff following Board approval and LAFCO will forward one copy of the signed MOU to the Clerk and retain one for LAFCO records.

### **ATTACHMENTS**

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Attachment A: Redlined and Clean Version of the Proposed Revisions to the Amended and Restated Memorandum of Understanding between the Local Agency Formation Commission of Santa Clara County and the County of Santa Clara.



MOU between County and LAFCO  
Page 1 of 8

AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN  
THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY  
AND THE COUNTY OF SANTA CLARA

This Amended and Restated Memorandum of Understanding ("MOU") is between the Local Agency Formation Commission of Santa Clara County (LAFCO) and the County of Santa Clara (County). The purpose of this agreement is to set forth the terms and conditions upon which the County will provide staffing, facilities and support services to LAFCO.

**RECITALS**

WHEREAS, since the inception of LAFCO from approximately 1963 to 2001, the County fully funded LAFCO including furnishing the Commission with the necessary quarters, equipment, supplies and staffing from the Offices of the County Executive, County Counsel, County Clerk, County Surveyor, and the County Planning Department; and

WHEREAS, new legislation has been passed effective January 1, 2001, which requires LAFCOs to be independent bodies and to contract for personnel and facilities (Government Code sections 56380 and 56384); and

WHEREAS, on February 6, 2001, the LAFCO and the County entered into an interim MOU to allow for the continuation for the current staffing levels and office arrangement through June 30, 2001 to assist LAFCO during the transition to independent operation; and

WHEREAS, on June 5, 2001, the LAFCO and the County executed a formal Memorandum of Understanding outlining the terms and provisions for the continuation of the services by the County to LAFCO, that became effective on July 1, 2001, and

WHEREAS, County is willing and able to provide and LAFCO with its own budget is willing and able to retain personnel and services to fulfill LAFCO's goal of independent staffing and autonomy under the terms and conditions set forth herein; and

WHEREAS, both County and LAFCO recognize and acknowledge that although the County shall pursuant to this MOU provide staffing, space and services

to LAFCO, LAFCO is an independent agency and the County shall have no ability to control or influence any LAFCO action or staff recommendation; and

WHEREAS, LAFCO will reimburse the cost for services provided by the County, and

WHEREAS, several changes ~~in staffing~~ over the years necessitate an amendment of the MOU ~~to reflect the current situation~~.

The parties therefore agree as follows.

1. EFFECTIVE DATE

The effective date of this MOU shall be October ~~21, 2010~~ 10, 2013 (“Effective Date”). It shall expire when terminated pursuant to Section 5 (“TERM AND TERMINATION”) below. On the Effective Date of this MOU, the earlier Memorandum of Understanding effective October 21, 2010 ~~July 2004~~ shall be terminated.

2. STAFFING

2.1 LAFCO EXECUTIVE OFFICER SERVICES

The County Executive's Office shall designate a full-time unique classified code entitled LAFCO Executive Officer to the position. The position shall be subject to all normal labor contract provisions, Merit System Rules, County ordinances and County policies as applicable. The County shall recruit the LAFCO Executive Officer through the County's standard process, however, candidates may be interviewed by LAFCO and final selection shall be subject to LAFCO approval. The LAFCO Executive Officer shall perform the duties as specified in the Cortese-Knox-Hertzberg Local Government Reorganization Act and shall do and perform all functions necessary or advisable to manage and conduct the business of LAFCO. The LAFCO Executive Officer shall work at the direction of LAFCO and shall report directly to LAFCO on all Commission matters. The LAFCO Executive Officer shall report to the County Executive's Office on all personnel and administrative matters. Should a conflict arise between the LAFCO Executive Officer's duties as a County employee and duties as the LAFCO Executive Officer, the LAFCO Executive Officer shall promptly advise the County Executive's Office and LAFCO of the issue so that it may be resolved by the two entities. The County Executive's Office shall notify LAFCO at least ninety (90) days prior to the termination of the LAFCO Executive Officer's bargaining unit contract to allow LAFCO to timely submit requests for

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review of compensation and classification. During this period, LAFCO may request that the County Executive's Office review the LAFCO Executive Officer's compensation and classification to determine that they are appropriate for the position. Should the County undertake a classification study for the LAFCO Executive Officer's position, the County's Employee Service Agency ("ESA") will consult with the LAFCO Finance Committee.

In conjunction with a representative of the County, the LAFCO Chair and the LAFCO Finance Committee shall establish annual performance objectives for the LAFCO Executive Officer. The LAFCO Chair and the LAFCO Finance Committee shall annually evaluate the performance of the LAFCO Executive Officer against the performance objectives established. The County Executive's Office shall consider input from LAFCO in the formal County performance evaluation of the LAFCO Executive Officer.

## 2.2 LAFCO ASSISTANT EXECUTIVE OFFICER SERVICES

The County Executive's Office shall designate a full-time unique classified code entitled LAFCO Analyst, serving as LAFCO Assistant Executive Officer. The position shall be subject to all normal labor contract provisions, Merit System Rules, County Ordinances and County policies as applicable. The LAFCO Assistant Executive Officer shall be recruited through the County's standard process, but final candidates shall be interviewed with approval for hiring by the LAFCO Executive Officer. The LAFCO Assistant Executive Officer shall take work assignments and direction from the LAFCO Executive Officer and may serve as the LAFCO Executive Officer in his/her absence. The LAFCO Executive Officer shall have full supervisory responsibility over the LAFCO Assistant Executive Officer.

\_\_\_\_\_ The County Executive's Office shall notify LAFCO at least ninety (90) days prior to the termination of the LAFCO Assistant Executive Officer's bargaining unit contract to allow LAFCO to timely submit requests for review of compensation and classification. During this period, LAFCO may request that the County Executive's Office review the LAFCO Assistant Executive Officer's compensation and classification to determine that they are appropriate for the position. Should the County undertake a classification study for the LAFCO Assistant Executive Officer position, ESA will consult with the LAFCO Finance Committee.

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## 2.3 LAFCO CLERK SERVICES

The County Executive's Office shall designate a full-time unique classified code entitled LAFCO Office Specialist as the LAFCO Clerk. The position shall be subject to all normal labor contract provisions, Merit System Rules, County Ordinances and County policies as applicable. The LAFCO Clerk shall be recruited through the County's standard process, but final candidates shall be interviewed with approval for hiring by the LAFCO Executive Officer. The LAFCO Clerk shall take all workload direction from the LAFCO Executive Officer and the LAFCO Assistant Executive Officer.

The County Executive's Officer shall notify LAFCO at least ninety (90) days prior to the termination of the LAFCO Clerk's bargaining unit contract to allow LAFCO to timely submit requests for review of compensation and classification. During this period, LAFCO may request that the County Executive's Office review the LAFCO Clerk's compensation and classification to determine that they are appropriate for the position. Should the County undertake a classification study for the LAFCO Clerk's position, ESA will consult with the LAFCO Finance Committee.

#### 2.4 LAFCO SURVEYOR SERVICES

The County Surveyor shall provide services to LAFCO on an as needed basis to check maps and legal descriptions, to maintain jurisdictional boundaries, and to staff LAFCO meetings. Services shall be invoiced at the surveyor's intra-county hourly rate updated annually and billed directly to LAFCO on a quarterly basis via intra county payment voucher.

### 3. SERVICES

County shall provide the following services to LAFCO. LAFCO will be subject to the normal County administrative fees / costs charged in consideration for these services either directly or through the County's then-current Cost Allocation Plan.

#### 3.1 ACCOUNTING AND BANKING SERVICES

The County Controller-Treasurer Department shall provide all banking and accounting services for LAFCO. Interest earned on LAFCO funds, shall be based on LAFCO's average daily cash balance in the Treasury and on the Treasury's pooled earnings rate net of administrative costs. Such interest earnings shall be calculated and paid quarterly into the LAFCO account. The Controller shall provide accounting and reporting on both budget and actual transactions. Additionally, the Controller shall use the final budget as provided by LAFCO to

determine the cities' and the County's share of costs. The Controller shall bill and collect payments from the cities and the County, depositing these payments to LAFCO's account in the County Treasury.

### 3.2 OFFICE SPACE, EQUIPMENT AND SUPPLIES

The County shall provide space suitable for LAFCO offices. The County shall allow the use of the County Board Chambers and other meeting rooms for Commission / staff meetings, subject to availability. County shall provide purchasing services for LAFCO, including solicitation and evaluation of proposals for goods and services, issuance of purchase orders and/or development of purchase agreements, and processing of payment upon receipt of the purchased goods/services.

### 3.3 PERSONNEL SERVICES

The County shall provide personnel services including recruitment, advertising, screening of applications, and development of hiring lists. The County shall provide payroll, benefits coordination and administration services and Labor Relations services.

### 3.4 GENERAL COMPUTER MAINTENANCE AND UPGRADES

The County shall provide technical assistance in setting up computers, networking, and Internet access services, including but not limited to, continued connection to the County computer network. These services shall be charged on an hourly basis at the Information Services Department's intra-county hourly rate established annually. These charges shall be invoiced and billed directly to LAFCO via the intra-county payment voucher on a quarterly basis.

### 3.5 PHONE SYSTEMS

The County shall provide connection to the County phone system and voice mail.

### 3.6 GIS SERVICES

The County shall provide access to the County Planning Office's GIS server and the data layers maintained by the Planning Office.

### 3.7 SUPPORT FUNCTIONS

All other support / administrative functions of a type currently provided to LAFCO or required to be provided by law.

#### 4. TERM AND TERMINATION

This MOU may be terminated without cause at the end of each fiscal year by provision of written notice by the terminating party to the other party no later than five months before the end of the fiscal year.

In addition, this MOU may be terminated for cause upon 10 days written notice by the terminating party to the other party.

In the event that this MOU is terminated pursuant to the provisions of this Section, LAFCO shall pay the County the pro rata amount for services provided up to the date of the termination of this Agreement.

#### 5. GENERAL PROVISIONS

##### 5.1 SIGNATURES

LAFCO hereby authorizes the Executive Officer or, his/her designee, to execute any documents to implement this MOU. The Board of Supervisors hereby authorizes the County Executive or his/her designee to execute any documents to implement this MOU.

##### 5.2 ASSIGNMENT

Neither party may assign this MOU, nor any interest therein, without the other party's written consent.

##### 5.3 NOTICES

All notices, demands and correspondence required or provided for under this MOU shall be in writing and delivered in person or dispatched by certified mail, postage prepaid, to the address below. Notice of any change of address shall be provided in the manner set forth above and delivered to the other party.

COUNTY OF SANTA CLARA:  
County Executive  
County of Santa Clara

70 W. Hedding Street  
San Jose, CA 95110

LAFCO:  
LAFCO Executive Officer  
LAFCO of Santa Clara County  
70 W. Hedding Street  
San Jose, CA 95110

#### 5.4 SEVERABILITY

The parties hereto agree that the provisions are severable. If any provision of this MOU is held invalid, the remainder of this MOU shall be effective and shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

#### 5.5 ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This MOU constitutes the entire understanding and agreement of the parties. This MOU integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiation or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of or amendments to the provisions of this MOU must be in writing and signed by the appropriate authorities of LAFCO or of the County.

#### 5.6 MUTUAL INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the County and LAFCO agree that pursuant to Government Code Section 895.4, each party hereto ("indemnifying party") shall fully indemnify and hold the other party, their officers, board/commission members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this MOU. No party, nor any officer, board/commission member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other party hereto, its officers, board members,

employees or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other party under this MOU.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding effective as of October ~~24~~<sup>21</sup>, 201~~0~~<sup>3</sup>.

LAFCO of Santa Clara County

COUNTY OF SANTA CLARA

~~SUSAN VICKLUND WILSON~~  
MIKE WASSERMAN

KEN YEAGER  
President, Board of Supervisors  
Date: \_\_\_\_\_

Chairperson, LAFCO  
Date: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Maria Marinos, Clerk  
Board of Supervisors

\_\_\_\_\_  
Emmanuel Abello, Clerk  
Local Agency Formation Commission

Approved as to Form and Legality:

Approved as to Form ~~and Legality~~:

\_\_\_\_\_  
Steve Mitra, County Counsel

\_\_\_\_\_  
Mala Subramanian, LAFCO Counsel

AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN  
THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY  
AND THE COUNTY OF SANTA CLARA

This Amended and Restated Memorandum of Understanding ("MOU") is between the Local Agency Formation Commission of Santa Clara County (LAFCO) and the County of Santa Clara (County). The purpose of this agreement is to set forth the terms and conditions upon which the County will provide staffing, facilities and support services to LAFCO.

**RECITALS**

WHEREAS, since the inception of LAFCO from approximately 1963 to 2001, the County fully funded LAFCO including furnishing the Commission with the necessary quarters, equipment, supplies and staffing from the Offices of the County Executive, County Counsel, County Clerk, County Surveyor, and the County Planning Department; and

WHEREAS, new legislation has been passed effective January 1, 2001, which requires LAFCOs to be independent bodies and to contract for personnel and facilities (Government Code sections 56380 and 56384); and

WHEREAS, on February 6, 2001, the LAFCO and the County entered into an interim MOU to allow for the continuation for the current staffing levels and office arrangement through June 30, 2001 to assist LAFCO during the transition to independent operation; and

WHEREAS, on June 5, 2001, the LAFCO and the County executed a formal Memorandum of Understanding outlining the terms and provisions for the continuation of the services by the County to LAFCO, that became effective on July 1, 2001, and

WHEREAS, County is willing and able to provide and LAFCO with its own budget is willing and able to retain personnel and services to fulfill LAFCO's goal of independent staffing and autonomy under the terms and conditions set forth herein; and

WHEREAS, both County and LAFCO recognize and acknowledge that although the County shall pursuant to this MOU provide staffing, space and services

to LAFCO, LAFCO is an independent agency and the County shall have no ability to control or influence any LAFCO action or staff recommendation; and

WHEREAS, LAFCO will reimburse the cost for services provided by the County, and

WHEREAS, several changes over the years necessitate an amendment of the MOU .

The parties therefore agree as follows.

1. EFFECTIVE DATE

The effective date of this MOU shall be October 10, 2013 (“Effective Date”). It shall expire when terminated pursuant to Section 5 (“TERM AND TERMINATION”) below. On the Effective Date of this MOU, the earlier Memorandum of Understanding effective October 21, 2010 shall be terminated.

2. STAFFING

2.1 LAFCO EXECUTIVE OFFICER SERVICES

The County Executive's Office shall designate a full-time unique classified code entitled LAFCO Executive Officer to the position. The position shall be subject to all normal labor contract provisions, Merit System Rules, County ordinances and County policies as applicable. The County shall recruit the LAFCO Executive Officer through the County's standard process, however, candidates may be interviewed by LAFCO and final selection shall be subject to LAFCO approval. The LAFCO Executive Officer shall perform the duties as specified in the Cortese-Knox-Hertzberg Local Government Reorganization Act and shall do and perform all functions necessary or advisable to manage and conduct the business of LAFCO. The LAFCO Executive Officer shall work at the direction of LAFCO and shall report directly to LAFCO on all Commission matters. The LAFCO Executive Officer shall report to the County Executive's Office on all personnel and administrative matters. Should a conflict arise between the LAFCO Executive Officer's duties as a County employee and duties as the LAFCO Executive Officer, the LAFCO Executive Officer shall promptly advise the County Executive's Office and LAFCO of the issue so that it may be resolved by the two entities. The County Executive's Office shall notify LAFCO at least ninety (90) days prior to the termination of the LAFCO Executive Officer's bargaining unit contract to allow LAFCO to timely submit requests for review of

compensation and classification. During this period, LAFCO may request that the County Executive's Office review the LAFCO Executive Officer's compensation and classification to determine that they are appropriate for the position. Should the County undertake a classification study for the LAFCO Executive Officer's position, the County's Employee Service Agency ("ESA") will consult with the LAFCO Finance Committee. In conjunction with a representative of the County, the LAFCO Chair and the LAFCO Finance Committee shall establish annual performance objectives for the LAFCO Executive Officer. The LAFCO Chair and the LAFCO Finance Committee shall annually evaluate the performance of the LAFCO Executive Officer against the performance objectives established. The County Executive's Office shall consider input from LAFCO in the formal County performance evaluation of the LAFCO Executive Officer.

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## 2.3. LAFCO CLERK SERVICES

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Ordinances and County policies as applicable. The LAFCO Clerk shall be recruited through the County's standard process, but final candidates shall be interviewed with approval for hiring by the LAFCO Executive Officer. The LAFCO Clerk shall take all workload direction from the LAFCO Executive Officer and the LAFCO Assistant Executive Officer.

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### 3.4 GENERAL COMPUTER MAINTENANCE AND UPGRADES

The County shall provide technical assistance in setting up computers, networking, and Internet access services, including but not limited to, continued connection to the County computer network. These services shall be charged on an hourly basis at the Information Services Department's intra-county hourly rate established annually. These charges shall be invoiced and billed directly to LAFCO via the intra-county payment voucher on a quarterly basis.

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The County shall provide access to the County Planning Office's GIS server and the data layers maintained by the Planning Office.

### 3.7 SUPPORT FUNCTIONS

All other support / administrative functions of a type currently provided to LAFCO or required to be provided by law.

4. TERM AND TERMINATION

This MOU may be terminated without cause at the end of each fiscal year by provision of written notice by the terminating party to the other party no later than five months before the end of the fiscal year.

In addition, this MOU may be terminated for cause upon 10 days written notice by the terminating party to the other party.

In the event that this MOU is terminated pursuant to the provisions of this Section, LAFCO shall pay the County the pro rata amount for services provided up to the date of the termination of this Agreement.

5. GENERAL PROVISIONS

5.1 SIGNATURES

LAFCO hereby authorizes the Executive Officer or, his/her designee, to execute any documents to implement this MOU. The Board of Supervisors hereby authorizes the County Executive or his/her designee to execute any documents to implement this MOU.

5.2 ASSIGNMENT

Neither party may assign this MOU, nor any interest therein, without the other party's written consent.

5.3 NOTICES

All notices, demands and correspondence required or provided for under this MOU shall be in writing and delivered in person or dispatched by certified mail, postage prepaid, to the address below. Notice of any change of address shall be provided in the manner set forth above and delivered to the other party.

COUNTY OF SANTA CLARA:

County Executive  
County of Santa Clara  
70 W. Hedding Street  
San Jose, CA 95110

LAFCO:

LAFCO Executive Officer  
LAFCO of Santa Clara County  
70 W. Hedding Street  
San Jose, CA 95110

#### 5.4 SEVERABILITY

The parties hereto agree that the provisions are severable. If any provision of this MOU is held invalid, the remainder of this MOU shall be effective and shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

#### 5.5 ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This MOU constitutes the entire understanding and agreement of the parties. This MOU integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiation or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers or amendments to the provisions of this MOU must be in writing and signed by the appropriate authorities of LAFCO or of the County.

#### 5.6 MUTUAL INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the County and LAFCO agree that pursuant to Government Code Section 895.4, each party hereto ("indemnifying party") shall fully indemnify and hold the other party, their officers, board/commission members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this MOU. No party, nor any officer, board/commission member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other party hereto, its officers, board members, employees or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other party under this MOU.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding effective as of October 10, 2013.

LAFCO of Santa Clara County

COUNTY OF SANTA CLARA

\_\_\_\_\_  
MIKE WASSERMAN  
Chairperson, LAFCO  
Date: \_\_\_\_\_

\_\_\_\_\_  
KEN YEAGER  
President, Board of Supervisors  
Date: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Emmanuel Abello, Clerk  
Local Agency Formation Commission

\_\_\_\_\_  
Maria Marinos, Clerk  
Board of Supervisors

Approved as to Form:

Approved as to Form and Legality:

\_\_\_\_\_  
Mala Subramanian, LAFCO Counsel

\_\_\_\_\_  
Steve Mitra, County Counsel

**LAFCO MEETING:** October 2, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** AGENCY RESPONSES TO RECOMMENDATIONS IN LAFCO's SPECIAL DISTRICTS SERVICE REVIEW REPORT: PHASE 1

### **STAFF RECOMMENDATION**

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Accept staff report and provide direction as necessary.

### **BACKGROUND**

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#### **Responses Received From All Affected Agencies**

As directed by the Commission at its June 5, 2013 meeting, staff requested a written response from each affected agency on how the agency plans to implement the recommendations presented in LAFCO's Special Districts Service Review: Phase 1 Report, along with the time-frame for implementation, and an explanation if the agency does not plan to implement a recommendation. Staff requested that responses be provided by September 6, 2013.

