



**LAFCO MEETING
AGENDA
Wednesday, April 20, 2011
1:15 PM**

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

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

The items marked with an asterisk (*) are included on the Consent Agenda and will be taken in one motion. At the beginning of the meeting, anyone who wants to discuss a consent item should make a request to remove that item from the Consent Agenda.

Disclosure Requirements

1. Disclosure of Campaign Contributions

If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than \$250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than \$250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings.

If you or your agent have made a contribution of more than \$250 to any commissioner or alternate during the twelve (12) months preceding the decision, that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings. For disclosure forms and additional information see:

<http://www.santaclara.lafco.ca.gov/annexations&Reorg/PartyDisclForm.pdf>

2. Lobbying Disclosure

Any person or group lobbying the Commission or the Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. Any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. For disclosure forms and additional information see:

<http://www.santaclara.lafco.ca.gov/annexations&Reorg/LobbyDisclForm.pdf>

3. Disclosure of Political Expenditures and Contributions Regarding LAFCO Proceedings

If the proponents or opponents of a LAFCO proposal spend \$1,000 with respect to that proposal, they must report their contributions of \$100 or more and all of their expenditures under the rules of the Political Reform Act for local initiative measures to the LAFCO office. For additional information and for disclosure forms see:

http://www.santaclara.lafco.ca.gov/sclafcopolicies_annex&reorg_home.html

1. ROLL CALL

2. PUBLIC COMMENTS

This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on this agenda. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

3. APPROVE MINUTES OF FEBRUARY 2, 2011 LAFCO MEETING

PUBLIC HEARING

4. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2012

Possible Action:

- a. Open public hearing and receive public comments.
- b. Close public hearing.
- c. Adopt the Proposed LAFCO Budget for Fiscal Year 2012.
- d. Find that the Proposed LAFCO Budget for Fiscal year 2012 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
- e. Authorize staff to transmit the Proposed LAFCO Budget adopted by the Commission, including the estimated agency costs as well as the notice for public hearing on the adoption of the Final Fiscal Year 2012 LAFCO Budget, to the County, to the Cities Association and to each of the cities.

ITEMS FOR ACTION / DISCUSSION

5. EL CAMINO HOSPITAL DISTRICT AND SERVICES OUTSIDE ITS BOUNDARY
Continued from February 2, 2011

Possible Action: Accept staff report and provide further direction to staff, as necessary.

6. APPOINT PUBLIC MEMBER AND ALTERNATE PUBLIC MEMBER

Possible Action: Reappoint Susan Vicklund-Wilson as LAFCO public commissioner and Terry Trumbull as LAFCO public alternate commissioner, to new four-year terms for a period from May 2011 to May 2015.

7. UPDATE ON LEGISLATION RELEVANT TO LAFCO

Possible Action: Accept staff report and provide further direction to staff, as necessary.

8. EXECUTIVE OFFICER'S REPORT

8.1 UPDATE ON THE 2011 COUNTYWIDE WATER SERVICE REVIEW

For information only.

8.2 REPORT ON THE 2011 CALAFCO STAFF WORKSHOP

For information only.

8.3 COMMENT LETTER TO THE CALIFORNIA HIGH SPEED RAIL AUTHORITY REGARDING EAST GILROY STATION

For information only.

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

For information only.

9. PENDING APPLICATIONS / UPCOMING PROJECTS

- El Camino Hospital District Annexation 2011
- Los Gatos Urban Service Area Amendment 2010 (Lands of Midpeninsula Regional Open Space District)
- City-Conducted Annexations/Reorganizations:
 - 22215 Mt. Eden Road (Saratoga)
 - East Dunne Avenue Annexation No. 20 (Morgan Hill)
 - Hilow Road No. 4 (Los Gatos)
 - Peacock Lane No. 2 (Los Gatos)

10. COMMISSIONER REPORTS

11. NEWSPAPER ARTICLES / NEWSLETTERS

- [CALAFCO Newsletter: The Sphere](#)
- [Saratogans Join with Monte Sereno Residents for La Hacienda Debate](#)

12. WRITTEN CORRESPONDENCE

13. ADJOURN

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

Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commission less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office at the address listed at the bottom of the first page of the agenda during normal business hours. In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408) 299-6415, or at TDD (408) 993-8272, indicating that the message is for the LAFCO Clerk.

LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, FEBRUARY 2, 2011

CALL TO ORDER

Chairperson Liz Kniss called the meeting to order at 1:23 p.m.