In the case of the South Santa Clara Valley Memorial District (SSCVMD), staff requested that the District provide a written report to LAFCO by September 13, 2013 on the District's progress in implementing the recommendations identified for immediate action and report to LAFCO by May 23, 2014 on the District's progress in implementing the remaining recommendations.

LAFCO staff has received written responses from all of the affected agencies, specifically South Santa Clara Valley Memorial District, County of Santa Clara (i.e. Finance Agency, Clerk of the Board, and Registrar of Voters), Santa Clara County Lighting Service Area, Saratoga Cemetery District, and Rancho Rinconada Recreation and Park District. Agency responses will also be posted on the LAFCO website.

#### **South Santa Clara Valley Memorial District (SSCVMD) Response (Attachment A)**

The SSCVMD reported that it has completed many of the actions requested in the LAFCO report. On August 19, 2013, the Board adopted a workplan for implementing the recommendations identified for immediate action. SSCVMD anticipates that an

executive director will be hired in the next month. According to the District, several of the remaining items identified for immediate action can be more easily addressed once an executive director is in place, such as creating and maintaining a website.

Additionally, the Board established an ad-hoc committee to work with the District's Legal Counsel to review and renegotiate the existing leases for the hall. SSCVMD also reported that two seats on the Board are up for election in November 2013 and that there are currently four people running for those seats.

LAFCO staff is currently seeking clarification from the District on the status of several important implementation recommendations, including the District's specific timeline for working with the County to conduct a forensic audit of the District and to conduct backlog annual audits since 2008. These two recommendations were identified by LAFCO for the District's immediate action and have not been completed or started yet. Additionally, LAFCO staff has requested clarification concerning whether current Board members have received the required 2-hour Ethics Training pursuant to AB 1234, which is different than training on the Brown Act or conflicts of interest. LAFCO staff will continue to follow-up with the District on these and any other outstanding matters.

#### **County of Santa Clara's Response (Attachment B)**

The County Controller-Treasurer's Department reported that they will work with SSCVMD to engage an audit firm to conduct an examination of transactions and finances in order to establish a base-line for the District and that the District will be required to complete annual audits extending back to the last five year audit of 2008 and into the future. However, the County did not provide a specific timeline for completing these actions. The County Controller-Treasurer's Department also reported that they have collected a majority of the budgets for special districts pursuant to Government Code §53901.

The Clerk of the County Board of Supervisors and the Interim Registrar of Voters provided an internal technical guideline and procedures memo which clarify the appointment process for special district board members under the three circumstances identified in the Service Review Report. LAFCO staff will request that the County consider providing this information on its website in order to provide greater transparency to the public and potential candidates on the election and appointment process for special districts.

#### **Santa Clara County Lighting Service Area (SCCLSA) Response (Attachment C)**

SCCLSA reported that the District will implement the recommendations of the Service Review Report within the next year, with the exception of establishing a preventative maintenance program for streetlights that includes periodic inspection of streetlights at night for lamp failures, defects, and periodic preventative maintenance inspection of streetlights. SCCLSA recently conducted an analysis and determined that it would have a very low benefit to cost ratio. Instead, SCCLSA stated that they plan to develop an asset management system that will help the District identify lights at or beyond

warranted life expectancy in order to enable aging lights to be replaced prior to failure in an efficient, organized, and scheduled manner.

#### **Saratoga Cemetery District (SCD) Response (Attachment D)**

SCD indicated that the District will not implement the recommendations of the Service Review Report for specific reasons and requested a clarification on the Report's recommendation regarding adopting a reserve fund policy. LAFCO staff has provided a clarification to the District and District staff will now discuss this recommendation with the SCD Board and provide a response to LAFCO.

#### **Rancho Rinconada Recreation and Park District (RRRPD) Response (Attachment E)**

RRRPD indicated that the District has or will implement the recommendations of the Service Review Report within the next year. LAFCO staff is in the process of facilitating a meeting between representatives of RRRPD and the City of Cupertino to discuss the governance options identified in the Report for RRRPD.

#### **NEXT STEPS**

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LAFCO staff will track each agency's implementation efforts and provide updates to the Commission, as necessary.

#### **ATTACHMENTS**

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Attachment A: South Santa Clara Valley Memorial District (Kirsten Powell, Attorney)

Attachment B: County of Santa Clara:

- Finance Agency (Alan Minato, Division Manager)
- Office of the Clerk of the Board (Lynn Regadanz, Clerk of the Board)
- Office of the Registrar of Voters (Shannon Bushey, Assistant Registrar of Voter)

Attachment C: Santa Clara County Lighting Service Area (Dawn Cameron, County Transportation Planner)

Attachment D: Saratoga Cemetery District (Gary T.S. Reed, General Manager)

Attachment E: Rancho Rinconada Recreation and Park District (Miriam Salo, President)





**LOGAN & POWELL** LLP  
ATTORNEYS AT LAW

Robert J. Logan, Of Counsel

**AGENDA ITEM # 9**  
**Attachment A**

15466 Los Gatos Blvd., Suite 109/217 ■ Los Gatos, CA 95032 ■ Telephone (408) 402-9542 ■ Fax (408) 402-8441 ■ E-mail: kpowell@loganpowell.com

September 13, 2013

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

**RE: South Santa Clara Valley Memorial District Update**

Dear Honorable Chairperson Wasserman and Board Members:

This letter is intended to serve as an update on the actions of the South Santa Clara Valley Memorial District (the "District") since my prior correspondence to you dated June 4, 2013, and in response to the Board's request at its June 5, 2013 meeting.

The Board continues to address the issues outline in the Service Report. Of utmost importance is hiring an executive director. In July, the Board approved a Request for Proposal for Executive Director Services. The Board established an ad hoc committee to work with me to review the applications. The Board has received 6 applications for the position. The ad hoc committee will be making a recommendation to the Board on Monday, September 16, 2013. It is anticipated that an executive director will be hired in the next month. Once an executive director is hired, several of the items listed in the service report can be more easily addressed, most notably, a website. Currently, there is no one who can take on that task. It is also anticipated that the executive director will be the person most suited to make recommendations on bidding procedures, rate studies and structures for the hall and the use of reserve funds.

Since the June 5, 2013, LAFCO meeting, the Board has taken many of the actions requested in the LAFCO service report. In addition, on August 19, 2013, the Board adopted a workplan and a timeline for the remaining items in the report. A copy of that workplan with the corresponding dates is attached to this letter.

Any perceived conflicts of interest between the Board positions and the Bar Council have been eliminated. No Board members sit on the Bar Council. In addition, the Board established an ad hoc committee to work with me on the current leases for the hall at its August 19, 2013, meeting. We are currently reviewing the existing lease and plan to renegotiate the lease in the next few weeks.

Honorable Chairperson Wasserman and Board Members  
RE: South Santa Clara Valley Memorial District Update  
September 13, 2013  
Page 2

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On the financial records issues, I have been in contact with Alan Minado from the County Controller's Office regarding the District's audit requirements. The District will be subject to annual audits.

In November 2013, two seats on the Board are up for election. There are currently four people running for those seats.

The Board is committed to addressing all of the issues outlined in the service report and to addressing the needs of the veterans in its jurisdiction. I am hopeful that this letter and the actions taken by the Board, thus far demonstrates those commitments. If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,



Kirsten M. Powell

KMP:sk  
cc: Board Members  
encl.

TABLE 1: RECOMMENDATIONS FOR THE SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT (SSCVMD)				
	FOR IMMEDIATE ACTION (Within 1 to 3 Months)		TO BE COMPLETED WITHIN 12 MONTHS	
	Action	Status	Action	Status
<b>1. Operational Practices</b>	a. Hire legal counsel to ensure legal requirements are met regarding operations accountability and board actions	Completed 4/17/13	k. Conduct a documentable bidding process for any future capital improvements through advertisements in printed press, online proposal search engines, and on District website	
	b. Conduct required ethics training	ongoing	l. Conduct rate study to ensure rates are appropriate	
	c. Conduct annual Brown Act training for Board Members	Completed 5/13/13	m. Establish similar rates for veterans and residents alike	
	d. Hire a general manager to implement improvements	Oct 2013		
	e. Edit and adopt appropriate bylaws based on guidance from legal counsel	Completed 5/13/13		
	f. Define in bylaws how Board President and Secretary are to be selected and the term of the appointment	Completed 5/13/13		
	g. Appoint both a board president and a secretary from among the Board members	Completed 5/13/13		
	h. Eliminate conflicts of interest between Board positions and Bar Council and Bingo Committee positions	Completed		
	i. Adopt a detailed budget before start of the fiscal year	2/15/13		
	j. Resume receiving rent from bar to limit liabilities	Nov 2013		

	FOR IMMEDIATE ACTION (Within 1 to 3 Months)		TO BE COMPLETED WITHIN 12 MONTHS	
	Action	Status	Action	Status
<b>2. Website</b>	a. Establish a website and publish Board's agendas and minutes, the annual financial transaction reports, and the annual operating budget	Need executive direction	c. Use website to conduct outreach to veterans, as well as residents of the District, regarding services and upcoming board vacancies	
	b. Include information on Board members and terms			
<b>3. Financial Records &amp; Audits</b>	a. Work with County to conduct a forensic audit of District	Ongoing		
	b. Switch from 5-year audits to annual audits	Ongoing		
	c. Ensure consistency and clarity of financial documents	Completed		
	d. File a copy of annual budget with County Auditor, as legally required	Completed		
<b>4. Elections</b>	a. Ensure Board positions are properly filled through the election process or appointment by Board of Supervisors with clearly defined term expiration dates for each Board Member	Nov 2013	b. Make information available at other veteran service locations and related events regarding services and upcoming board vacancies	
<b>5. Plans/ Programs/ Policies</b>	a. Adopt a policy to designate the purpose of the reserve funds	Nov 2013	d. Adopt a multi-year capital improvement program	
	b. District and County should formalize in a set of policies the procedures for announcing Board openings, interviewing candidates, and appointing new Board members	election	e. Develop and implement plans to enhance utilization of memorial hall by veterans organizations	
	c. Adopt a records retention policy	9/16/13		

**County of Santa Clara**  
Finance Agency

**AGENDA ITEM # 9**  
**Attachment B**



County Government Center  
70 West Hedding Street, East Wing 2<sup>nd</sup> floor  
San Jose, California 95110-1705  
(408) 299-5205 FAX 287-7629

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August 27, 2013

TO: Neelima Palacherla, LAFCO

FROM: Alan Minato, <sup>Am</sup> Controller-Treasurer's Department

SUBJECT: LAFCO's Special Districts Service Review Phase I

The following is my response to the attached memo that your organization emailed to me:

1. We will work with the South Santa Clara Valley Memorial District to engage an audit firm to conduct an examination of transactions and finances in order to establish a base-line for the District.
2. Since documentation cannot be found approving a five year audit cycle, we will require the South Santa Clara Valley Memorial District to complete annual audits extending back to the last five year audit of 2008 and into the future.
3. The Clerk of the Board and Registrar of Voters will provide a response to this finding concerning the appointment process for special district board members.
4. We have already collected a majority of the budgets for special districts to meet Government Code 53901, which requires us to obtain such budgets to provide to members of the public who requests them. Since implementing this finding, no such requests have been received.



July 22, 2013

VIA EMAIL

Alan Minato  
Division Manager – Accounting & Claims  
Finance Agency  
County of Santa Clara  
70 W. Hedding Street  
East Wing, 2nd Floor  
San Jose, CA 95110

**Re: Implementation of the Recommendations of LAFCO's Special Districts  
Service Review: Phase 1**

Dear Mr. Minato:

LAFCO, at its June 5, 2013 meeting, adopted the Special Districts Service Review: Phase 1 Report for six special districts in Santa Clara County. The Report is available on the LAFCO Website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) under "What's New?" The Report identifies several opportunities and includes several recommendations for improving special district services in the county. Specifically, the Report provides recommendations for improving the accountability and transparency of districts through changes in their operations, management, and administration, and recommendations on potential governance structure alternatives, where applicable. The Report also includes recommendations for the County of Santa Clara to implement in order to help facilitate changes in the districts.

**Response is Requested**

In an effort to follow-up on these recommendations, LAFCO is requesting that the County:

1. Review the Service Review Report as necessary and consider implementing the recommendations presented in the Report and summarized in Attachment A,
2. Provide a written response to LAFCO on how the County plans to implement these recommendations, along with a time-frame for that implementation, and

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70 West Hedding Street • 11th Floor, East Wing • San Jose, CA 95110 • (408) 299-5127 • [www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)

COMMISSIONERS: Pete Constant, Sequoia Hall, Margaret Abe-Koga, Linda J. LeZotte, Mike Wasserman, Susan Vicklund Wilson

ALTERNATE COMMISSIONERS: Johnny Khamis, Yoriko Kishimoto, Terry Trumbull, Cat Tucker

EXECUTIVE OFFICER: Neelima Palacherla

3. Provide an explanation if the County does not plan to implement a recommendation.

**Kindly Respond By September 6, 2013**

Please provide a written response to LAFCO as soon as possible and **no later than September 6, 2013**. If you have any questions or concerns or would like to meet to discuss these issues, I can be reached at (408) 299-5127 / [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Assistant Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Lastly, I would like to thank you, and the County Registrar of Voters Office, and the County Clerk of the Board's Office for providing information and assistance during the Special Districts Service Review process and for your consideration and timely response to this request.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

Attachment:

- A. Recommendations for the County of Santa Clara

**Cc:**

Lynn Regadanz, Clerk of the Board, County of Santa Clara  
Anika Campbell-Belton, Assistant Clerk of the Board, County of Santa Clara  
Shannon Bushey, Assistant Registrar of Voters, County of Santa Clara  
Emily Harrison, Deputy County Executive, County of Santa Clara  
County of Santa Clara Board of Supervisors  
LAFCO Members

**RECOMMENDATIONS FOR THE COUNTY OF SANTA CLARA**

The County should consider implementing the following recommendations in order to facilitate transparency and public accountability of special districts located within the county:

**1. Work with South Santa Clara Valley Memorial District (SSCVMD) to Conduct a Forensic Audit of the District**

The Service Review Report recommends that the County work with SSCVMD to conduct a forensic audit of the District in order to examine the District's transactions and finances and verify them to source documents in order to establish a financial base-line for the District.

**2. Change SSCVMD's Required Audit Cycle from Every 5 Years to Annually**

Given the lack of records to substantiate that a five-year audit schedule was approved by the County Board of Supervisors for the SSCVMD and given concerns regarding SSCVMD's financial transparency, the County should require the District to submit annual audits.

**3. Develop Written Policies and Procedures in order to Clarify the Appointment Process for Special District Board Members**

The County Board of Supervisors appoints special district board members under three different circumstances: (1) The board of directors for certain special districts are appointed (by the Board of Supervisors) rather than elected, as allowed under the districts' enabling legislation; (2) District board members are appointed by the Board of Supervisors when an election is uncontested (i.e. fewer or same number of candidates as positions); and (3) District board members are appointed by the Board of Supervisors when there is a mid-term vacancy on a district board.

Currently, the County does not have written policies or standardized procedures on how special district board openings are to be announced, how long the application period should be open, and the manner for interviews, the role of the district in nominating candidates, etc. Additionally, upon appointment by the Board of Supervisors, it is unclear where the responsibility lies regarding reporting the Board of Supervisor's decision back to the Registrar of Voters. The Service Review Report recommends that the County Clerk of the Board and the County Registrar of Voters improve this process in order to ensure that all interested parties can readily identify the existing governing body of each special district and the respective term expiration dates. The County should develop a clear set of written policies outlining the process and clarifying the responsibilities (of the various County departments and of the districts) in appointing special district board members under each of the three aforementioned circumstances.

**4. Encourage Special Districts to Submit their Adopted Annual Budgets to the County Auditor**

California Government Code §53901 requires local agencies to file a copy of their adopted annual budget with the county auditor, unless exempted by the county auditor. However, the Service Review Report noted that not all special districts had filed a copy of their annual budget with the County Auditor, as legally required. The County should implement measures to encourage greater compliance, such as noticing all special districts of this requirement and contacting districts that are non-responsive.



# County of Santa Clara

Office of the Clerk of the Board  
County Government Center, East Wing  
70 West Hedding Street  
San Jose, California 95110-1770  
(408) 299-5001 FAX 938-4525 TDD 993-8272



September 11, 2013

To: Neelima Palacherla, LAFCO Executive Officer

From: Lynn Regadanz, Clerk of the Board

Subject: LAFCO's Special Districts Service Review Phase 1

In response to the Local Agency Formation Commissions (LAFCO) Special District Service Review, the Clerk of the Board and the Registrar of Voters have reviewed and improved our processes for clarifying the appointment process for Special District Board members. The County Board of Supervisors appoints individual Special District Board members under three different circumstances: 1) The Board of Directors for certain Special Districts are appointed, by the Board of Supervisors rather than elected, as allowed under the Districts' enabling legislation or by resolution; 2) District Board members are appointed by the Board of Supervisors when an election is uncontested; and 3) District Board members are appointed by the Board of Supervisors when a mid-term vacancy on a District Board occurs.

For Special Districts where the enabling legislation or resolution allows the Board of Supervisors to make District Board member appointments and when a mid-term vacancy occurs on a District Board, the appointment process will follow the process utilized by the Clerk of the Board for other County Boards, Commissions, and Committees. That process is listed below:

1. Vacancies are announced on the County webpage and each individual Supervisor's webpage via the Current Vacancies on Boards & Commissions listing. The Clerk's database will be updated when notified of a vacancy or when an appointee's term of office expires. The listing is updated and posted online when the Board of Supervisors' regular agenda is distributed, six days prior to the next scheduled meeting. The listing is also available to the public in hardcopy attached to the Board's agenda. Vacant and expired seats remain on the Vacancy listing until the seat is filled. We also encourage the Special Districts to advertise their vacancies as well, via their websites, newsletters, newspapers etc.
2. Each interested candidate will be instructed to complete and submit an Application for Advisory Appointment via the Office of the Clerk of the Board webpage. The Special District Board may submit nominees for appointment by submitting a letter of recommendation and a copy of the nominee's application to the Clerk of the Board prior to the term expiration date. The completed application will be forwarded to all five Supervisorial District offices for consideration. Interested persons may submit an application for appointment at any time. The Application remains on file with the Clerk of the Board's Office for a maximum of two years from the date of receipt.
3. Each individual Supervisorial District reviews each application and vets the qualified candidate. The District Office with appointing authority will forward the nomination to the full Board of Supervisors for consideration. After approval by the Board of Supervisors, the Clerk of the Board will provide the new appointee with notification of the appointment, which will include the Oath of Office and Statement of

Economic Interest Form 700 filing requirements. A copy of the appointment notification will also be provided to the Special District and the Registrar of Voters.

4. The Clerk of the Board will monitor the term expiration and will send a letter notifying the Board member, the nominating member of the Board of Supervisors, and the Special District in advance of the term expiration. Once the term has expired, the Board member seat will be placed on the Current Vacancies on Boards & Commissions listing and the process will begin again to fill the expired seat. Interested incumbents who have not exhausted established term limits and applications from prospective candidates will be considered through the process outlined above.

For Special District seats where Board members are appointed by the Board of Supervisors when the election process requirements are not met, if there were no qualified candidates or there are seats unfilled because the numbers of eligible candidates are equal to or less than the number of available positions, the appointment process is largely the same with the exception of the need for collaboration with the Registrar of Voters. The Registrar of Voters will notify the Special District and the Clerk of the Board of which Special Districts have seats available for appointment. The process for making board appointments in lieu of an election are listed below:

1. Vacancies are announced on the County webpage and on each individual Supervisor's webpage via the Current Vacancies on Boards & Commissions listing. The Clerk's database will be updated when notified of a vacancy or when an appointee's term of office expires. The listing is updated and posted online when the Board of Supervisors' regular agenda is distributed, six days prior to the next scheduled meeting. The listing is also available to the public in hardcopy attached to the Board's agenda. Vacant and expired seats remain on the Vacancy listing until the seat is filled. We also encourage the Special Districts to advertise their vacancies as well, via their websites, newsletters, newspapers etc.
2. Each interested candidate will be instructed to complete and submit an Application for Advisory Appointment via the Office of the Clerk of the Board webpage. The Special District Board may submit nominees for appointment, by submitting a letter of recommendation and a copy of the nominee's application to the Clerk of the Board prior to the term expiration date. The completed application will be forwarded to all five Supervisorial District offices for consideration. Interested persons may submit an application for appointment at any time. Applications remain on file with the Clerk of the Board's Office for a maximum of two years from the date of receipt. Each individual Supervisorial District has their own process for reviewing applications, and vetting each candidate.
3. The District Office with the appointing authority will forward the nomination to the full Board of Supervisors for consideration. After approval by the Board of Supervisors, the Clerk of the Board will provide the new appointee with notification of the appointment, which will include the Oath of Office and Statement of Economic Interest Form 700 filing requirements. A copy of the appointment notification will also be provided to the Special District and the Registrar of Voters.
4. The Clerk of the Board will monitor the term expiration and will send a letter notifying the Board member, the nominating member of the Board of Supervisors and the Special District in advance of the term expiration. Once the term has expired, the seat will be placed on the Current Vacancies on Boards & Commissions listing and will remain on the listing until a new member is elected or the Registrar of Voters notifies the Clerk of the Board there were no qualified candidates submitted during the election process or there are seats unfilled because the numbers of eligible candidates are equal to or less than the number of available positions. The process will begin again to fill the expired seat.