1. ROLL CALL

The following Commissioners and Alternate Commissioners were present:

- **Chairperson Liz Kniss**
- **Commissioner Pete Constant**
- **Commissioner Mike Wasserman**
- **Commissioner Susan Vicklund-Wilson**
- **Alternate Commissioner Al Pinheiro**
- **Alternate Commissioner Terry Trumbull**

The following Commissioners and Alternate Commissioners were absent:

- **Commissioner Margaret Abe-Koga**
- **Alternate Commissioner George Shirakawa**
- **Alternate Commissioner Sam Liccardo**

The following staff members were present:

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

2. PUBLIC COMMENT

There were no public comments.

3. APPROVE THE MINUTES OF DECEMBER 15, 2010 LAFCO MEETING

The Commission approved the minutes of December 15, 2010 LAFCO meeting, as submitted.

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

MOTION PASSED

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

NOES: None

ABSENT: Margaret Abe-Koga

4. EL CAMINO HOSPITAL DISTRICT AND SERVICES OUTSIDE ITS BOUNDARY

Chairperson Kniss requested the continuation of the item to the April 20, 2011 meeting.

Motion: Pete Constant **Second:** Mike Wasserman

MOTION PASSED

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

NOES: None

ABSENT: Margaret Abe-Koga

5. PUBLIC AND ALTERNATE PUBLIC MEMBER APPOINTMENT PROCESS

The Commission approved Option 1 in the staff report with the intention to reappoint Public Member Susan Vicklund-Wilson and Alternate Public Member Terry Trumbull to new 4-year terms (May 2011 to May 2015).

Motion: Pete Constant

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Liz Kniss, Mike Wasserman

NOES: None

ABSTAIN: Susan Vicklund-Wilson

ABSENT: Margaret Abe-Koga

6. EXECUTIVE OFFICER'S REPORT

6.1 BUDGET SUBCOMMITTEE FOR FISCAL YEAR 2011-2012

The Commission established the Budget Subcommittee, composed of Commissioners Constant and Wasserman, to develop and recommend the proposed FY 2011-2012 budget for consideration by the full Commission.

Motion: Pete Constant

Second: Susan Vicklund-Wilson

MOTION PASSED

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

NOES: None

ABSENT: Margaret Abe-Koga

6.2 UPDATE ON 2011 COUNTYWIDE WATER SERVICE REVIEW

Ms. Noel presented the staff report.

The report was accepted on Commission consensus.

6.3 UPDATE ON 2010 COUNTYWIDE FIRE SERVICE REVIEW

Ms. Noel presented the staff report.

The report was accepted on Commission consensus.

6.4 CALAFCO STAFF WORKSHOP IN VENTURA: APRIL 6-8, 2011

The Commission briefly discussed the CALAFCO workshop and conference. Commissioner Wilson stated that the 2011 CALAFCO Annual Conference will be held in Napa on August 31 to September 2, 2011. Ms. Palacherla reported that Santa Clara LAFCO staff will coordinate two sessions at the CALAFCO staff workshop.

The Commission authorized staff to attend the 2011 CALAFCO Staff Workshop in Ventura (April 6-8, 2011) and authorized travel expenses funded by LAFCO budget.

Motion: Pete Constant

Second: Susan Vicklund-Wilson

MOTION PASSED

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

NOES: None

ABSENT: Margaret Abe-Koga

7. COMMISSIONER REPORTS

Commissioner Wilson announced that she will be attending the CALAFCO Board of Directors Strategic Retreat and Board Meeting in Irvine, CA on February 17-18, 2011.

8. NEWSPAPER ARTICLES/NEWSLETTERS

The Commission noted the newspaper articles.

9. WRITTEN CORRESPONDENCE

There was no written correspondence.

10. PENDING APPLICATIONS / UPCOMING PROJECTS

The Commission noted the pending applications.

11. ADJOURN

Adjourned at 1:38 p.m. to the next meeting on Wednesday, April 20, 2011 in Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Liz Kniss, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk

LAFCO MEETING: April 20, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
SUBJECT: Proposed LAFCO Budget for Fiscal Year 2012
Agenda Item # 4

STAFF RECOMMENDATION

1. Adopt the Proposed LAFCO Budget for Fiscal Year 2011-2012.
2. Find that the Proposed LAFCO Budget for Fiscal year 2012 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the Proposed LAFCO Budget adopted by the Commission including the estimated agency costs as well as the notice of public hearing on the adoption of the Fiscal Year 2012 Final LAFCO Budget to each of the cities, to the County and to the Cities Association.