# County of Santa Clara

## Registrar of Voters

1555 Berger Drive, Bldg. 2  
San Jose, CA 95112  
Mailing Address: P.O. Box 611360, San Jose, CA 95161-1360  
1(408) 299-VOTE (8683) 1(866) 430-VOTE (8683) FAX: 1(408) 998-7314  
www.sccvote.org



Date: September 10, 2013

To: Neelima Palacherla, LAFCO Executive Officer

From: Shannon Bushey, Interim Registrar of Voters

Subject: LAFCO's Special Districts Service Review Phase 1

In response to the Local Agency Formation Commissions (LAFCO) Special District Service Review, the Clerk of the Board (COB) and the Registrar of Voters (ROV) have reviewed and improved our processes for clarifying the appointment process for Special District Board members. The County Board of Supervisors appoints individual Special District Board members under three different circumstances: 1) The Board of Directors for certain Special Districts are appointed, by the Board of Supervisors rather than elected, as allowed under the Districts' enabling legislation or by resolution; 2) District Board members are appointed by the Board of Supervisors when an election is uncontested; and 3) District Board members are appointed by the Board of Supervisors when a mid-term vacancy on a District Board occurs. I understand that Lynn Regadanz has responded to the Service Review by providing you the processes for circumstances #1 and #3 above.

Circumstance #2 above: District Board members are appointed by the Board of Supervisors when an election is uncontested. The COB and the ROV have developed the attached guidelines for Special District Appointments in Lieu of Election and Appointments Due to Insufficient Candidates. The Guidelines specify the responsible party, tasks and the days prior to Election Day that the tasks are generally completed. Also, attached is a sample letter that the ROV will send Special Districts notifying them that there are unfilled positions due to an insufficient number of candidate(s) filing for office.

Please contact me at 1-408-282-3001 if you have any questions.

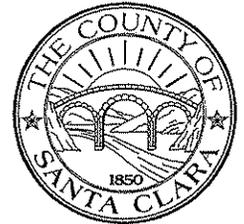
attachments



# County of Santa Clara

## Registrar of Voters

1555 Berger Drive, Bldg. 2  
San Jose, CA 95112  
Mailing Address: P.O. Box 611360, San Jose, CA 95161-1360  
1(408) 299-VOTE (8683) 1(866) 430-VOTE (8683) FAX: 1(408) 998-7314  
www.sccvote.org



Date

District Name

Secretary/Contact of District

Address

Address

Dear Secretary (name);

Elections Code Section 10515 (b) states, "If no person has filed a declaration of candidacy for any office, the supervising authority shall appoint any person to the office who is qualified on the date when the election would have been held. The person appointed shall qualify and take office and serve exactly as if elected at a general district election for the office".

This is to advise that as of the close of nominations, (one/two/three) position(s) on your Special District Board are still unfilled due to an insufficient number of candidate(s) filing for office. Under these circumstances, the Board of Supervisors is responsible for appointing qualified persons to Special District positions in which no qualified candidate filed during the nomination period.

In an effort to help solicit candidates for appointment to your District Board the Clerk of the Board of Supervisors will notice the vacancy by including it on the Vacany List posted on the County webpage and in hard copy attached to the Board of Supervisor's regular agenda. We encourage your District to advertise the vacancy as well.

All interested, qualified persons should be directed to complete the Application for Special District Appointment In-lieu of Election, which can be found on the County website at <http://www.sccgov.org/sites/bos/bnc/bnc-listing/Pages/default.aspx>. Applications must be forwarded to the Clerk of the Board of Supervisors at 70 W. Hedding Street, Attn: Records Unit, East Wing, 10<sup>th</sup> Floor, San Jose, CA 95110. Your District Board may submit nominees for appointment, by submitting a letter of recommendation to the Board of Supervisors for consideration. Please note, nominees must also complete an application.

When an application is and/or letter of recommendation is received by the Clerk's Office the document(s) will be forwarded to all five Members of the Board of Supervisors for consideration.

Upon appointment by the Board of Supervisors, the Clerk of the Board will send you Letter of Appointment, an Oath of Office, and Statement of Economic Interest Form 700, which should be completed and submitted to the Clerk of the Board within 30 days of your date of appointment. For questions related to the appointment process, please contact the Clerk of the Board, Records Unit at 1-408-299-5001 or at [recordsunit@cob.sccgov.org](mailto:recordsunit@cob.sccgov.org).

Thank you in advance for your continued cooperation. Please let me know if you have any questions.

Sincerely,

Shui Ling Chu  
Candidate and Public Services Division Manager

Cc: Lynn Regadanz, Clerk of the Board  
Michelle Woldridge, Executive Assistant, Registrar of Voters

County Of Santa Clara Registrar Of Voters  
Special District Appointments In Lieu Of Election And  
Appointments Due To Insufficient Candidates  
Guidelines

**Days Prior to  
Election Day**

**Responsible Party: Task**

- E135 – E113 Registrar of Voter's (ROV) Candidate and Public Services (CAPS): Executive Assistant (EA) on a flow basis receives copies of all resolutions from special districts to fill director or commissioner positions. For multi-county districts, only those controlled by Santa Clara County (districts with the majority of voters in Santa Clara County) need to be included in the transmittal. No Board of Supervisor appointments are made for cities or school districts.
- E-113 – E-83 Registrar of Voter's Executive Assistant (ROV EA): Drafts transmittal into a Word document from district resolutions. Edits transmittal as new information becomes available.
- E-87 – E-81 ROV EA: Prints from database, Election Information Management System (EIMS) the report showing all "Off Ballot" contests (Job CFMR001 and select "All Candidates", "Only Candidates NOT on Ballot" and "Qualified Candidates"). Determines, through confirmation with CAPS all districts where the number of qualified candidates is less than the number of candidates to be voted for (insufficient candidates).
- ROV EA: If there are insufficient candidates in special districts, inserts an additional item under "Recommended Action", "Reason for Recommendation" and/or "Background" that states the Board of Supervisors (BOS), according to their own process, will appoint qualified persons for positions with no qualified candidates in special districts under appropriate Supervisor with the majority of the voters in the district.
- E-81 – E-75 ROV EA: Creates ROV Certificate of Election Facts and Request for Appointment for every unfilled director or commissioner for which the number of eligible candidates are equal to or less than the number of available positions (use Job CFMR001).
- ROV EA: Creates BOS Resolution appointing unopposed positions, using the district's resolution information and EIMS Off Ballot Report for title of position (director or commissioner), names of unopposed candidates, for all seats in which the number of eligible candidates are equal to or less than the number of available positions.
- E-78 ROV EA: Calls Agenda Administrator to request that ROV be added to the Agenda for BOS meeting date to take place approximately 4-6 weeks before the election date, or approximately E-47. Provides Administrator with the desired date and "Subject" of the Transmittal, and a County Executive number will be assigned by the Administrator, which must be entered into Keyboard.

County Of Santa Clara Registrar Of Voters  
Special District Appointments In Lieu Of Election And  
Appointments Due To Insufficient Candidates  
Guidelines

ROV EA: Advises CAPS of Agenda Date.

E-78 – E-75 ROV EA: Requests proofing by designated staff for this task, complete transmittal including all attachments. Edit as needed.

E-78 – E-62 CAPS: Sends letter to each special district that has more open positions than qualified candidates, advising of the process to fill such positions. Send copies of the letter to the Clerk of the Board (COB), Records Unit.

E-75 – E-62 ROV EA: After approval by ROV and Assistant ROV (AROV) sends draft of Transmittal to CEO Principal Executive Advisor to the County Executive and County Counsel for review and approval.

ROV EA: Receives approval and finalizes transmittal in Keyboard.

E-62 – Dec 31 COB: Once letter from ROV is received, Records Unit updates the Commissions and Boards Online database and announces the vacancies by posting an updated Current Vacancies on Boards and Commissions listing to the County webpage and each Supervisorial Districts webpage. The listing is also made available to the public in hardcopy attached to the Board's agenda.

Interested candidates will access, complete and submit an Application for Special District (SD) Appointment In Lieu of Election posted on the Office of the Clerk of the Board webpage. A copy of each application is forwarded to the SD and to the Board of Supervisors (BOS) for consideration.

SD: May submit nominees for appointment, by submitting a letter of recommendation and a copy of the nominee's application to the COB prior to the term expiration date.

COB: Forwards the application and letters of recommendation, if submitted, to the Board of Supervisors for consideration. If a letter of recommendation is received with no application COB will follow up with SD.

BOS: Supervisor moves the nomination forward to the full Board for consideration.

COB: After approval by the BOS, COB sends letter of appointment to new Special District Board Member, Special District, ROV, and appointing Board of Supervisor Member. The letter will include the Statement of Economic Interest Form 700 filing requirements, and Oath of Office.

COB: Forwards originally signed Oath of Office to Clerk-Recorder for official filing. Updates CABO with completed Oath of Office.

# County of Santa Clara

Roads and Airports Department

AGENDA ITEM # 9  
Attachment C



101 Skyport Drive  
San Jose, California 95110-1302  
1-408-573-2400

September 20, 2013

Neelima Palacherla  
Executive Officer  
Local Agency Formation Commission of Santa Clara County (LAFCO)  
70 West Hedding, 11<sup>th</sup> Floor, East Wing  
San Jose, CA 95110

**SUBJECT: Implementation of the Recommendations from LAFCO's Special Districts Service Review for the Santa Clara County Lighting Service Area (CLSA) Special District**

Dear Ms. Palacherla:

Thank you for your letter of July 19, 2013, regarding LAFCO's Service Review of the Santa Clara County Lighting Service Area (CLSA) Special District. The Santa Clara County Roads and Airports Department ("Department"), as the administrator of the District, appreciates the general finding that "SCCLSA appears to be a well-run professional agency. No significant accountability, administrative, operational, financial, or infrastructure deficiencies were identified." The report identified two recommendations to improve the accountability and transparency of the District. As requested in your letter, this letter provides a written response to LAFCO regarding the Department's implementation plans for these recommendations and/or an explanation for any recommendation the Department does not plan to implement.

**Recommendation #1 – Website**

*"Include information on how to request service and assessment methodology for the different zones, rates and location/map of each benefit zone, budget and most recent assessment report."*

The Department concurs that implementation of this recommendation will benefit the public and increase transparency. As noted in LAFCO's report, the Department's website does include an on-line service request form for reporting streetlight problems and some basic information about the CLSA. The Department will augment the information provided on its website to include the information noted in LAFCO's recommendation, with a target implementation date of January 1, 2014.

**Recommendation #2 – Plans/Programs**

*“Establish a preventive maintenance program for streetlights, including periodic inspection of streetlights at night for lamp failures, defects, and periodic preventive maintenance inspection of streetlights.”*

The Department’s analysis (Attachment 1) indicates that periodic nighttime streetlight inspections would increase costs to CLSA ratepayers by \$75,000 but would identify only 25 or so streetlights needing attention that would not have already been reported. Given this very low benefit to cost ratio, the Department does not plan to implement this recommendation. The Department will continue to take steps to ensure service requests may be submitted easily, including posting stickers on the streetlight poles containing a pole identification number and a phone number and website address for submitting service requests.

With respect to the 296 County-owned CLSA streetlights, the Department concurs with the recommendation to establish a preventive maintenance program and plans to develop a asset management system that will help identify lights at or beyond warranted life expectancy to enable aging lights to be replaced prior to failure in an efficient, organized, and scheduled manner.

We appreciate the time extension to September 20, 2013 for our response to your letter to enable the Department to perform its analysis of the recommendations. Also, as you requested, a copy of LAFCO’s letter and the Department’s response is being sent to the Board of Supervisors, which is the Governing Board of the Santa Clara CLSA Special District. If you require any additional information about our response to LAFCO’s recommendations, please contact me at [michael.murdter@rda.sccgov.org](mailto:michael.murdter@rda.sccgov.org) or 408-573-2438.

Sincerely,



Michael Murdter  
Director

c: Governing Board of the Santa Clara County Lighting Service Area  
Jeff Smith, County Executive  
Sylvia Gallegos, Deputy County Executive  
Lynn Regadanz, Clerk of the Board

Attachments: (1) Department Analysis of Recommendation #2  
(2) Letter from Neelima Palacherla, LAFCO Executive Officer, dated July 19, 2013

## Attachment 1: Department Analysis of Recommendation #2

### *Lamp Failure Inspections Cost-Benefit Analysis*

As of Fiscal Year 2014, there are 1,311 streetlights in the CLSA inventory.<sup>1</sup> The costs for the operation and maintenance of these streetlights are paid for by tax assessments on the 7,922 parcels within the CLSA. In a typical year, the Department receives approximately 80 service requests for streetlight repairs (6.1% of the streetlight inventory). LAFCO's recommendation did not specify a recommended frequency for the periodic inspections; for the cost-benefit analysis, the Department assumed an annual inspection.

- **Costs:** Nighttime inspections will require two workers per vehicle at overtime rates as well as the vehicle operating and maintenance costs. The estimated cost of such an inspection is \$75,000 per year. The FY 2014 CLSA budget expenditures total \$305,000; adding \$75,000 in expenses would thus necessitate a 25% increase in assessment rates.
- **Benefits:** Current experience indicates that approximately 80 streetlights require bulb replacements or repairs per year, which is an average of seven lights per month. Streetlights fail throughout the year and are repaired as service requests are submitted. An annual inspection would identify only those streetlights for which no one has yet submitted a service request. Assuming that up to 30% of the service requests are delayed by several months because local residents do not notice the outage or take the time to submit a service request, an annual inspection would thus identify only 25 or so streetlights (2% of inventory) requiring bulb replacements or repair that would not have already been reported.

In summary, an annual inspection would increase costs to the 7,922 property owners by \$75,000 to identify only 25 streetlights needing attention that would not have already been reported. Given the very low benefit to cost ratio, the Department does not plan to implement this recommendation. The Department will continue to take steps to ensure service requests may be submitted easily, including posting stickers on the streetlight poles containing a pole identification number and a phone number and website address for submitting service requests.

### *Preventive Maintenance versus Failure Response for Lamps*

Of the 1,311 streetlights in the CLSA inventory, 1,105 (77%) are owned and maintained by PG&E, most of which are on wooden utility poles. The CLSA pays a monthly rate per light to PG&E that covers the costs of electricity and maintenance, including lamp replacement for failed lights. When service requests are received for these lights, the Department forwards them to PG&E and receives a response from PG&E when the repair is made.

The remaining 296 CLSA streetlights are County-owned and maintained by the Department. The CLSA pays PG&E for the electrical costs and reimburses the Department for the maintenance costs of the lights. A preventive maintenance program for the County-maintained lights is appropriate. The Department plans to develop an electronic inventory, embedded in the Department's MaintStar asset management system and linked with GIS layers and mapping to

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<sup>1</sup> LAFCO's Report was based on FY 2013 inventory and budget. The data in this letter is based on the FY 2014 inventory and budget, which reflect decreases due to city annexations.

annually review the age of the lamps, where known. Consistent data collection will generate the information over time. The Electrical Systems Manager will maintain the streetlight inventory and associated data and recommend preventive maintenance strategies. Rather than the existing random, scattered, single-light post-failure maintenance response, for example, over time preventive maintenance plans could be designed to move through geographically contiguous areas for quick and effective replacement.

With only 296 CLSA lights to be maintained, an ideal program might replace around 10% a year, creating a 10-year cycle (assuming such a cycle is appropriate for the current light technology). Thirty lights (and ballasts, if necessary) per year could be replaced annually - essentially the same level of effort as responding to failed lights - with the additional benefit that the lights are replaced prior to failure. The asset management program including the light inventory is already moving forward and much of the information is already electronically stored. The intent is to start the first preventive maintenance review and replacement in FY 2015.

#### ***Preventive Maintenance of Streetlight Infrastructure***

Streetlight infrastructure includes the poles, foundations, and wiring. PG&E is responsible for preventive maintenance of the lights they maintain, including inspections following their own policies and procedures.

For the County-owned and maintained lights, the Department currently replaces light fixtures when badly damaged and the poles when they are knocked down in collisions. However, the County-owned infrastructure will eventually exceed its useful life and will require replacement. The CLSA maintains a capital replacement budget reserve for this purpose. The Department will include the County-maintained CLSA streetlight infrastructure in the asset maintenance inventory under development, which will assist in identification of aging infrastructure that should be scheduled for capital replacement.



July 19, 2013

VIA EMAIL

Dawn Cameron  
County Transportation Planner  
Santa Clara County Lighting Service Area (SCCLSA)  
101 Skyport Drive  
San Jose, CA 95110

**Re: Implementation of the Recommendations of LAFCO's Special Districts  
Service Review: Phase 1 and Sphere of Influence Updates**

Dear Ms. Cameron:

As you know, LAFCO recently adopted the Special Districts Service Review: Phase 1 Report for six special districts in Santa Clara County, including the Santa Clara County Lighting Service Area (SCCLSA). The Report is available on the LAFCO Website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) under "What's New?" The Report identifies several opportunities and includes several recommendations for improving special district services in the county. Specifically, the Report provides recommendations for improving the accountability and transparency of districts through changes in their operations, management, and administration, and recommendations on potential governance structure alternatives, where applicable.

**District's Response is Requested**

In an effort to follow-up on these recommendations, LAFCO is requesting that SCCLSA:

1. Review the chapter of the Service Review Report pertaining to the District and provide a written response to LAFCO on how the District plans to implement the recommendation(s) presented in the Report and summarized in Attachment A, along with a time-frame for that implementation, and
2. Provide an explanation if the agency does not plan to implement a recommendation.

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70 West Hedding Street • 11th Floor, East Wing • San Jose, CA 95110 • (408) 299-5127 • [www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)

COMMISSIONERS: Pete Constant, Sequoia Hall, Margaret Abe-Koga, Linda J. LeZotte, Mike Wasserman, Susan Vicklund Wilson

ALTERNATE COMMISSIONERS: Johnny Khamis, Yoriko Kishimoto, Terry Trumbull, Cat Tucker

EXECUTIVE OFFICER: Neelima Palacherla

**Response Due No Later Than September 6, 2013**

Please provide a written response to LAFCO as soon as possible and **no later than September 6, 2013**. If you have any questions or concerns or would like to meet to discuss the District's plans, I can be reached at (408) 299-5127 / [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Assistant Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Lastly, I would like to thank you and the District for participating in LAFCO's Special Districts Service Review: Phase 1 and for your consideration and timely response to this request.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

**Attachment:**

- A. Recommendations for the Santa Clara County Lighting Service Area (SCCLSA)

**Cc:**

SCCLSA Board of Directors  
LAFCO Members

**SANTA CLARA COUNTY LIGHTING SERVICE AREA (SCCLSA)**

The following are recommendations that SCCLSA should implement in order to improve the accountability and transparency of the District:

**1. Website**

- a. Include information on how to request service and assessment methodology for the different zones, rates and location/map of each benefit zone, budget and most recent assessment report

**2. Plans/Programs**

- a. Establish a preventative maintenance program for streetlights, including periodic inspection of streetlights at night for lamp failures, defects, and periodic preventive maintenance inspection of streetlights



Noel, Dunia

**From:** Palacherla, Neelima  
**Sent:** Monday, September 09, 2013 3:34 PM  
**To:** Noel, Dunia  
**Subject:** FW: LAFCO service review recommendations

Neelima Palacherla  
Executive Officer  
LAFCO of Santa Clara County  
70 West Hedding Street San Jose CA 95110  
Ph: (408) 299-5127 Fax: (408) 295-1613  
[www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)

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**From:** Saratoga Cemetery District [<mailto:saratogacemetery@sbcglobal.net>]  
**Sent:** Monday, September 09, 2013 2:02 PM  
**To:** Palacherla, Neelima  
**Subject:** LAFCO service review recommendations

Hi Neelima

1. Website - The District will not be posting its Board Policies and Administrative Regulations on the website, they are too voluminous (even the company doing the review commented that they were too voluminous) and it would be too expensive. If the public needs to see the policies concerning the minutia of our operations they can do so with a records request.

2. Still waiting clarification on what reserve fund this item refers to.

3. a) The District periodically reviews rates and will continue to do so. Our rates are lower than other area cemeteries because we are partially tax supported and our mandate in the Health and Safety Code it to "provide for respectful and cost-effective interments". The land acquisition and capital improvements fund receives the largest portion of revenue collected from our clients. Unspent general fund revenue is also transferred to this fund.

b) We have reviewed the endowment fund and determined that our fees are adequate. Endowment fees are the one fee where our rates are higher than other Public Cemetery Districts and non-district cemeteries.

Cordially,  
Gary T.S. Reed  
General Manager

Saratoga Cemetery District  
Madronia Cemetery  
14766 Oak Street  
Saratoga CA 95070

408-867-3717

408-867-3818 Fax

[www.madroniacemetery.com](http://www.madroniacemetery.com)

May 14, 2013

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

**RE: Implementation of the Recommendations of LAFCO's Special Districts Service Review:  
Phase I**

Dear Chairman Wasserman and Members of the LAFCO of Santa Clara County:

The Rancho Rinconada Recreation and Park District Board of Directors reviewed the recommendations of LAFCO's Special Districts Service Review and approved this letter in response.

We appreciate the guidance given to Rancho and will continue to strive for the highest standards in good governance. Rancho Rinconada Board of Directors and the District Manager have been working to implement LAFCO's recommendations through the following actions:

**1. Addressed through strategic plan**

*Prepare business plan for next 3 to 5 years*

We expect the strategic plan to be prepared by the end of June 2014.

*Adopt a multi-year capital improvement program*

The groundwork for a capital improvement plan is in July's manager's report. The capital improvement plan will be fleshed out as part of the strategic plan.

*Define and designate reserves for contingencies and capital needs separate from the operating cash balance*

This item will be addressed as part of the capital improvement section of the strategic plan.

*Thoroughly track use of the pool (public swim, lap swim, lessons, and swim team)*

We have been going through a thorough overhaul of our filing and recording systems. Finding, troubleshooting, and implementing a suitable and inexpensive system will require more time. We expect to have a good system up and running within the next year.

***Conduct recreation needs assessment and assess current use of facility***

Our current tracking systems are inadequate to easily, cheaply, and accurately assess our current use. As mentioned in the previously, we are moving to a system where we can easily collect and analyze usage data. This will likely roll out of the next year and a half after we have completed modernizing our systems

***Develop and adopt goals, objectives, and performance measures***

The strategic plan will have specific short and long term objectives with performance based on how successfully and quickly the plan is implemented.

**2. Already Addressed**

***Adopt a policy on expense reimbursements***

Policy 4025, which covers expense reimbursement, was passed on July 9th.

***File copy of annual budget with County Auditor, as legally required***

This item was already filed with John Cruz from the county on June 14th. We will continue to do so.

***Advertise in newspapers and mail information to residents re: Board vacancies and District's services***

The next board election is one and a half years away and will be advertised thoroughly when the time comes.

***Consider conducting a fees survey of similar service providers and charging higher rates for non-residents***

Fee survey was conducted in the Spring and we began charging higher rates for non-residents and residents alike starting June 1st. The increases ranged from 25% to 375%. As such, another increase would cause widespread discontent with our patrons. We would ideally like to wait at least 1 or 2 years to implement another increase. The fee increases will be reviewed annually and will be added to the strategic plan.

We appreciate the recommendations outlined in the 2013 LAFCO Special Districts Service Review, and will do our part to ensure that they are carried out with transparency, accountability, and efficiency.

Sincerely,



Miriam Salo, President

Rancho Rinconada Recreation and Park District

**LAFCO MEETING:** October 2, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** UPDATE ON SPECIAL STUDY ON THE IMPACTS OF THE POTENTIAL DISSOLUTION OF THE SARATOGA FIRE PROTECTION DISTRICT AND ANNEXATION OF ITS TERRITORY TO SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

### **STAFF RECOMMENDATION**

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Accept report and provide direction as necessary.

### **BACKGROUND**

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In March 2013, LAFCO contracted with Economic & Planning Systems (EPS) to conduct a study on the impacts of the potential dissolution of the Saratoga Fire Protection District (SFD) and annexation of its territory to the Santa Clara County Central Fire Protection District (CCFD), including a detailed analysis of the cost savings and fiscal impacts. The study will be used to inform LAFCO's decision on whether or not to initiate dissolution of the SFD and annex its territory to CCFD.

In mid-July, LAFCO staff contacted SFD in order to arrange a meeting between Richard Berkson of EPS and SFD regarding the study. However, due to scheduling issues, a meeting could not be immediately arranged. On July 26, 2013, LAFCO staff forwarded a data request from Mr. Berkson to SFD. The consultant requested that the District respond by August 14<sup>th</sup>.

On July 30, 2013, LAFCO staff received a letter (Attachment A) from Harold S. Toppel, SFD's Legal Counsel, requesting certain documents pursuant to the California Public Records Act (PRA) and stating that the District will begin working on a draft response to EPS's request and that this draft will be considered by the entire Board at its regular meeting on August 20, 2013 and then the response will be finalized and furnished to EPS and LAFCO shortly thereafter. In response to LAFCO staff's request to set-up a date and time for Mr. Berkson to meet with SFD in order to ask follow-up questions, Mr. Toppel suggested that such a meeting occur at the District's September 24, 2013 meeting.

In August 2013, LAFCO staff responded to the SFD's PRA request. On September 11, 2013, Mr. Berkson received the requested data from the District. On September 12, 2013,

LAFCO staff received a second letter (Attachment B) from Mr. Toppel, requesting additional documents pursuant to the PRA and requesting LAFCO's legal interpretation of various provisions as it relates to protest percentages and the dissolution process. On September 23, 2013, LAFCO staff responded to the SFD's second PRA request. LAFCO Legal Counsel and Executive Officer Palacherla are in the process of preparing a response regarding the legal questions posed by Mr. Toppel. It is anticipated that preparing a complete and thoughtful response will take some time.

Mr. Berkson attended SFD's September 24<sup>th</sup> Board meeting in order to collect additional information from the District for the study. Mr. Berkson also met with representatives of the CCFD on September 24<sup>th</sup> in order to collect additional information for the study. LAFCO staff attended both of these meetings.

### **NEXT STEPS**

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Mr. Berkson will compile the data for the study and provide it to SFD for their internal review and comment in order to ensure factual accuracy. EPS will then prepare a Report which will be available for public review and comment in late December or early January. LAFCO will hold a public hearing on the Report in early February 2014 (date will be determined at the December 2013 LAFCO meeting).

### **ATTACHMENTS**

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Attachment A: July 30, 2013 Letter from Harold S. Toppel, Atkinson & Farasyn

Attachment B: September 12, 2013 Letter from Harold S. Toppel, Atkinson & Farasyn

**ATKINSON • FARASYN, LLP**  
ATTORNEYS AT LAW

**AGENDA ITEM # 10**  
**Attachment A**

REPLY TO:  
HAROLD S. TOPPEL

660 WEST DANA STREET  
P.O. BOX 279  
MOUNTAIN VIEW, CALIFORNIA 94042  
TELEPHONE (650) 967-6941  
FACSIMILE (650) 967-1395

J.M. ATKINSON (1892-1982)  
L.M. FARASYN (1915-1979)

July 30, 2013

Neelima Palacherla  
Executive Officer  
Santa Clara County LAFCO  
70 West Hedding Street  
11<sup>th</sup> Floor  
San Jose, CA 95110

Re: Saratoga Fire Protection District  
Request for Public Records

Dear Ms. Palacherla:

I have today received a copy of the Transmittal to you from Richard Berkson, the consultant hired by LAFCO to perform the fire district study, requesting certain information and documents from the Saratoga Fire District ("SFD"). Although a request was made by the SFD in December of 2011 that LAFCO provide us with a copy of the consultant proposals, qualifications and contracts for the fire district study, this was never done. We were not aware of the identity of the consultant until your email to Trina Whitley after the close of business on July 26, 2013. Consequently, we are now making a formal public records request for documents that we wanted to obtain at an earlier point in time. Pursuant to the California Public Records Act, a request is hereby made on behalf of the Saratoga Fire Protection District that each of the following records be provided:

1. Request For Proposals sent to Economic & Planning Systems Inc. ("EPS") together with all attachments.
2. Proposal submitted to LAFCO by EPS in response to the RFP, including any exhibits, attachments, or enclosures.
3. Any statement or description of qualifications and background of Richard Berkson and other personnel of EPS who will be working on the study, if not already included as part of the Proposal.
4. All staff reports to the Commission pertaining to the fire district study and recommendation for award of a contract to EPS.

5. Contract between EPS and LAFCO for performance of the fire district study, including all attachments and amendments thereto and a certified copy of the resolution adopted by LAFCO approving such contract.

6. Any schedules established by LAFCO or EPS for performance of the study or conduct of proceedings for dissolution of the SFD.

7. All written communications between any representative of LAFCO and any representative of EPS pertaining to the fire district study, whether before or after award of the contract, including electronic communications.

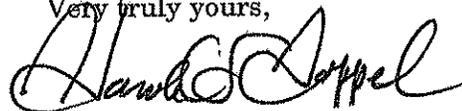
Please respond to this request within 10 days to confirm that the documents will be provided and advise as to the arrangements needed to obtain copies thereof.

This matter has been pending before LAFCO literally for years (notwithstanding our repeated requests for the proceeding to be discontinued). Yet the District now receives an extensive list of information and documents desired by EPS with a delivery date of only two weeks. This deadline is unreasonable, unrealistic, and will not be met. Moreover, it is unclear from the EPS Transmittal whether the consultant even intends to personally meet with the District Board. We trust that such is not the case since a failure to engage in a full dialogue with the District on an issue as critical as dissolution would render the study, in our opinion, legally flawed and fatally defective.

The SFD will respond to the request for information in accordance with the following timeline: The District staff and members of the Board will begin working on draft responses and this draft will be considered by the entire Board at its regular meeting on August 20, 2013. We would hope by that time to also have the public records from LAFCO requested above for review and consideration by the Board. The responses will then be finalized and furnished to the EPS and LAFCO shortly thereafter. The Board would expect Mr. Berkson to attend the next regular Board meeting, which is scheduled for September 24, 2013, to ask any questions he may have and also to respond to questions from the Board concerning the proposed fire district study.

The District's time frame described above may push back the EPS schedule but we will not be rushed into a process that may lead to a dispute over the continued existence of the SFD and quite possibly to litigation between the SFD and LAFCO. It should be clear to you by now that the District considers this proceeding to be an attempted hostile take-over of the Saratoga Fire District by LAFCO and we will oppose this process with all legal and political actions that may be appropriate.

Very truly yours,



Harold S. Toppel  
District Counsel

Neelima Palacherla  
July 30, 2013  
Page 3

cc: SFD Board of Directors  
Trina Whitley  
Richard Berkson



**ATKINSON • FARASYN, LLP**  
ATTORNEYS AT LAW

REPLY TO:  
HAROLD S. TOPPEL

660 WEST DANA STREET  
P.O. BOX 279  
MOUNTAIN VIEW, CALIFORNIA 94042  
TELEPHONE (650) 967-6941  
FACSIMILE (650) 967-1395

J.M. ATKINSON (1892-1982)  
L.M. FARASYN (1915-1979)

September 12, 2013

Neelima Palacherla  
Executive Officer  
Santa Clara County LAFCO  
70 West Hedding Street  
11<sup>th</sup> Floor  
San Jose, CA 95110

Re: Saratoga Fire Protection District  
Dissolution Process and  
Public Records Request

Dear Ms. Palacherla:

In response to your recent email concerning the various documents and information requested by Richard Berkson in advance of his meeting with the Saratoga Fire Protection District ("SFD") scheduled for September 24, 2013, I am advised that these documents and responses to his question were sent to him by Trina Whitley earlier this week. We have some questions of our own concerning the dissolution process and we think it would be helpful for you to address these issues before the consultant meets with the SFD Board. Since they mostly involve legal issues, I am taking the liberty of sending a copy of this letter to your legal counsel, Malathy Subramanian. The questions are as follows:

**A. ANNEXATION TO COUNTY CENTRAL FIRE PROTECTION DISTRICT**

Is it the position of LAFCO that it has the legal authority to *initiate* an annexation of the territory of SFD to the Santa Clara County Central Fire Protection District (CCFD) if SFD is dissolved? If so, what section(s) of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("the Act") confer such authority upon LAFCO? If, on the other hand, your conclusion is that LAFCO does not have legal authority to initiate an annexation, how do you expect this action to be initiated? Has the Santa Clara County Board of Supervisors, acting as the governing body of the CCFD, or any of its representatives, indicated a willingness (or unwillingness) to file a petition for annexation?

Please consider this letter as constituting a request for the public records described below, or an indication from LAFCO that there are no records matching a particular description in your possession.

1. All correspondence, including electronic mail but excluding privileged attorney-client communications, from January 1, 2010 to the present, between any representative of LAFCO and any representatives of either the County of Santa Clara or the CCFD concerning dissolution of SFD or annexation of the SFD territory to CCFD.

2. Any petition for annexation of the SFD territory to CCFD, whether in draft or final form and whether or not filed with LAFCO.

3. Any resolution or record of motion adopted by the County Board of Supervisors, whether acting as the governing body of the County or the governing body of the CCFD, relating to the dissolution of SFD or annexation of its territory to CCFD.

**B. LEGAL INTERPRETATION OF GOV. CODE §56881**

In its Proposal to conduct the Special Study, EPS indicated an intent to consult with LAFCO legal counsel regarding the definition of "promote" in Govt. Code Section 56881(b)(2), which requires a finding that the change of organization "...promotes public access and accountability for community services needs and financial resources." Has the LAFCO legal counsel rendered an opinion to EPS on this language? If so, please provide us with a copy.

We believe the required finding is clear and unambiguous and no special interpretation is required. The word "promote" is defined in Webster's dictionary as including: to advance; to change to a higher rank; to help something happen, develop or increase; to contribute to the growth or prosperity of; and to help bring into being. The word is synonymous with: advance, elevate, raise, upgrade, and improve. The statute does not say that existing public access must be preserved or "substantially similar," as used in the finding relating to public service costs in paragraph (b)(1) of §56881. If the Legislature intended equivalency in paragraph (b)(2), it would have said so. Instead, the Legislature clearly intended that the change of organization must result in a noticeable *improvement* in public access and accountability beyond the existing status quo. Does LAFCO agree with this interpretation?

**C. PROTEST PERCENTAGES**

It has consistently been the position of SFD that a dissolution ordered by LAFCO will require voter approval if protests are submitted by at least 10% of the voters within the district. Some time ago, I requested LAFCO to acknowledge this percentage but received no response. However, I believe the amendments to the Act which became effective in 2013 should now resolve any questions LAFCO might have concerning the applicable percentage. Section 57077.1(b)(3) requires a LAFCO dissolution order to be confirmed by the voters where the proposal was initiated by the commission and written protests have been submitted that meet the requirements of Section 57113. Section 57113(a) provides that in the case of inhabited territory, confirmation by the voters will be required if protests have been signed by either: (1) at least 10% of the landowners who own at least 10% of the

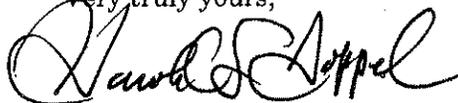
assessed value of land within the district; or (2) at least 10% of the voters within the district entitled to vote.

The recent amendments did not change Section 57078 of the Act, which still requires that the dissolution proceeding be terminated entirely, without an election, if protests are submitted by 50% of the voters in the district.

I will again request LAFCO to acknowledge its agreement with the foregoing percentages. If it is your position that some other percentage for protests is applicable to trigger an election, please provide the legal basis in the Act for this position. If LAFCO intends to continue the dissolution process, we should at least be operating under the same procedural rules.

I look forward to your responses to these questions.

Very truly yours,



Harold S. Toppel  
District Counsel

cc: Malathy Subramanian  
SFD Board of Fire Commissioners  
Richard L. Berkson  
Trina Whitley

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**LAFCO MEETING: October 2, 2013**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Analyst**  
**SUBJECT: EXECUTIVE OFFICER'S REPORT**

### **11.1 UPDATE ON ELECTRONIC AGENDA PACKETS FOR LAFCO**

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#### **For Information Only**

On June 5, 2013, LAFCO adopted policies related to the use of LAFCO issued electronic devices, such as iPads, in order to address potential issues associated with the use of this technology and equipment. LAFCO also authorized the purchase of iPads for LAFCO staff and interested commissioners to be used for accessing electronic agenda packets and other LAFCO meeting material, as necessary. Electronic LAFCO agenda packets will be less costly and will allow for a more efficient and environmentally friendly agenda distribution process.

In mid-June 2013, three iPads were ordered and received for LAFCO staff's use. Since that time, LAFCO staff has become familiar with the process for accessing electronic agenda packets on the device. In late August 2013, staff surveyed commissioners to determine if they would like staff to purchase a LAFCO issued iPad for their use in accessing electronic agenda packets and other LAFCO meeting materials. In response, staff ordered iPads for Commissioners LeZotte, Khamis, Trumbull and Wilson. Commissioners Constant, Hall, Kishimoto, and Abe-Koga stated that they will use their own devices to access electronic agenda packets. Commissioners Chavez, Wasserman, Tucker, and Yeager indicated that they want to receive a paper copy of the agenda packet and do not want a LAFCO issued iPad. Therefore, eight out of twelve commissioners have indicated that they will use an electronic device (either a LAFCO issued iPad or their own device) to access electronic agenda packets. Commissioner Wilson has requested to receive a paper copy of the next two agenda packets in order to help her transition to using a LAFCO issued iPad to access the electronic agenda packets.

Once staff receives the iPads ordered for the four commissioners, staff will prepare them for each commissioner's use and provide training on the process for accessing/downloading the electronic agenda packets. Should additional commissioners wish to transition from paper agenda packets to electronic agenda packets in the future, they should contact staff.

## **11.2 REPORT ON THE 2013 CALAFCO ANNUAL CONFERENCE**

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### **For Information Only**

LAFCO staff and Commissioner Constant attended this year's CALAFCO Annual Conference which was held in North Lake Tahoe from August 28<sup>th</sup> through August 30<sup>th</sup>. The annual conference provides an opportunity for LAFCOs across the state to share some of their best practices and learn new techniques and approaches from other LAFCOs.

Commissioner Constant was a panelist for a general session entitled "LAFCO Today and Tomorrow" and discussed how Santa Clara LAFCO is using service reviews as a tool for providing greater oversight of local agencies.

Commissioner Wilson received the 2013 CALAFCO Lifetime Achievement Award in recognition of her many contributions and dedicated service to LAFCO and CALAFCO over the last 18 years. The award was accepted by Commissioner Constant on Commissioner Wilson's behalf.

The program for the first day of the conference included a mobile workshop on the history of the Tahoe region and the challenges of community development in an area of great beauty and environmental sensitivity; a session on LAFCO basics; a general session entitled "LAFCO- Through the Years"; a general session entitled "CEQA Reform and California General Plan Updates"; and commissioner and staff roundtable discussions organized by region.

Thursday's program included general sessions on "California's Liquid Gold: What are the Prospects"; "Ethics, Ethics Law and the Fair Political Practices Commission (FPPC): The Good, the Bad, and the Ethical"; and "Rosenberg's Rules of Order for Commissioners"; and breakout sessions on "Land Use Patterns: Current Conditions and Future Trends"; "California's Health Care Districts Without Hospitals: Challenges and Opportunities"; "Breaking Up is Hard to Do: Commission-Initiated Consolidations, Dissolutions, and Mergers"; "The Governor's Office of Planning and Research and What it Means to LAFCOs in 2013"; and "Being an Effective Legislative Advocate: A Look from the Inside Out." Friday's program included a Legislative Update from representatives of the CALAFCO Legislative Committee.

Lastly, please see the attached letter (Attachment A) from CALAFCO thanking LAFCO for allowing commissioners and staff the opportunity to attend the 2013 CALAFCO Annual Conference and congratulating Commissioner Wilson on her award.

### **ATTACHMENT**

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Attachment A: Letter from Pamela Miller, CALAFCO Executive Director, dated September 3, 2013.

2013-2014  
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3 September, 2013

Santa Clara LAFCo  
70 W. Hedding St., 11th Floor  
San Jose, CA 95110

Dear LAFCo Chair and Commission:

On behalf of the California Association of Local Agency Formation Commissions (CALAFCO), I would like to thank your commission for allowing some of your members and staff the opportunity to attend the CALAFCO 2013 annual conference.

We know how lean budgets and resources are, and understand that prioritizing expenditures can be difficult. Ensuring you and your staff have access to ongoing professional development and specialized educational opportunities, allows all of you the opportunity to better serve your commission and fulfill the mission of LAFCo. The sharing of information and resources among the LAFCo commissioners and staff statewide serves to strengthen the LAFCo network and creates opportunities for rich and value-added learning that is applied within each LAFCo.

On behalf of the CALAFCO Board of Directors, I would like to congratulate Susan Vicklund Wilson on receiving the 2013 CALAFCO Lifetime Achievement Award.

Thank you again for your participation in the CALAFCO 2013 annual conference. We truly appreciate your membership and value your involvement in CALAFCO.

Yours sincerely,



Pamela Miller  
Executive Director



August, 2013

## ANNUAL CONFERENCE EDITION

2013 Report to the  
Membership

Thoughts on LAFCo  
Golden Anniversary from  
the Founding Fathers of  
LAFCo

The Future of  
Annexations and  
Incorporations

Message from the Chair:  
CALAFCO  
remains strong

Remembering a Friend:  
Bill Davis



## LAFCo Report Card – Are We Meeting the Legislative Intent?

BY BEVERLY BURR, BURR CONSULTING (LOU ANN TEXEIRA, CONTRA COSTA LAFCO, CONTRIBUTOR)

The 2001 CKH Act brought a new requirement to LAFCos of conducting municipal service reviews (MSRs). Twelve years have passed as LAFCos have busily worked on MSRs. Excellent timing for asking the big questions: how well have we LAFCos done in meeting the legislative intent behind the MSR requirement? What barriers and constraints are we facing in the implementation?

The Commission on Local Governance for the 21<sup>st</sup> Century and the Little Hoover Commission laid the groundwork for the MSR requirement in the late 1990s. Three over-arching objectives they envisioned were:

*Knowledge* – enhancing LAFCo legitimacy, power and wisdom by gathering and analyzing information on the local agencies whose boundaries LAFCos oversee;

*Accountability* – promoting accountability, particularly among special districts, by day-lighting service and financial information, and enhancing LAFCo oversight of agencies rarely in the spotlight;

*Efficiency* – improving and modernizing service delivery by reorganizing agencies with outdated boundaries or structures.

Looking strictly by the numbers, LAFCos have certainly succeeded on the knowledge front. A review of the LAFCo websites shows that half of the LAFCos have completed at least one cycle of MSRs and SOI updates for all cities and special districts under their jurisdiction. Another 19 percent of LAFCos have nearly completed their first cycle, typically with a few MSRs or SOI updates yet to complete. A quarter of the LAFCos are partly done with their first cycle; mostly LAFCos with relatively small budgets, these have prioritized review of cities and districts providing “backbone” services like fire protection and water. The status at the remainder could not be readily discerned from their respective websites. Best practices we noted were those LAFCos with annual progress reports indicating those MSRs completed, pending and planned. Impressive efforts at some LAFCos showed published charts with their plans for MSRs and updates over the next 5-7 years.

Have LAFCos succeeded substantively on the knowledge objective? Mostly yes, but there is more to learn.

*Continued on page 12*

# The Sphere

*CALAFCO Journal*

August 2013

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

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

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

1215 K Street, Suite 1650  
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916-442-6536

[www.calafco.org](http://www.calafco.org)

## FROM THE CHAIR OF CALAFCO

This has been an exciting year for the CALAFCO organization, and it's an honor to serve as your Chair. This year we celebrate the 50<sup>th</sup> anniversary of the creation of LAFCo. The founding fathers of LAFCo, Assemblymember John T. Knox and Senator Eugene T. Nisbet, had the courage and vision necessary to ensure orderly growth and the preservation of precious agricultural and open space land through the creation of the Knox-Nisbet Act. While the original Act has evolved since 1963, its fundamental principles remain intact. This year during our annual conference, we are pleased to commemorate the golden anniversary of LAFCo.

This year was also a time of transition and change for CALAFCO, with our new Executive Director Pamela Miller taking the lead supported by our new Executive Assistant and Registrar Jeni Tickler. Pamela has done an excellent job leading CALAFCO and has faced the challenges of learning the legislative process and all of the CALAFCO systems, policies and procedures head-on and with professionalism. She had some big shoes to fill and has done a good job for the organization. As incoming Chair at the same time she joined CALAFCO, I have had the pleasure of working together with her, leading the organization during this very special time.

In February of this year the CALAFCO Board held its biennial strategic planning retreat at which we acknowledged the many accomplishments of CALAFCO during the past two years. We focused on the many positive outcomes of the regional structure and reaffirmed our commitment to the organization as Board members. Our new two-year strategic plan reflects the high ideals and principles on which CALAFCO



**Ted Novelli**  
Chair, CALAFCO  
Board of Directors

was founded. We remain focused on serving our membership by creating value for our member LAFCos and all Associate members. CALAFCO remains strong financially, and we had an outstanding fiscal year in 2012/2013. We continue to be recognized as a premier state association dedicated to providing information regarding cities and special districts, not only for the Legislature but also for cities, special districts and the public.

Agencies throughout the state are still struggling with a difficult economy, and looking to the future, one of the biggest challenges I see LAFCos facing is dealing with agencies that are struggling to provide quality public services. Performing strong Municipal Service Reviews and identifying alternative service delivery options for these agencies will be critical to the role of LAFCo.

Looking to the next 50 years, the role of LAFCo in regional planning will become even more important. It is estimated that each year 30,000 acres of farmland are lost in California. With an estimated population growth in the state of 19 percent by 2030, the delicate balance of managing growth and maintaining the preservation of valuable ag and open space land will be challenging. I believe LAFCos throughout the state are up to that challenge.

Again, thank you for the opportunity to serve as your Chair this year. CALAFCO remains a strong and viable organization and I am proud to be a part of it.

*Ted Novelli*

FROM THE EXECUTIVE DIRECTOR

# First Year Reflections



**Pamela Miller**  
Executive Director



It's been said that people learn best by doing. I would say that it is not so much in the doing that we learn; rather it is through the reflection of the experience where insights and learning are generated. As I complete my first year as your Executive Director, I find myself reflecting on the year's experiences – and what a year it's been!

As CALAFCO Chair Ted Novelli writes, this has been an exciting year for the Association. Change and transition are interesting things – they can be both exhilarating and challenging, cause excitement and apprehension, and always create the opportunity for growth. Who would have thought 50 years ago that today we would be celebrating the 50<sup>th</sup> anniversary of the creation of LAFCo, and that the original legislation that did so would go through several reiterations to be improved and strengthened? This significant milestone is possible because of vision, strength in purpose, and a deep-rooted desire for continuous improvement.

Reflection is the window of opportunity for continuous improvement. Just ask John Knox, Eugene Nisbet, Dominic Cortese, and Robert Hertzberg – they'll tell you.

When the CALAFCO leadership baton was passed to me, the organization was in

strong shape – and it remains so today. The change in leadership brought excitement and apprehension – what will the transition be like? How will things work out? What will be different? What does all of this change mean?

Like any other change event, the acknowledgment of the organizational loss was important to being able to move forward. Knowing there were big shoes to fill, I wore my track shoes and hit the ground running. There's been both much to learn as well as much to offer, and each day is a new opportunity for both.

This organization has a deep pool of strong resources – as diverse in their strength as California is as a state. It is amazing to see those resources in action. From the Board of Directors to the Legislative Committee, to the Executive Officers, legal counsel and LAFCo staff to the Commissioners – everyone brings his or her own set of diverse strengths, capacities and perspectives to the table. And we are fundamentally connected with the passion of public service and the desire to not just simply fulfill the LAFCo mission – but to continually improve the way in which we do that...not at all unlike the evolution of the original Knox-Nisbet Act.

So what did this organizational change mean? If one has to “assign” a meaning, I suppose it could be that change is a natural part of the life cycle of any organization. Change is inevitable and from it none of us is immune (I am reminded of that each day when I look in the mirror). The real question is – how will we continue to grow from change?

Not losing sight of the vision, maintaining strength in purpose, and persevering in the quest of continuous improvement is a good place to start. Knowing that, adapting to and growing with change can create far better outcomes than resisting and fighting change. While none of us has a crystal ball to predict the future, using visionary capabilities, adaptive leadership skills, and being willing to take some risks – just like the founding fathers of LAFCo did – will help us lead our organizations and agencies into the opportunities of tomorrow.

I would like to thank the membership for your support during this my first year as your Executive Director. It is with a deep sense of gratitude and appreciation that I reflect on the past year's challenges, and look forward to the opportunities of tomorrow.

*Pamela Miller*

## Thoughts From the Founding Fathers of LAFCo

*We are honored to share thoughts on the 50<sup>th</sup> anniversary of LAFCo from the founding fathers of the legislation that created LAFCo and those who have helped improve it through the years. CALAFCO deeply appreciates their contributions. Articles appear herein as written without edits. Unfortunately we were unsuccessful in our attempts to reach a member of the Nisbet family for their thoughts.*

## Reflecting on LAFCo

By John T. Knox

It would have seemed highly unlikely – some fifty years ago – that a second term



Assemblyman from Richmond would play a significant role in creating and in nurturing California's Local Agency Formation Commissions. It would have seemed especially unlikely in view of the fact that the assemblyman in question had never served on a city council, a board of supervisors, or had been otherwise active in local government.

I was that Assemblyman. And, although I didn't realize it at the time, fate seemed to have selected me to play a role in LAFCo's creation and subsequent development.

The first step in this unlikely story was undoubtedly the election of Jess Unruh as Speaker of the

California Assembly beginning with the 1963 legislative session.

Unruh assumed leadership of a very traditional state legislative body. It met in general session for a six month period every other year. Its members were virtually all "part time" (i.e., they had to support themselves and their families with gainful employment in their home districts). The idea that it might initiate major state policies wasn't part of its institutional culture. And, in fact, it lacked the time and the staff resources to do so. Major policy initiatives invariably came from the Governor – and the legislature dutifully added a few "tweaks."

Unruh, however, had a vision of a different, proactive institution – one with the resources and ability to initiate and enact its own policy initiatives.

To this end, he chose as his committee chairs individuals who, he felt, were capable of initiating and following through with new policy initiatives.

So it was that I found myself, a local government neophyte, designated as the new chair of the "Municipal and County Government Committee" – an individual with no previous in-the-trenches local government experience – but also with no preconceived biases.

Concurrent with this new organization and focus in the Assembly, there was important activity in the Governor's office.

In the 1962 election Governor Pat Brown had decisively defeated Richard Nixon to win his second term, and he too had a vision. He and his advisors were very mindful of California's rapid growth – the rate of which was projected to increase even more rapidly in the coming decades. (During his first term, for example, the California Water Project had been authorized and

work had begun on the "Master Plan for Higher Education".)

In the local government area, academics and other thoughtful analysts were warning about the consequences of haphazard growth.

Brown had even appointed a special "Blue Ribbon Commission" to review the issue. Among the recommendations in the Commission's final report was to create a state level commission that would have "quasi-judicial" power to approve formations of, and annexations to, cities and districts.

Brown decided to proceed with this recommendation. His staff drafted two bills and sought out authors – one Assembly author and one Senate author.

One bill would have established a state-level Local Agency Formation Commission to review proposals for new cities and districts. A second bill would have established a Local Agency Annexation Commission in each county to review city and district annexations. The reasons for the state commission-local commission dichotomy were never really explained but did have significant consequences.

Moreover, in seeking authors for this legislation, Brown preferred to avoid long serving legislators who might be too closely tied to the status quo.

As the new chair of the Assembly committee, I seemed to meet his criteria and he asked me to author the Local Agency Formation bill.

(And, so the project began. It wasn't a "made in the Assembly" product that fully realized Unruh's vision of a proactive Assembly, but it was a good first step in generating wholehearted cooperation between the Governor and the Legislature.)

The initial reaction to my bill was a bit unexpected. CSAC (at that time known as the County Supervisors Association of California) was almost apoplectic. They were outraged that a state commission would make decisions about issues that they felt were a matter of county "Home Rule." Their opposition was so effective that, as I counted the votes within my committee, I discovered that I didn't have enough votes to move the bill out!

Serious meetings with the Governor's staff ensued. In the end it was Senator Nisbet's bill that provided a solution. CSAC had no real objection to the bill for local commissions – because county supervisors (and city council members) would be members of the local commissions – a sufficient acknowledgment of "Home Rule." I suggested that my bill be recast to mirror the Senate bill.

The result: my bill was rewritten to create local *formation commissions* with the same membership as Senator Nisbet's annexation commissions. The two bills were linked together to provide that, if both bills passed, only one commission would do both jobs.

With those revisions both CSAC and the League of Cities became supporters of the bills. Even in those days, however, these two organizations were scarcely monoliths – and individual cities and counties reserved the right to lobby their local legislators about their reservations. And, many did.

In the 1960s, there were few caucus positions on these types of issues – especially local government issues. Member-by-member contact was necessary to persuade, cajole, etc. to secure the necessary votes. To be sure, the Governor's staff weighed in, but the Governor also had other

issues that were important to him. So – there was a limited amount of political capital that he could spend.

Both CSAC and the League, however, honored their commitments of support and worked diligently to line up votes. Without their support – in committee and on the floor of each house – the outcome might well have been different.

The improbable story only began with the passage of the original 1963 legislation. LAFCo was a new institution and the initial members and staffs had to develop the procedures and regulations that would allow this new institution.

These individuals had to discover what would work well – and what wouldn't.

I joined in. The new agency was my "baby," and I wanted it to succeed. I met with LAFCo representatives to draft follow-up legislation that fine-tuned the original bills. These began with a bill that replaced the awkward two statutes to a single statute – and followed on in 1965 with the District Reorganization Act.

With this overall result, I discovered the often overlooked legislative area of local government legislation was indeed interesting – and I enjoyed it more with each passing year.

Largely through the hard work of members and staff, LAFCos became accepted and respected local institutions. It has been my privilege to work with those individuals.

As for the next fifty years -- Godspeed!!

*John T. Knox*



## Taking the Act to the Next Level

*By Dominic L. Cortese*

LAFCo's 50<sup>th</sup> Anniversary traces California's bold and creative response

to an onslaught of questions raised regarding our ability to avoid a land use



and public service calamity during the unprecedented population growth in the late 1950s and early 1960s, lasting all the way through the 1980s. Legislation authored by Jack Knox and approved by the legislature in 1963 planted the seeds from which potential chaos that would result from unstructured formation of new cities and districts and annexations to existing agencies was averted. The gradual understanding of LAFCo's powers was surfacing, carefully being adapted to the highly diverse geographical and economic nature of the state. Areas of community identity throughout the state were being recognized. Home rule was being respected.

There were those whose early view of LAFCo's authority was thought to be a simple set of lines on a map, "demarcations" with certain restrictions and definitions beyond which LAFCo had no authority. At a point during my service on the Santa Clara County LAFCo, I recall asking our newly formed Transit District Director to appear at each LAFCo meeting to discuss transportation impacts on our decision making. A monumental decision regarding the formation

of the Midpeninsula Regional Open Space District versus a potentially competitive County Parks ballot measure had to be made. Both were finally approved. Prophetic I would say. The very large number of agenda items and the broad parameters of subject matter now undertaken by LAFCo make LAFCo an indispensable segment of our local government process. Congratulations!

Early in the 1970s, I was fortunate enough to be part of a small group that began to meet to discuss the formation of a statewide association of LAFCos, which came to be called CALAFCO. It would provide an atmosphere allowing LAFCo Commissioners and staff to share knowledge, explore coordinated land use planning, and turn diversity into a positive force for the benefit of the entire state. I am proud to say that I chaired CALAFCO for two terms during its early years. It is a pleasure to know that CALAFCO has become a fully functional statewide organization, incorporated and functioning under a full set of by-laws.

From those early legislative seeds the dedicated and creative members of LAFCos throughout the state averted what might have been a saga of pieces of the land use puzzle thrown from the air with no means of objectivity. Pieces of that puzzle have been cooperatively placed, to whatever extent humanly possible, in what is now recognized as the best organization of cities and districts in the country. The door opened to trust and constructive regionalism. We can thank you CALAFCO for that!

After more than two years of effort, with the help of dedicated staff at the state and local level, I was fortunate to have carried the Cortese-Knox Local Government

Reorganization Act. AB115 was introduced in 1984 and after extensive hearings and analysis by appropriate legislative committees, was signed by the Governor. The earlier and separate laws – the Knox Nisbet Act, the District Reorganization Act and the Municipal Organization Act – were made compatible and now became one. Speaker Robert Hertzberg led the task of clarifying and reorganizing the Act, making it even more functional. Thanks to Speaker Hertzberg, we now have the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

It is gratifying to know that the Act is instrumental in the daily work of LAFCo. It has its place on the desks of planners and local government attorneys throughout the state. Not long ago, the State Printing Office informed me that it is still a “best seller!”

I am grateful to those whose efforts made the Act possible and those who continue today to make timely improvements. The introductory letter of the Act recognizes some of those people. I am mindful of all those who from time to time were there, in their own way, to help take our work to its next stages.

Please accept my gratitude. Your local communities and the people of California appreciate your efforts and owe you their continued support.

*Dominic L. Cortese*



## LAFCo: 1963 – 2013

*By Robert M. Hertzberg*



California is nothing less than magnificent. All of us born here, who have relocated here, moved our families here, or visited here – know that.

But while our weather dividend, the Pacific, and our extraordinary diversity of geography- much within close proximity, has been a large part of the magnetic attraction, the challenge to and success in managing the sheer volume of humanity is something little understood by the public – most of whom have come to expect to flip a light switch and find the necessary electricity, turn a faucet and have an abundant flow of clean water, and expect cities and towns and counties to deliver with consistency and without interruption.

While there is a large group of engineers, architects and workers from many professions that keep us operating and moving forward, all which most often appears to be effortless, I have come to learn the genius and value of the folks that make up the large LAFCo community of California and the important role each of these important people quietly play in creating and maintaining our quality of life.

When Jack Knox, then the new legislator from Richmond, agreed to work with the Pat Brown administration on municipal and county government issues, it was the end of a decade when **California's population grew by a whopping 53%**. The smart

folks in government at the time knew that California needed to devise a system that would intelligently deal with the explosion of new government entities and their competing land use and other demands. Jack tells fun stories about his legislation in 1963. It is always interesting to understand the “human” side of how laws get negotiated and passed, particularly from Jack Knox.

By the time Dom Cortese authored the 1984 update, our population grew by an additional 10 million folks, more than the population of all states at the time but for New York. Today, there are more than 4800 subdivisions of government in California, and under the guidance of the LAFCo community, in many respects, California is one of the best managed land use states in the nation.

Regarding my own story with LAFCo, it started in the San Fernando Valley – when I began service in the legislature in 1996, we had just finished a yearlong battle led by then Assemblywoman Paula Boland together with then Pro Tem Lockyer fighting to overturn the special 1970s adopted rule making an exception for any Los Angeles based “special reorganization” which gave the Los Angeles City Council veto power. It was not successful.

Together with Tom McClintock and Tony Cardenas, my San Fernando Valley colleagues in Sacramento, we drafted two laws to correct certain intentional “exceptions” which were enacted as a result of past political alliances. But something else happened, something that I am most proud of. In an era of term limits when the common criticism was that our legislative branch no longer dealt with large issues- the opposite happened. With the

help of Pete Wilson, a governor of a party that I was not a member, and others, we passed and he signed and funded in his budget a serious effort to create a process to review the 179 pages of statutes that the LAFCo legislation had become. I read and re-read the LAFCo law, and over the years it had become a “morass” that was difficult to understand. So in 1997 we passed AB 1484 to create the Commission on Local Governance for the 21<sup>st</sup> Century to review the Cortese-Knox Local Government Reorganization Act of 1985. There were no big press stories on the commission, no big contributors who were clamoring for the changes in the law- just a group of folks that cared about government, knew that fixes were needed, and got on with the work they were hired by the people to do. I was and remain deeply proud to have been a part of this important effort.

The Commission was led by then San Diego Mayor Susan Golding, who did an incredible job- this was not a Commission that took its job lightly. They met over 16 months, held 25 days of public hearings throughout the state, heard testimony from more than 160 individuals and groups, received over 100 recommendations and, at a time when websites were new, had nearly 90,000 hits on its site- an unheard of number for those days. Their efforts resulted in a report “Growth Within Bounds,” which served as the basis for AB 2838, passed and signed into law in September 2000 by Governor Brown. In general terms, the measure, creating the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (I did not know that Christopher Carlisle, my lead staff on this, added my name until the measure passed- it was not my idea), focused on 5 areas:

- ♦ It streamlined and clarified LAFCo policies and procedures;
- ♦ It made LAFCOs neutral, independent, and balanced in representation for most counties, cities and special districts;
- ♦ It strengthened LAFCo powers to prevent sprawl and ensure orderly extension of government services;
- ♦ It enhanced communication, coordination and procedures of LAFCOs and local governments; and
- ♦ It enhanced opportunities for public involvement, active participation and information regarding government decision-making.

Of course, it did not go far enough, and the dynamic growth of government, the fundamental challenges we are facing because of globalization and the explosion of technology are causing us to re-examine and improve the work we did in the 60s, 80s and in 2000. It is up to the next generation of thinkers to invent our LAFCo future.

*Robert M. Hertzberg*





### Dear CALAFCO Members:

We are proud to report to you that the Association continues as a strong, vibrant educational resource to members and as an advocate for LAFCo and LAFCo principles to statewide decision makers. In 2013 the Association maintained a high level of educational services as well as a healthy agenda of legislative issues. During the year we saw active involvement of LAFCos from around the state and had the pleasure of welcoming a new Executive Director, Pamela Miller, and new Executive Assistant/Registrar, Jeni Tickler. We remain excited with both the program quality and participation in the Staff Workshop and the CALAFCO U courses this year. Placer, Nevada and El Dorado LAFCos and the Annual Conference planning committee have done an outstanding job with the 2013 Conference. Finally, the Association remains on solid financial ground. The recently adopted budget maintains member service levels and retains a healthy reserve.

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

### EDUCATIONAL SERVICES AND COMMUNICATION

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

**Staff Workshop and Annual Conference** We continued the tradition of quality education programming with the Staff Workshop held in Davis in April and the Annual Conference in Squaw Valley in August. The Workshop, hosted by Yolo LAFCo, brought together 104 LAFCo staff from around the state for a three-day workshop at the Hallmark Inn and Odd Fellows Hall in downtown Davis. With 39 LAFCos and 9 associate member organizations represented, it was one of the highest workshop attendances in some time. An exceptional program centered on the theme "*Retooling*

*for the Next 50 Years: Fewer Resources, Higher Expectations*" with sessions including how today's fiscal climate is shaping the future and LAFCo's role in regional planning, ethics and ethics law, CEQA, LAFCo legal practices and JPAs, adaptive leadership practices in local agencies, GIS mapping and more. A special series of sessions was specifically designed by and for clerks and included developing and maintaining a clerk's manual, use of technology and best practices among the topics. The unique mobile workshop focused on innovations in food science and agriculture. We would like to thank Steve Lucas (Butte LAFCo) who chaired the Program Committee, Christine Crawford and Terri Tuck (Yolo LAFCo), and all who worked to make this an outstanding staff workshop.

Well over 200 LAFCo commissioners and staff are expected at the 2013 Conference in Squaw Valley, North Lake Tahoe. Hosted by Placer, Nevada and El Dorado LAFCos, the program centers on the theme "*Clarity of Vision: The Golden Age of LAFCo*" and includes a range of sessions focused on highlighting the history of LAFCo, visioning for the future, and focusing on current issues such as water as a valuable resource, CEQA reform and the state's General Plan update, land use patterns, health care districts without hospitals, and

LAFCo initiated actions such as dissolutions, mergers and consolidations. The Conference attracted an impressive list of speakers, including Ken Alex, Director of the Governor's Office of Planning and Research, Dr. Gerald Meral, Deputy Secretary, CA Natural Resources Agency, Richard Atwater,

Executive Director, So. CA Water Committee; Tim Quinn, Executive Director, Association of CA Water Agencies; Peter Detwiler, former Chief Consultant to the Senate Governance and Finance Committee; and Tom Willoughby, former Chief Consultant to Senator John Knox. The unique mobile workshop highlights the beauty of Squaw Valley and the unique opportunities and challenges associated with community development in an area of beauty and environmental sensitivity. We acknowledge and thank Placer, Nevada and El Dorado LAFCos for hosting the Conference, their Executive Officers for all of their hard work: Kris Berry (Placer), SR Jones (Nevada) and José Henríquez (El Dorado), the Conference Committee Chair Josh Susman (Nevada), and all who are working on the Program and Host Committees to make this an outstanding Conference.

**CALAFCO University** So far this year, the Association has offered one course and two more are scheduled. The courses allow staff, commissioners and other interested parties to explore, in depth, LAFCo





processes, policies and actions. *Performance Measures and MSR Strategies* was held in June in San Luis Obispo. Due to the high number of requests to repeat the session, another is scheduled for October 10 in Sacramento. Additionally, a session designed by and for LAFCo Clerks on *Creating a Clerk's Manual, the Roadmap to Success* is scheduled on November 14 in Sacramento. These courses are possible only with the volunteer efforts of LAFCo staff and Associate members. Thank you in particular to San Luis Obispo, Los Angeles, San Bernardino, and Stanislaus LAFCos and all the others who contributed to the classes. A special thanks to Marjorie Blom (Stanislaus LAFCo) who has been the lead in coordinating CALAFCO U since October 2012.

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

**Web Site** The CALAFCO web site is a vital resource for both LAFCos and the community with questions about local government in California. The site consistently attracts between 5,500 and 6,500 visits per week. The vast majority of the visits are for the reference and resource materials found on the site and referral information to member LAFCos. This was the first year of the new website, which was launched just before last year's Annual Conference. Improvements and enhancements continue to be made as site security remains a high priority. During the year we made a change to the Members' section access in order to maintain security. After a complete system back-up and restore, the site was once again fully accessible to all members.

**List-Serves** The list-serves maintained by the Association continue to be an important communication and information sharing tool among LAFCo staff. In total, we maintain eight list serves to help members share information, materials, and expertise.

**Publication** CALAFCO was approached by the Senate Local Governance & Finance Committee to update an obsolete state publication on LAFCos. The last published edition of *It's Time to Draw the Line: A Citizen's Guide to LAFCos: Local Agency Formation Commissions* was 2003. A subgroup of the CALAFCO Legislative Committee worked with the Senate Committee staff to update the publication, which should be made available soon. Thanks to Bob Braitman, Carole Cooper, Carolyn Emery, Paul Novak, Neelima Palacherla, Mona

Palacios, Keene Simonds and Pamela Miller for their contributions to the revised publication.

## LEGISLATIVE PROGRAM

This is the first year of the Legislature's two-year session and with an unprecedented number of new legislators, state Democrats held a supermajority in the Legislature. The CALAFCO Legislative Committee began work in November and met regularly throughout the year. This year, with the transition of a new Executive Director, the Legislative Committee was led with two Co-Chairs, Harry Ehrlich (San Diego LAFCo) and Kris Berry (Placer LAFCo) with Executive Director Pamela Miller acting as Vice Chair. CALAFCO maintained a full legislative agenda this year, with CALAFCO staff tracking as many as 38 different bills that could affect LAFCo. CALAFCO sponsored two bills this year, and sought an author-sponsored third bill. The top priority of the Legislative Committee was **AB 1427**, the Assembly Local Government Committee Omnibus bill. This year the bill contained eight different changes to Cortese-Knox-Hertzberg, such as clarifying several definitions, making changes to obsolete and incorrect code references, and making minor updates to several outdated sections. The bill was signed by the Governor on August 12. We are grateful for the efforts of Legislative Committee Co-Chair Harry Ehrlich (San Diego LAFCo) and Assembly Local Government Committee associate consultant Misa Yokoi-Shelton for their efforts on shepherding this bill.



The other CALAFCO sponsored bill this year is **AB 453 (Mullin)**. The CALAFCO Legislative Committee originally decided not to pursue this legislation again this year. However we were approached by Assemblymember Mullin who offered to author the bill, which would make LAFCo eligible to apply for planning grants from the Strategic Growth Council. Although this is the final year of the grant cycle, there is benefit to having LAFCo named as an eligible entity for future sustainable communities grant opportunities. It passed the Assembly and met with an unexpected amendment in Senate Natural Resources Committee. After much discussion at both the Legislative Committee and Board level, the Board took the position to move forward with the bill with further amendments. As of this writing, the bill is in the Senate Appropriations Suspense File.

In addition to the two CALAFCO sponsored bills, we sought an author for **AB 743 (Logue)**. The bill was

originally introduced to remove the sunset date provision to waive protest proceedings for certain island annexations and increase the size of the islands from 150 to 300 acres. After considering the feedback from several member LAFCoS and external stakeholders, the bill was amended to remove the increase in acreage (keeping it at 150 acres), and to reset the effective island creation date from January 1, 2000 to January 1, 2014, thus allowing smaller islands of less than 150 acres created after 2000 to be annexed under these provisions. The bill has unanimously passed both the Assembly and Senate, and as of this writing is awaiting the Governor's signature.

Highlights of other legislation on which we worked include:

- ♦ **AB 678** (*Gordon & Dickinson*) – This bill requires health care districts that do not operate their own hospital facilities to create, every 5 years, an assessment of the community health needs with public input. The bill requires LAFCoS to include in a Municipal Service Review the Health Care District's 5-year assessment. There are currently 15 healthcare districts that will be impacted. (CALAFCO supported; passed Assembly; now in Senate Appropriations Suspense File.)
- ♦ **SB 56** (*Roth & Emmerson*) – This bill corrects the VLF funding hole created by the 2011-12 state budget for inhabited annexations and incorporations since 2004. This has created major fiscal crises for a number of cities. The bill has been slow to move forward given the high cost to the General Fund. (CALAFCO supported; still in Senate.)

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

The Legislative Committee continues to consider and work on several substantial legislative proposals including:

- ♦ *Protest Provisions* The second phase of the project will be to enact more substantive changes to the protest provisions, to make them more consistent and easier to apply.
- ♦ *Extension of Services Outside Boundaries* After an intensive two-year effort to gain consensus on language that would increase LAFCo flexibility in certain situations to extend services outside of boundaries and spheres, the CALAFCO Legislative Committee and Board again took positions on potential legislation. The Legislative Committee revisited the proposed language at the end of 2012 and referred it again to the Board for another review and a recommendation to move the legislation forward. During its February meeting, the Board approved the appointment of an ad-hoc

subcommittee appointed by Chair Novelli to revisit the proposed changes to once again try to obtain greater consensus. After several months of work, the subcommittee presented amended language to the Board and in July the Board approved the proposed legislation. The Legislative Committee has made this a two-year bill effort, and a subcommittee of the Legislative Committee will work over the course of the next year to create a strong fact sheet and begin membership and external stakeholder outreach. We would like to thank those who volunteered to worked on amending the language: John Benoit (various LAFCoS), Rich Bottarini (Sonoma LAFCo), Roseanne Chamberlain (Amador LAFCo), Steve Lucas (Butte LAFCo), Kathy Rollings-McDonald (San Bernardino LAFCo), Keene Simonds (Napa LAFCo), George Spiliotis (Riverside LAFCo), and Kim Uhlich (Ventura LAFCo).

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

## ASSOCIATION MANAGEMENT

***A Change in Leadership*** In September of last year, our new Executive Director Pamela Miller was hired. There was a short overlap in time when both Bill Chiat and Pamela worked together. We are pleased to report the transition was very smooth and Pamela has done an outstanding job representing CALAFCO in this, her first year. In addition, the role of Executive Assistant was filled in January of this year by Jeni Tickler. She has done a wonderful job of supporting Pamela and the organization in this role.

***2013-2015 Strategic Plan*** On February 7, the Board held its biennial strategic planning retreat. During the day-long retreat, the Board reviewed the Association's accomplishments over the past two years including the many positive outcomes from the regional structure, affirmed expectations of the role and responsibilities of representing CALAFCO as a Board Member, discussed the challenges and opportunities facing LAFCoS and the Association, and reviewed and amended the organization's 2-year strategic plan and strategies. The full 2013-2015 CALAFCO Strategic Plan and 2013





Legislative Policies adopted by the Board are located on the CALAFCO website.

**Financial Policies and Reporting** The Association continues to stand on a strong financial base. The Board maintains policies and current filings which are in compliance with all federal and state requirements for 501(c)(3) organizations. The CALAFCO Policy Manual, IRS Form 990 and other key Association documents are available on the CALAFCO web site. The Association also maintains its records with the national non-profit reporting organization, GuideStar ([www.guidestar.com](http://www.guidestar.com)). In 2013 CALAFCO once again earned the *GuideStar Exchange Seal* in recognition of its transparency and completeness in documentation.

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

**2013-14 Budget** The Board has managed the financial resources of the Association closely. This year LAFCo dues were increased by the CPI as authorized in the Association Bylaws. While only a 2.3% increase, the Board felt it was necessary to keep up with the increasing costs of operating the Association.

The adopted budget for 2013-14 provides only minor changes from the 2012-13 budget. The close of the fiscal year showed a greater year-end balance than anticipated in the adopted budget, allowing the Association to avoid the use of reserve. The approved budget is \$379,195, which includes a \$13,219 contingency.

There are small increases in rent, office expenses, Conference and Workshop expenses in the budget which are offset by increases in returns from the conference and workshop as well as a

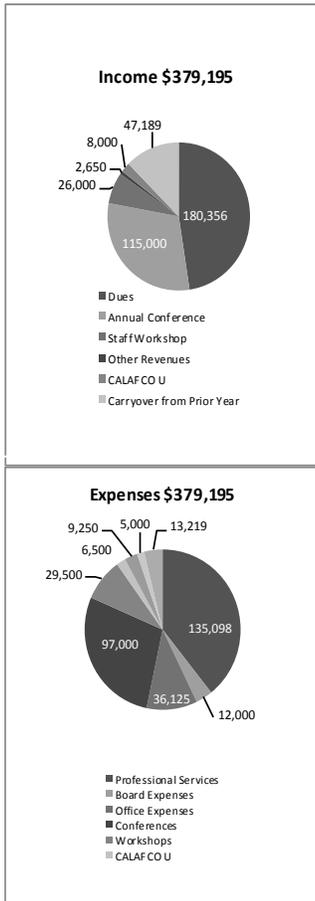
reduction in professional services. The budget is balanced and does not tap any reserve funds.

**Restricted Fund Reserve** Since 2005 an important goal established by the Board has been to grow and maintain a fund reserve to support member services in uncertain economic times and to avoid the need to tap members for additional funds, as had been done in the past. With an initial goal of 35% of non-conference operating expenses, the reserve is currently at \$160,222, about 79% of the annual operations budget outside of the Conference and Workshop. The reserve is not part of the annual budget and requires a vote of the Board to use its funds. The Association has not used the fund reserve since the early 2000s. CALAFCO maintains its funds with the Local Agency Investment Fund (LAIF). While the interest rate has remained low again this year, we have not lost any of the principle in our savings or investments.

Finally we want to recognize the leadership of our executive director Pamela Miller and executive officer Lou Ann Texeira (Contra Costa LAFCo). Added to that is our appreciation for all the contributions of executive assistant Jeni Tickler in the CALAFCO office, deputy executive officers Marjorie Blom (Stanislaus LAFCo), Steve Lucas (Butte LAFCo), and Sam Martinez (San Bernardino LAFCo), Legal Counsel Clark Alsop (BB&K), and CPA Jim Gladfelter (Alta Mesa Group). These people, along with many other volunteers, associate members, and members of the Board have all worked together this year to bring many achievements and a strong Association to you, our member LAFCos.

Sincerely Yours,

*The CALAFCO Board of Directors*



*CALAFCO congratulates Stanislaus LAFCo on the 50<sup>th</sup> anniversary of their first LAFCo meeting, September 24, 1963.*

# LAFCo Report Card

*Continued from Page 1*

Regardless of funding, LAFCos in both urban and rural areas have learned what services agencies are providing and which agencies face challenges in retaining governing body members and complying with financial requirements and principal acts. Conducting the inaugural cycle of MSR's involved enormous efforts for many LAFCos simply to inventory the local agencies under their jurisdiction, organize and review often-incomplete LAFCo archives, map the agency boundaries, and introduce the agencies to LAFCo. And that was just a prelude to surveying, analyzing and publishing service, financial, and infrastructure capacity information. The level of depth of the inaugural MSR's varied. Some were simply a page or two per agency; others were nearly encyclopedic. Funding levels clearly played a major role in the page counts and the number of trees felled by MSR's.

On the knowledge front, best practices among LAFCos are publishing the MSR's online and distilling the MSR's into constituent-friendly directories of local agencies, boundary maps and key information. Constraints to fulfilling the knowledge objective included poor records and lack of information at many of the reviewed agencies, lack of planning activity at many local agencies, and resistance by some agencies to LAFCo's new oversight role. There were cities and districts that ignored LAFCo letters and requests. There were water authorities and flood control districts that asserted they were exempt from LAFCo even though no exempting resolutions were identified.

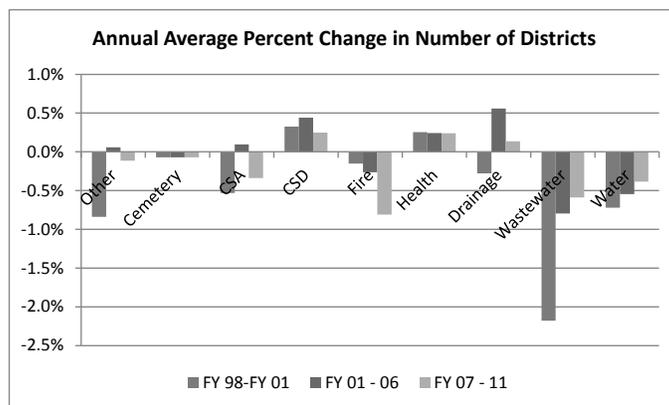
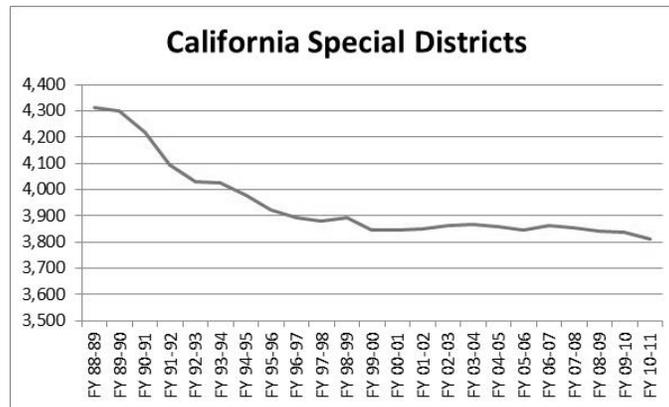
On the accountability front, have LAFCos succeeded in day-lighting financial information and enhancing oversight? Most definitely. In our experience, the MSR process has uncovered at least one local agency that might be characterized as a rogue in just about every county. The rogues tended to be smaller special districts. There were some cemetery districts that literally did not know where the bodies were buried or what capacity was remaining. There were sewer

providers illegally disposing. There were governing body meetings held in private homes. There were agencies not providing services or not disclosing finances to their constituents or to the State. Perhaps most heartening are the cases where the MSR process rehabilitated rogues. While it may seem heavy-handed to some to play the Zero Sphere card (meaning an agency is recommended for dissolution or reorganization), that has brought about a sea change in more than one rogue, including a cemetery district in San Bernardino, a sanitary district in Calaveras, and a health care district in Santa Clara. Grand juries have also picked up where MSR's have left off. Grand jury members are more attuned to LAFCos now, as they follow MSR's as one source as they consider when they set their investigative agendas for the upcoming year.

Finally, what about the end-game? Have MSR's helped to bring about efficiency and reorganization of outdated agencies? The jury is still out.

Looking strictly by the numbers, the answer in 2013 appears to be not yet. The number of districts declined more rapidly statewide before the CKH Act than after.

Looked at from a different perspective, we compared the change in the number of districts by type in the last 15 years. The rate of reduction in districts between FY 95-96 and FY 00-01 was faster for every type except fire districts than it has been since FY 00-01. Between FY 05-06 and FY 10-11, the pace of reduction in fire districts through reorganization has sped up. But the pace of consolidation of water, wastewater, park and cemetery districts has clearly slowed.



Best practices are exemplified in several reorganizations that have followed LAFCo implementation of MSR's. San Diego LAFCo certainly gets major credit for fire consolidation progress. There have been other fire district consolidations since FY 05-06 in Calaveras, Lake, Plumas and San Mateo counties as well. And just because the pace of reorganization has slowed does not mean there has been no progress. Inyo, Lake, Sutter and Yuba LAFCos have each processed at least one dissolution since they began conducting MSR's. There are presently dissolution candidates at several other

LAFCo; and there are LAFCos trying to engage the affected agencies in discussion of consolidation. For example, Siskiyou LAFCo is thinking hard about cemetery consolidation. Constraints to consolidation include resistance by elected officials and managers at affected agencies, concerns among constituents about ceding local control to a consolidated entity, and alternative courses of action such as JPAs.

The Little Hoover Commission pointed to the sheer number of special districts as cause for concern and questioned why LAFCos were failing to dissolve and consolidate districts. The Commission on Local Governance for the 21<sup>st</sup> Century echoed this concern to a degree but cautioned that we not define reduction in the number of districts as necessarily being progress. Indeed, there have been reorganizations that functionally consolidated services in recent years without achieving reduction in the number of special districts. For example, the recent recession motivated the City of San Carlos to contract with its respective county for law enforcement and fire protection services, while also operating under contract the City of Half Moon Bay's Recreation programs; and motivated the City of Sausalito to annex to an adjacent fire protection district. There have been other consolidations and reorganizations which have resulted in efficiencies. For example, the recent reorganization of the Mt. Diablo Health Care District by Contra Costa LAFCo resulted in reducing the size of the district and establishing the district as a subsidiary to a city. And in the 1990s, Los Angeles County transferred fire service responsibility from 10 or more cities to the Los Angeles County Fire Protection District, a dependent district of the County. While the number of agencies did not fall (i.e., the cities did not disincorporate), the number of fire service providers did.

Why has the pace of reorganization slowed? Perhaps agencies have been more easily rehabilitated in the internet age than reorganized. Perhaps LAFCo staff has been too busy with MSR. Perhaps Prop. 218 has complicated reorganization. Perhaps we as LAFCos simply have not had enough time to implement the end-game yet. Also worth noting, LAFCos do not have unilateral authority to implement reorganizations, which sometimes face obstacles beyond LAFCo's control, such as community resistance to change, absence of a willing successor agency, and political will of affected agencies.

The conundrum motivated us to wonder whether MSR should perhaps be done less frequently. Indeed, a proposal has been floated to extend the update timeline from five to perhaps eight years. We turned to Michael Colantuono for his thoughts on the matter. Colantuono is counsel to a number of California cities and LAFCos and was a member of the Commission on Local Governance for the 21<sup>st</sup> Century. He indicated that the original five-year timeline was established to ensure each LAFCo had reasonably up-to-date information on

the local agencies under its jurisdiction. His perception was that the timeline needed to be frequent enough that the information in the MSR remains useful and beneficial, and perhaps eight years might also meet those criteria. Such a change undoubtedly merits debate and discussion among LAFCos as to whether MSR have 8-year shelf lives and whether less frequent updates would free LAFCos to pursue reorganizations and fundamental improvements in service delivery.

## **Neglecting Annexation and Incorporation Will Not Serve the State's Growth Goals**

*By Kirstin Kolpitke and Dan Carrigg, League of CA Cities*

California's Legislature emerges from a decade of severe budget deficits, many are celebrating the achievement of a balanced budget. Closing the state's massive deficit required severe spending cuts, a major boost from the taxpayers and a slowly recovering economy. But the desperate budget decisions made in recent years have policy impacts, whether it is the cost of attending public universities, potential increases in crime from realignment or the state's capacity to compete for jobs. Amid the budget wreckage, major questions also remain about the ability of cities to continue to grow and prosper.

Throughout history, cities have served as centers of commerce and culture. This is certainly the case in California — the names of our major cities are known throughout the world. The Golden State's cities serve more than 83 percent of its residents and provide a range of municipal services, including police, fire, libraries, parks and recreation, water, sewers and waste disposal. Cities also maintain a network of streets and roads.

State policies for achieving sustainability, greenhouse gas reduction, smart growth, infill and transit-oriented development and preserving farmland and open preserving farmland and open space have staked much on the role and success of cities. Yet the state's recent actions have signaled a lack of appreciation for the vital function cities serve as centers of commerce and providers of essential quality-of-life services for the vast majority of California's population.

The de facto state approach to cities appears to be one of neglect. When it comes to economic development, infrastructure and absorbing growth, cities are now on their own. The state discarded redevelopment — the most powerful municipal tool for upgrading urban cores, decontaminating brownfields, building affordable housing and transit-oriented development and countering urban sprawl. Revenues that supported new cities and cities that annexed inhabited areas were taken with no public process, leaving some cities on the verge of disincorporation. The message being sent is that

while growth will occur, the state no longer will expend the effort to support how and where it happens.

### **SB 89 Leaves Incorporation and Annexation Policies Upended**

As part of a push to close the budget gap in 2011, the Legislature passed SB 89 (Chapter 35, Statutes of 2011) without a public hearing. The measure swept allocations of the Vehicle License Fee (VLF) from cities and Orange County as part of a scheme to fund realignment programs, which included grants for local law enforcement previously paid from the state General Fund. These local VLF revenues included special allocations dedicated by all other cities to assist newly incorporated and annexed territories. The allocations were established by League-supported legislation to compensate new cities and annexations for provisions of the 2004 VLF-property tax swap, which failed to include the in-lieu property tax adjustments that other cities receive. In addition, these VLF allocations supported state Local Agency Formation Commission (LAFCo) policies that encourage service consolidation, including the annexation of islands of inhabited unincorporated territory. Incorporations also uphold state objectives to control sprawl, because LAFCo policies guide city growth but have less effect on unincorporated county growth.



The timing of SB 89 could not have been worse for Jurupa Valley, the state's newest city, incorporated on July 1, 2011. Before Jurupa Valley incorporated, the Riverside County LAFCo determined that county agencies could not provide services to the Jurupa Valley community "... in a more efficient and accountable manner. Incorporation will allow for increased local accountability."<sup>1</sup>

As a result of SB 89, the city lost more than one-third of its General Fund. According to an Oct. 25, 2012, article in the *Press Enterprise*, "Over the past two fiscal years, Jurupa Valley has lost more than \$13 million in state revenue. The city expects to run out of money by June 30, [2013], the end of the current fiscal year."<sup>2</sup> Without some sort of reinstatement of the lost revenue or having the county contribute funding, Jurupa Valley faces possible disincorporation.

Three other newly incorporated cities have also lost funding because of SB 89. Fontana, San Jose and many other cities that made the state-supported policy decisions to annex and serve inhabited unincorporated areas were undercut and lost the revenue they relied upon when making those decisions. The policy signals and future impact of SB 89 are obvious: Cities no longer have any incentive to annex and serve inhabited

unincorporated areas. Furthermore, without the prospect of future incorporations, the state will be faced with more unincorporated county growth patterns, which historically have been less dense than city-centered development.

### **SB 244's Leverage Will Reduce Other Annexations**

Another recent law with good intentions but unintended consequences is SB 244 (Chapter 513, Statutes of 2011). Inspired by advocates concerned about the poor services and infrastructure conditions for low-income people in county unincorporated areas, this bill was designed to promote annexation by adjacent cities. The advocates sponsoring the bill observed that the quality of infrastructure and services in cities were superior and sought leverage to increase the likelihood of future annexation. The law requires that any area of proposed annexation contiguous to a disadvantaged unincorporated community must include an application to annex the disadvantaged unincorporated community as well. The bill essentially asks those who seek a financially viable annexation to annex an area that's less than financially viable in hopes that the monetary incentives of the first annexation are so beneficial that they can sustain the financial losses of annexing the disadvantaged unincorporated community.

However, while the intent is understandable, the additional financial burden of annexing a disadvantaged unincorporated community will stall other viable annexations. While the law is still relatively new and interest in annexation has slowed with the economy, one example illustrates its impact.

On Jan. 6, 2012, the Riverside County LAFCo denied a proposal to annex two unincorporated areas that included about 625 acres adjacent to the City of Desert Hot Springs. The LAFCo report states, "Most importantly, recently enacted legislation prohibits the approval of this annexation since it excludes an adjacent disadvantaged unincorporated community. As a result, staff recommends denial of Annexation 29 to the City of Desert Hot Springs."<sup>3</sup> The annexation will not be pursued any further.

### **Revenue Neutrality Compounds Incorporation Challenges**

Prior to the passage of SB 89, city incorporations were already significantly limited by the revenue neutrality law adopted in the early 1990s during yet another state budget crisis. As a result, jurisdictions fortunate enough to make incorporations pay their way, or "pencil out," were typically the exception rather than the rule.

"Revenue neutrality" essentially means that the incorporating city gets to keep only the amount of

revenue that the county was spending in the area prior to incorporation, not the amount of revenue generated within the area. For example, the incorporation proponents for the City of Elk Grove agreed to give the county a percentage of property tax that would decline over 25 years while keeping other taxes, such as the sales tax and transient occupancy (hotel) tax. Under the revenue neutrality law, counties are in a position to drive hard bargains that limit the ability of new cities to pencil out. That is why in recent years the VLF allocations became so critical to helping cities like Jurupa Valley incorporate.

Some at the state level may view the incorporation question as making no real difference. That view has serious flaws.

California anticipates annual population growth of approximately 300,000 to 400,000 people in the coming years. These people will need essential community services and a place to live. What is the most appropriate land-use solution to meet the challenge of this growing population?

From a growth perspective, an area proposed for incorporation already has a level of development previously approved by the county; in many cases such growth was not subject to LAFCo review. Incorporation will ensure that future expansion complies with LAFCo policies, which reflect state priorities. City incorporation efforts are also one of the most fundamental expressions of democracy. Affected residents may be dissatisfied with growth patterns approved by the county, the remoteness of government offices, the quality of public services, emergency response times and the lack of parks or other desired amenities. Once a city is incorporated, public engagement often increases as more attention can be paid to local needs and desires. The thriving communities of Elk Grove, Rancho Cordova and Citrus Heights in Sacramento County provide examples of the community empowerment that incorporation can bring. Residents of East Los Angeles and Carmel Valley have long desired self-governance for the same reasons.

### Going Forward

It serves little purpose to rehash the past, but the future offers opportunities for change and rectifying the problems described here. As California's economy recovers, the challenges of growth will return. Where should this growth be directed? How will infrastructure and services to support growth be provided? If strong cities are truly important to the state's economic future and growth goals, then the broken policies affecting California's cities must be repaired.

#### Footnotes:

1 Local Agency Formation Commission of Riverside County, "Approving the Reorganization to Include Incorporation of Jurupa Valley," Resolution 12-10).

2 Sandra Stokley, "Jurupa Valley: County goal is city's survival" (*Press Enterprise*, Oct. 25, 2012).

3 Riverside County Local Agency Formation Commission Report (LAFCo 2011-08-5-Reorganization to Include Annexation 29 to the City of Desert Hot Springs (New World Lifestyle Communities) and Concurrent Detachments from the Riverside County Waste Resources Management District, Jan. 26, 2012).

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## Prop 218 Does Not Apply to Annexations

By Michael Colantuono

On October 5<sup>th</sup>, 2012, the Orange County Court of Appeal decided *Citizens Association of Sunset Beach v. Orange County Local Agency Formation Commission*. The case answers the question whether Proposition 218 applies to annexations, which the local government community had been struggling with at least since a 1999 Attorney General's opinion on the subject. The decision affirms the City of Huntington Beach's trial court victory and confirms that Proposition 218 did not require an election before the City could collect its taxes in Sunset Beach after annexation of that area to the City.

The essence of the Court's holding is that the voters who approved Proposition 218 cannot have intended it to require an election before a city can collect taxes in annexed territory because the measure provides no details about how such an election would be conducted. In particular, Proposition 218 requires two-thirds voter approval for new or increased special taxes but requires only a simple majority for general taxes. Nothing in Proposition 218 describes how voters would express their views on the separate questions of (i) annexation, (ii) approval of general taxes, and (iii) approval of special taxes. Nor does the measure provide a means to determine if an annexation will make taxpayers pay more, as comparing city and county tax and fee regimes sometimes requires such apples-to-oranges comparisons as higher utility tax rates and lower trash service fees. Silence on all these issues, like the dog which did not bark in the Sherlock Holmes short story **Silver Blaze** (which the Court cites), suggests the voters did not intend to impose Proposition 218's election requirements on annexations. The Court explained: "There is much in the very structure of Proposition 218 that, if it had been intended to apply to annexations, should have been there, but isn't."

The court noted that the contrary interpretation would have impliedly repealed two provisions of the Cortese-Knox-Hertzberg Act (the LAFCo statute) — the island annexation rule which allowed annexation of small areas like Sunset Beach without an opportunity for protests and a provision stating that, upon an annexation, the annexing city's taxes take effect in the annexed territory. Implied repeal of statutes is disfavored, even in the context of initiative amendments

to our Constitution. The Court relied on a comparable 1979 decision, *Dorff v. Metropolitan Water District of Southern California*, which found no intent in Proposition 13 to require voter approval of special property taxes made applicable to new territory by an annexation. The Court also noted the absence of any language in Proposition 218 or its ballot materials indicating voters' desire to repeal the Cortese-Knox-Hertzberg provisions noted above or to depart from the result in *Dorff*. "Had Proposition 218 been intended to satisfy or avoid the effects of *Dorff*, we would have expected *some* attempt somewhere in Proposition 218 to address the issue. We have found none."

Interestingly, the Court provided its own, partial definitions of the terms "impose," "extend" and "increase," which Proposition 218 uses to describe the local agency actions which trigger tax elections. It did not cite the Proposition 218 Omnibus Implementation Act as we urged in our brief for the City and as the California Supreme Court did in *Greene v. Marin County Flood Control & Water Conservation District*, a case Michael Colantuono argued in 2010. *Citizens Association* is a deliberately narrow decision by a conservative court. The Court agreed with our arguments for the City that a tax is "imposed" when it is first enacted, "extended" when a sunset date is repealed or delayed, and "increased" most often when a tax rate is increased; but it reached those conclusions by narrow analyses we did not offer in our brief.

The Court refused to apply an earlier decision of the Los Angeles Court of Appeal involving Los Angeles' telephone tax which Sandi Levin argued, *AB Cellular LA, LLC v. City of Los Angeles*. That case found a tax "extension" requiring voter approval when Los Angeles ordered cellular telephone providers to tax not only minimum monthly account charges, but also the call-detail portion of bills. This court found no analogy between that expansion of Los Angeles' "tax base" and the annexation of Sunset Beach to Huntington Beach because doing so would raise questions about how to administer tax elections in the annexation context without answers to be had from Proposition 218's text: "given the problems of structure and implied repeal discussed above, we decline to extend the rule of *AB Cellular* to annexations."

The court also found no reason for a different decision in Proposition 218's uncodified language requiring it to be "liberally construed to effectuate its purposes of limiting local government revenues and enhancing taxpayer consent." The court stated: "a rule of liberal construction cannot trump the rule against implied repeal, much less require us to blind ourselves to the history and language of the proposition." Local governments will, no doubt, find this language helpful in future cases.

Finally, the Court found it unnecessary to decide whether LAFCo had the power to condition the

annexation on a tax election, as the Plaintiffs urged. This question remains to be decided another day, but it is clear that Proposition 218 does not require such elections: "there was no constitutional *compulsion* to hold an election. Whether OC LAFCo *could have* conditioned annexation on approval of the voters is not properly before us."

The court's reasoning is comparable to that of *Richmond v. Shasta Community Services District*, a case Michael Colantuono argued in 2004, which concluded that water connection charges on new development are not property related fees subject to Proposition 218 because local governments could not comply with the measure's requirements to give property owners notice of a hearing because it could not be known in advance which property owners would choose to develop their properties. If a proposed interpretation of Proposition 218 opens many questions for which it provides no answers and a contrary interpretation that does not do violence to the text of the measure is available that avoids those questions, then the second interpretation is preferred.

The case is a nice win for Huntington Beach and provides helpful guidance to every LAFCo in the state and to cities, districts with taxing power, and others involved in annexations. In addition, it is an important reminder that interpreting Proposition 218 and other finance amendments to our Constitution, like Propositions 13 and 26, we can look not only to the text of the measures, but to their silences; not only to their words, but to the practical consequences of their requirements.

The next major Proposition 218 decision will likely come in *Concerned Citizens for Responsible Government v. West Point Fire Protection District*, a California Supreme Court case involving fire suppression benefit assessments. That decision is likely sometime in 2013.

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For more information on this subject, contact Michael at 530/432-7357 or MColantuono@CLLAW.US.

## Building Transparency and Rebuilding Trust

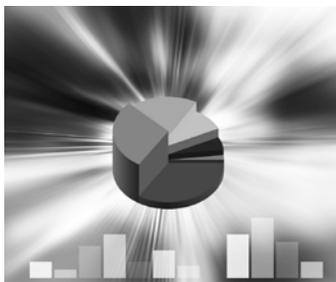
By Mike McCann, Delphi Solutions

Transparency is the new normal in government. In the wake of the scandal in the City of Bell, California cities now report their salaries to the State Controller's Office for web publication. New York proudly announced this year that it spent more than two million dollars building a web site to place checkbooks online for all to see. Non-profit watchdogs like the Public Interest Research Group issue whitepapers rating the financial transparency of states and cities, advocating for ever more detail.

When a government announces that it must increase taxes or eliminate programs, how can citizens evaluate and understand this news? When press reports say that costs are out of control, how do journalists get the necessary context? The answers often lie in thousands of pages of Adopted Budgets, Comprehensive Annual Financial Reports, checkbooks and salary lists.

The purpose of transparency is to build a foundation of trust between governments and their communities. Most officials strive to do good work, often at some level of personal sacrifice, and it can hurt when citizens come to the microphone or pen an editorial calling into question their decisions and their motivations. Unfortunately, most efforts to offer transparency do not produce the desired level of trust. Data is not intelligence, and unorganized data will inevitably lead to confusion and misinterpretation. Accordingly, more data alone does not equal more wisdom or more trust.

Financial data presents an important subset of this problem. Expense accounts for pencils and sewer construction contracts may each constitute one line among thousands in a government's books. To accurately describe that government's financial situation, should those two data points be added up? Averaged? Presented separately? Clichés abound: "Can't see the forest for the trees" or "a picture is worth a thousand words." Yet cities and their key constituents need to both see the strategic frame and drill down to the details.



To solve this problem, the concept of "managed data" has emerged in the transparency world. Managing data involves consolidating, refining, summarizing, and presenting data in ways that provide context and

limit confusion. Packaging data in this way not only assists analysis and aids decision-making, but also builds bridges to the community by giving citizens an accessible entry point to the government finance world.

But managed data solves more than just the transparency problem. CALAFCO and individual LAFcos have to tackle the difficult mission of providing unbiased information regarding cities and special districts to the legislature, executive branch, and citizens. The ability to perform Municipal Service Reviews is enhanced when financial data is readily available in useful and comprehensible forms. Timely decision making on issues coming before LAFcos depends on timely information. Evaluating consolidations, shared services arrangements, and efforts to do more with increasingly limited resources demand the sort of accurate, concise information provided through managed data.

After a career in accounting and government service, I discovered a Silicon Valley startup that had formed specifically to take on the problem of government financial transparency. Delphi ([www.delphi.us](http://www.delphi.us)), an early-stage company showed me how the power of the latest software in the hands of brilliant engineers and designers could bring clarity dense financial information. The team at Delphi develops dramatic and dynamic data visualization that governments embed into their own websites, giving citizens and staff powerful new insights into their data.

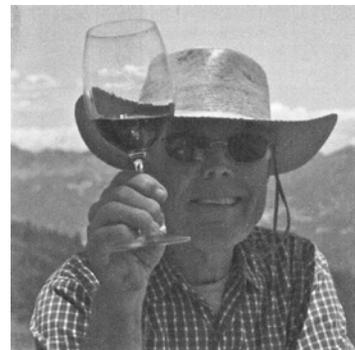
Visualizations using colorful, clear, and accurate graphics display five years of financial data for any snapshot of the government the user wishes to see. Trends and patterns are brought into focus, allowing the relative importance of individual elements to be evaluated, as well as their cumulative impacts. Cutting-edge design and modern software combine to provide an elegant interface that is simple to learn and easy to use. Converting raw data to usable information is the epitome of "managed" transparency.

Trust comes from being able to both believe and understand the data. Delphi's approach uses audited financial records and current legally adopted budgets so the data is real and meaningful. And the visualizations are designed to help the user understand the data at any level or area of interest. Trust comes from knowing the data is there whenever it is needed, from being able to reference it in the office or at home. Citizens (and government officials) can extract, share, or save whatever they like, whenever they like. Trust comes from knowing that the government wants you to have – and understand – the data.

## Remembering a Good Friend - In Memoriam of Bill Davis

*By Peter Banning, Pat McCormick, Mike Ott, Martha Poyatos*

Some of us who have toiled at LAFco's work for years before 1995 are deeply feeling the loss of our friend and colleague, Bill Davis. Bill served as Executive Officer for three different LAFcos: first at Santa Cruz from 1979 to 1980, then San Diego until 1984 and San Mateo until 1994.



His influence is also still to be felt in the legislation we work with every day. As recounted by Mike Ott from Bill's time in San Diego and San Mateo,

*“When Bill hired me at the San Diego LAFCo in the mid- 1980s, I was curious why Bill would ritualistically pack up an oversized briefcase with stacks of yellow notepads for trips at the end of each week. I did not know at the time what he was doing or where he was going with this briefcase. I used to think that he was either writing the world’s longest novel or having secret meetings with someone. Being on the reserved and quiet side, Bill offered little explanation for the briefcase and weekly trips. It was not until 1984 that all of this made sense. This was the year that the Knox-Nisbet Act, District Reorganization Act, and Municipal Organization Act were combined in a CALAFCO legislative proposal eventually resulting in the Cortese-Knox Local Government Reorganization Act of 1985. It turned out that Bill Davis and a small but talented group of LAFCo staff (Marv Panter, Ruth Benell, and Janet Robinson) were doing the impossible. Without the assistance of computers, they were re-writing (on yellow notepads) three nonsensical and conflicting predecessor LAFCo statutes into what would later become one new consolidated law.”*

Several LAFCo executive officers who followed Bill as understudies and successors proudly consider themselves as Bill’s philosophical progeny. Bill performed this unusual alchemy of mentorship in which the value of gladly suffering fools was elevated and explained as an intrinsic necessity of public service, perhaps even a meditative practice disguised as good manners. At the same time, we learned to persevere and push through the frustration that is part of what we do. Some of us owe Bill massively.

Bill continued on as the moving force on CALAFCO’s Legislative Committee well into the 1990s before “retiring” to more fully pursue his personal interests. This largely allowed him to attend more fully to his love of food, travel and music, his family and friends.

Bill was well educated, well read and well-traveled. He was always happy to share his love of good food and wine by suggesting where and what one might eat at almost any possible destination. If the conversation continued, he would color in the entire region with an extraordinary background in history, geography and culture.

Bill was a gentleman and a scholar, as we would say of the revered and reserved and respected. His memorial service in San Francisco on March 17<sup>th</sup> included performances by remarkable and renowned musicians whose efforts overwhelmed the impropriety of applause at such an occasion. Their music, which was nothing short of astonishing, was the perfect expression of gratitude for his life among us. He would have said, “Well, at least nobody whistled.”

## The Fundamentals

By Pat McCormick

As I write this article, I reflect on the professional football season which was in its final month and all the teams headed toward the Super Bowl are executing the fundamentals well: making blocks, running patterns, tackling with the proper technique. Santa Cruz LAFCo has successfully completed litigation over one of its 2008 decisions. While LAFCo’s goal was to make the best public policy decision, the success in the litigation is largely due to LAFCo’s executing the fundamentals.

Bonny Doon is a rural community of 2700 people in 50 square miles of redwood forest northwest of the City of Santa Cruz. For many years, its fire protection and emergency services have been provided by CAL FIRE under contract with Santa Cruz County. Bonny Doon is located within a 290 square mile county service area (CSA) which utilizes both property taxes and fire suppression assessments to fund the CAL FIRE contract. CAL FIRE supervises both paid companies and volunteer companies to respond to emergencies.



In 2006, the non-profit supporting the Bonny Doon volunteer company filed an application with LAFCo to detach Bonny Doon from the county service area and to form an independent fire protection district. They believed that the level of service could be improved if the new district were able to pass a higher fire suppression assessment to support the volunteers and a new paid company to be operated by the new district.

In September 2008, LAFCo’s public hearing was attended by approximately 500 people from Bonny Doon and surrounding communities. The issues were complex. One issue was whether the proposed district’s pro forma budget would support its service plan. Another issue was the degree to which the reduced revenue would cause service reductions within the remaining communities in the CSA. A third issue was whether there were feasible alternatives to improve service in Bonny Doon without any change of organization.

After a spirited public hearing, the Commission, on a split vote, voted to deny the application. The Commission’s majority concluded that the proposed district would be a costly way to improve services in Bonny Doon, that the proposed CSA detachment would likely result in a lower level of services in the remainder of the CSA, and that less expensive alternatives existed for improving fire protection and emergency services in Bonny Doon utilizing the CSA.

The non-profit sued LAFCo, asking the Superior Court to find that LAFCo had not complied with law in making its decision. The relief they sought was for the



vision with respect to administering policies and practices. Fewer sets of eyes on a particular project inherently limits the agency's ability to identify blind spots. One minor misstep in complying with the California Environmental Quality Act (CEQA) can potentially induce a crippling lawsuit, for instance. It would behoove LAFCo Analysts, therefore, to coordinate a system in which perspectives and strategies for certain processes are shared while also providing an opportunity to build a sense of true fellowship. This is precisely what the LAFCo Analysts Group attempts to achieve.

This role of an Analyst can sometimes be confounding, with the best solution typically involving an e-mail or phone call to a fellow LAFCo Analyst seeking advice.

## **San Mateo LAFCo Bids Farewell to Long-time Commissioners and Welcomes New Members**

*By Martha Poyatos*

2012 marked a year of change for the Commission with long-time Commissioners Iris Gallagher, Rose Jacobs Gibson and Sepi Richardson retiring.

Iris Gallagher, Board Member on Bayshore Sanitary District, joined the Commission in 1996 as Alternate Special District Member after playing a key role in expanding LAFCo membership to include independent special districts. Ms. Gallagher became a regular member in 2000. She has since served as Chairperson twice, served regularly on the Commission's Budget Committee, attended several CALAFCo Conferences and made important contributions to LAFCo deliberations during her tenure. The Special District Member Selection Committee appointed Joe Sheridan of Broadmoor Police Protection District to finish Ms. Gallagher's term and also appointed Joshua Cosgrove of North Coast County Water District to the Alternate position vacated by Commissioner Sheridan.

County Member Rose Jacobs Gibson served as the LAFCo alternate since 1996 and made significant contributions to Commission deliberations on several complex proposals. In addition to her tenure as a County Supervisor and LAFCo Commissioner, Ms. Jacobs Gibson served on the East Palo Alto City Council, Association of Bay Area Governments, City/County Association of Governments of San Mateo County (C/CAG), the State Association of Counties (CSAC) Health and Human Services Committee and many other local and regional boards and commissions. The Board of Supervisors appointed newly elected Supervisor Warren Slocum as LAFCo's new Alternate County Member.

City Member Sepi Richardson joined the Commission in 2002, served as Chair in 2004 and regularly served on

the Commission's Budget Committee. She made extensive contributions to the work of the Commission in processing complex reorganization proposals including consolidation of fire districts, expansion of the regional open space district and many municipal service reviews and sphere updates. Ms. Richardson also served the on the CALAFCo Board. As a Brisbane City Council Member she served on several regional and state boards and associations including Association of Bay Area Governments (ABAG), City/County Association of Governments (C/CAG) and League of California Cities. The City Selection Committee will meet later this month to select her replacement.

The San Mateo LAFCo and staff express their thanks to the three outgoing members for their dedication and tenure as public servants, and wish them well in their future endeavors.

## **How Urban Development Policies Have Made a Difference in Santa Clara County: 40 Years Later, Policies Still Cutting-Edge and Vital**

*By Don Weden, Retired Principal Planner, Santa Clara County*

This year marks the anniversary of two important events in Santa Clara County, the first being the 50<sup>th</sup> anniversary of the creation of Local Agency Formation Commissions (LAFCos) throughout California and the second being the 40<sup>th</sup> anniversary of the adoption of countywide urban development policies and the creation of Urban Service Areas for cities.

These groundbreaking policies continue to serve as examples of how collaboration among LAFCo, the County, and cities on planning and growth management principles can help discourage urban sprawl, preserve agricultural lands and open space, and promote efficient service provisions. Collaborative implementation of these policies fundamentally changed the growth and development trajectory of Santa Clara County from what it was 50 years ago – and made it a much more livable, sustainable place than it would otherwise have become.

### **Need for urban development policies - Santa Clara County in the 50s and the 60s**

During the 1960s, growth and development in Santa Clara County – and much of California – was reminiscent of the “Wild West” of the 1800s, when new towns sprang up overnight, there were relatively few rules, and there was no sheriff in town to resolve disputes and enforce order. Rapid population growth following World War II was fueled by a combination of a robust economy, a benign climate, an attractive

physical setting, the post War Baby Boom, and affordable housing. Many workers who came to California to work in defense industries during the War chose to remain. And many soldiers from throughout the United States who were stationed in or passed through California chose to relocate here after the War. All of these factors combined to create a housing and real estate boom in Santa Clara County – and many other counties throughout California.

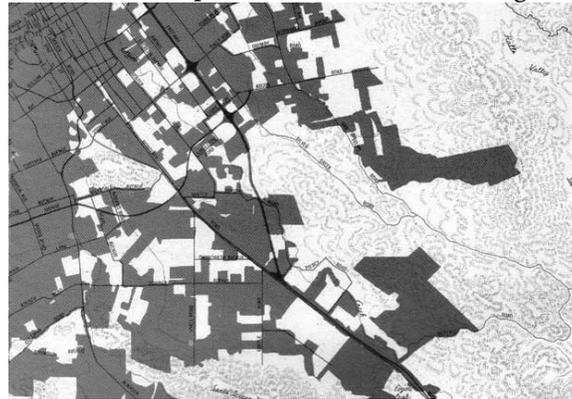
Back then, agriculture was California’s largest industry. But flat, fertile, farmlands could easily and rapidly be converted to sprawling, suburban subdivisions – and many of them were.

The laws governing the annexation of land into cities, the incorporation of new cities, or the creation and expansion of new special purpose districts – such as sanitation districts providing sewer services – were mostly adopted years before the boom in California’s population began. These laws were not designed to deal with the conditions of explosive urban growth that arose in many parts of California during the 1950s and ‘60s.

Many cities – competing to increase their property tax bases – pursued aggressive annexation policies to take in as much land as possible as quickly as possible. In some cases, they even annexed long, narrow strips of land along public roads – past intervening farmlands – in order to reach farmlands whose owners were seeking to develop them and wanted to annex into the city. In the absence of clear rules regarding to which city the land in a particular location could be annexed, two or more cities would sometimes compete to get a landowner to annex to their city. The County further contributed to inefficient development patterns and confusing, irrational jurisdictional boundaries by acting like a city and approving urban development on unincorporated lands not annexed to any city. Developers took advantage of this relatively lawless, “Wild West” environment by playing competing jurisdictions off against one another.

The jurisdictional landscape of Santa Clara County was also impacted during these years of rapid growth, aggressive annexations, and annexation wars. Residents

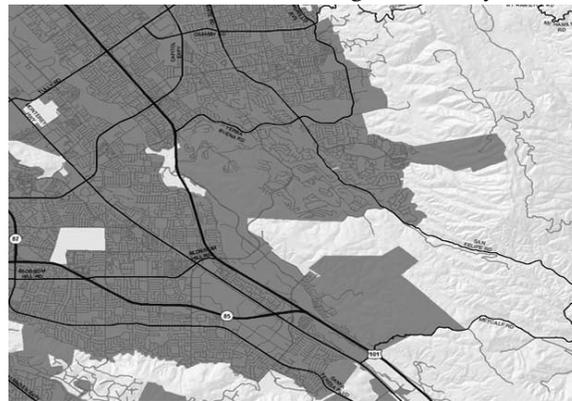
and landowners in some areas, seeking to avoid annexation by a nearby city, would sometimes incorporate as a new city. Irrational, inefficient city boundaries also resulted from some cities pursuing annexation strategies intended to block other cities from annexing lands in their vicinity.



*1960s land development pattern in Santa Clara County*

The result of the annexation wars and the County’s approval of urban development was an almost random pattern of irregularly-shaped city boundaries, and discontinuous patterns of urban development that leapfrogged over productive farmlands whose owners were more willing to sell their land for development, to reach farmlands farther out,

Another consequence of the rapid growth and annexation wars in Santa Clara County in the 1960s was the loss of prime agricultural lands – some of the most productive farmlands in the world – that had given the county its reputation as “The Valley of Heart’s Delight.” State farmland protection laws were virtually non-existent. And local policies to protect farmland were no match for the economic pressures that rapid urbanization of the Valley created. These pressures made it difficult for farmers to continue farming in northern Santa Clara County. Agriculture, California’s largest industry at that time, was rapidly being eroded and endangered by unplanned suburban sprawl.



*2013 land development pattern in Santa Clara County*

Facing the loss of the state’s largest industry and the costly and inefficient urban development and urban service delivery patterns of many cities, the State Legislature adopted a law in 1963 requiring all 58 counties in California to establish Local Agency Formation Commissions (LAFCo). LAFCos were given the responsibility to encourage the

orderly formation of local governmental agencies, preserve agricultural land resources, and discourage urban sprawl.

**Creation of urban development policies - “Home Grown” by the Local Cities and the County**

The first thing that Santa Clara County’s LAFCo set about doing was to put an end to the annexation wars. It did so by encouraging the cities to work together to reach agreements regarding “boundary agreement lines” – which sometimes were referred to as the “cease

fire” lines for the annexation wars. The boundary agreement lines divided up the entire county and defined which lands could potentially be annexed into each of the cities. Nearby cities were encouraged to reach agreement voluntarily regarding the location of these boundary agreement lines.

In the few instances where the cities were unable to reach agreement regarding the locations for portions of their boundary agreement lines, LAFCo had to decide which of the conflicting proposals to adopt. But the vast majority of the boundaries were agreed to voluntarily by the cities, and LAFCo simply adopted what the cities had agreed to.

Once the boundary agreement lines were adopted and the annexation wars were ended, LAFCo, the County, and the fifteen cities began the process of working together to reach agreement on a set of basic countywide urban development policies.

The cities and the County took the lead in this effort. A draft set of countywide urban development policies was prepared by a committee composed of city and County planning staff, working under the auspices the Santa Clara County Association of Planning Officials (SCCAPO). The committee’s proposal, reviewed and endorsed by SCCAPO, was then submitted to the Santa Clara County Planning Policy Committee (PPC) for review and endorsement.

The PPC was an influential intergovernmental organization whose membership consisted of one city councilmember from each of the fifteen cities, one planning commissioner from each of the cities, one member of the County Board of Supervisors, and one member of the County Planning Commission. After the PPC had reviewed and endorsed the proposed countywide urban development policies, LAFCo adopted these policies in 1971. These policies were subsequently adopted by the County and by each of the cities.

Important contributions were also made by the City of San Jose – Santa Clara County’s largest city – which was reviewing its own urban development policies as these other activities were taking place. The result was the publication and adoption by San Jose of a set of urban development policies that were very similar to the policies adopted by the County, cities and LAFCo, and provided additional support to these policies.

These basic policies developed through a locally-controlled process, driven by the cities and the County and adopted by LAFCo, the County, and the cities, can be summarized as follows:

1. Urban development should occur only on lands annexed to cities – and not within unincorporated areas, urban or rural.
2. Urban expansion should occur in an orderly, planned manner – with the cities responsible for planning and providing services to urban development, within explicitly adopted “urban

service areas” whose expansion is subject to LAFCo approval.

3. Urban unincorporated islands should eventually be annexed into their surrounding cities – so that the cities have urban service responsibilities and land use authority over all lands within their urban service area boundaries.

### **Implementation of the Policies - Unique Partnership Among the Cities, County and LAFCo**

These basic urban development policies involved important mutual commitments by the County and the cities.

The County agreed, in essence, to get out of the “urban development business” and

1. No longer compete with the cities by approving new urban development in urban unincorporated islands, and
2. Limit development within rural unincorporated areas to rural land uses and densities

The County fulfilled this latter commitment through a series of major rezonings of rural unincorporated areas that significantly increased the minimum parcel sizes required for new subdivisions. As a result, the vast majority of Santa Clara County’s rural unincorporated areas now have zoning designations that require a minimum parcel size of 20 acres or more for new subdivisions. Over the past four decades, since these rezonings took place, the County has kept its commitment by consistently rejecting proposals for privately-initiated General Plan amendments that would have allowed significant changes in allowable uses or densities in rural unincorporated areas.

In return, the cities agreed to:

1. Plan for orderly urban development and expansion, within explicitly adopted “urban service area” boundaries, which they proposed and LAFCo adopted. Changes to those boundaries require LAFCo approval.
2. Annex the urban unincorporated islands – which were generally the result of past annexation practices and the annexation wars

The City of San Jose’s commitment to countywide urban development policies is demonstrated by its own General Plan policies that, over several decades, have directed its urban growth into existing urban areas. So, while San Jose’s population has grown substantially, its urban footprint has remained essentially the same – unlike cities like Phoenix and Atlanta that grew by similar amounts, but covered vast areas of land with low density sprawl over the same time period. San Jose’s recently revised General Plan accommodates all its new development over the next twenty years within its existing urban area – thus continuing its longstanding commitment to pursue more efficient, compact urban development patterns.

LAFCo became responsible for enforcing the urban development policies that the cities and the County had developed and agreed to.

Through its careful review of city proposals for Urban Service Area expansions, LAFCo ensures that future urban development in Santa Clara County occurs only when and where it is needed, can be serviced efficiently, and does not result in premature conversion of agricultural or open space lands. LAFCo's recently adopted agricultural mitigation policy discourages inclusion of agricultural lands in city proposals for Urban Service Area expansions and recommends permanent protection for other farmlands if the proposal involves development of farmland. In the last 14 years, LAFCo, working with the County, has facilitated annexation of 88 unincorporated islands containing nearly 25,000 people, into surrounding cities which are better situated to serve their needs.

### Conclusion

If not for the countywide urban development policies and LAFCo, Santa Clara County would be a very different place today. In all likelihood, the county would have continuous urban development extending all the way from Palo Alto to the San Benito County border, many more homes on its scenic hillsides, no agricultural land left undeveloped, many fewer acres of publicly-owned open space preserves and parks, an irrational and inefficient, crazy quilt pattern of city, County, and special district jurisdictional and service boundaries and further fragmented local land use planning and regulation and service delivery responsibilities.

Working cooperatively with the County and the fifteen cities, LAFCo served as a catalyst for the adoption of the countywide urban development policies which helped prevent these things from happening. Forty years later, these policies continue to guide urban development in Santa Clara County and have made a significant, positive impact on the economic, social and environmental well-being of Santa Clara County.

## Meet the CALAFCO Executive Assistant and Registrar

Meet CALAFCO's Executive Assistant and Registrar, Jeni Tickler. Jeni joined CALAFCO in January of this year and has been doing an excellent job supporting the Executive Director and the Association. For over 12 years, as Principal of Professional Events, Jeni has been responsible for the complete process of creating, managing, promoting and executing a wide array of campaigns and events with the singular goal of exceeding her clients' expectations. Jeni is highly skilled at developing innovative programs and partnerships. She assesses and develops campaigns and events tailored to specific project and agency needs. Jeni has successfully implemented a variety of programs for a diverse array of clients including public agencies, private entities, advocacy groups, professional associations and non-profit organizations. Since 2007, Jeni has served as the Communications and Event Manager for the Sacramento Valley Section California Chapter of the American Planning Association (APA). We are fortunate to have her as part of the CALAFCO administrative team. Jeni is typically in the CALAFCO office on Wednesdays and Thursdays.



*On the  
Horizon*



### **2014 STAFF WORKSHOP**

April 23 - 25, 2014

DoubleTree by Hilton Berkeley Marina  
Berkeley, CA

**Hosted by Bay Area LAFCos**

### **2014 ANNUAL CONFERENCE**

September 17-19, 2014

DoubleTree by Hilton Ontario Airport  
Ontario, CA

**Hosted by San Bernardino LAFCo**

# The Sphere

*CALAFCO Journal*

CALIFORNIA ASSOCIATION OF LOCAL AGENCY  
FORMATION COMMISSIONS

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

**Sharing Information and Resources**

## CALAFCO GOLD ASSOCIATE MEMBERS

*Thank you for your support*

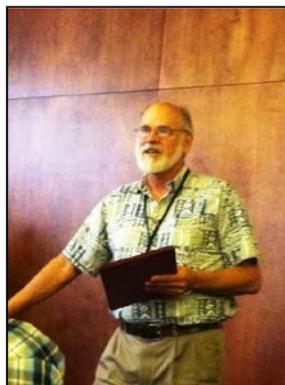


## THE VIEW

Scenes from the CALAFCO, Board of Directors 2013 Strategic Planning Retreat and 2013 Staff Workshop in Davis



CALAFCO Board Retreat, February 2013, Irvine



Peter Banning, Marin Executive Officer, accepting award of recognition from CALAFCO in honor of his retirement. Staff Workshop in Davis, April 2013



Mobile Workshop  
Center for land based  
learning, Winters  
2013 Staff Workshop