BACKGROUND

LAFCO Budget and Adoption Process

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) which became effective on January 1, 2001, requires LAFCO to annually adopt a draft budget by May 1 and a final budget by June 15 at noticed public hearings. Both the draft and the final budgets are required to be transmitted to the cities and the County. Government Code §56381 establishes that at a minimum, the budget must be equal to that of the previous year unless the Commission finds that reduced staffing or program costs will nevertheless allow it to fulfill its statutory responsibilities. Any unspent funds at the end of the year may be rolled over into the next fiscal year budget. After adoption of the final budget by LAFCO, the County Auditor is required to apportion the net operating expenses of the Commission to the agencies represented on LAFCO.

Apportionment of LAFCO Costs

The CKH Act requires LAFCO costs to be split in proportion to the percentage of an agency's representation (excluding the public member) on the Commission. Since the City of San Jose has a permanent membership on LAFCO, Government Code §56381.6 requires costs to be split between the County, the City of San Jose and the remaining cities. Hence the County pays half the LAFCO cost, the City of San Jose a quarter and the remaining cities the other quarter.

The cities' share (other than San Jose's) is apportioned in proportion to each city's total revenue as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county. Government Code §56381(c) requires the County Auditor to request payment from the cities and the County no later than July 1 of each year for the amount each agency owes based on the net operating expenses of the Commission and the actual administrative costs incurred by the Auditor in apportioning costs and requesting payment.

FISCAL YEAR 2011-2012 BUDGET TIMELINE

| Dates | Staff Tasks / LAFCO Action |
|---------------------|---|
| March 30 - April 20 | Notice period, draft budget posted on LAFCO web site and available for review and comment |
| April 20 | Public Hearing and adoption of draft budget |
| April 21 | Draft budget along with draft apportionment amounts transmitted to agencies (cities and County) together with notice of public hearing for the final budget hearing |
| June 1 | Public hearing and adoption of final budget |
| June 2 - July 1 | Final budget along with final agency apportionments transmitted to agencies; Auditor requests payment from agencies |

WORK PROGRAM FOR FISCAL YEAR 2011-2012

LAFCO is mandated by the state to process jurisdictional boundary change applications submitted in accordance with the provisions in the Cortese Knox Hertzberg Act. Associated with this mandate, LAFCO has several responsibilities / requirements including but not limited to adopting written policies and procedures, maintaining a web site, serving as a conducting authority for protest proceedings and conducting public hearings and providing adequate public notice. Other state mandates for LAFCO include preparation of service reviews and the corresponding review and update every five years, of the spheres of influence for each city and special district under LAFCO jurisdiction within the County. The LAFCO work program for FY 2011- 2012 includes:

Service Reviews

LAFCO will complete a countywide water service review of all agencies that provide water services in the county and will update the spheres of influence for the four water districts and the two resource conservation districts as required by the CKH Act.

Following this review, LAFCO will begin the service reviews and sphere of influence updates for all the cities and the remaining special districts.

Application Processing

LAFCO staff will respond to public inquiries regarding LAFCO policies and procedures for processing boundary change applications and will process all submitted applications. Staff does not anticipate high levels of application processing activity in the upcoming year from special districts or cities.

Island Annexations

Staff will continue to work with cities that have islands and will assist city staff with processing island annexations and finalize the annexations after city council approval.

Update of Existing LAFCO Policies / Development of New Policies

Staff will continue to review all LAFCO policies and update and/or develop new policies, where needed, for commission consideration and adoption. LAFCO will develop new policies to implement new requirements in state law, as necessary.

Public Information/Communication

Staff will continue to maintain the LAFCO web site, conduct workshops and make presentations as requested by agencies, communities or other groups regarding LAFCO programs/ policies and procedures, respond to general public inquiries, maintain and update digital boundary maps for cities and special districts, publish an updated wall map of cities in Santa Clara County, and actively participate in CALAFCO and other conferences, training and workshops.

LAFCO will recognize the 40th Anniversary of the LAFCO – County - Cities Joint Urban Development Policies and recognize those individuals that played a critical role in developing, adopting and implementing the policies.

Administration

Staff will continue to implement LAFCO's electronic records management system and integrate the system into the various workings of the LAFCO office. Other administrative work of LAFCO staff includes managing of consultant contracts, reviewing and updating LAFCO procedures as necessary, updating and maintaining the LAFCO database, updating the LAFCO website, managing LAFCO records, tracking LAFCO related legislation and preparing the annual budget and preparing fee schedule revisions. Staff will conduct a strategic planning workshop session for LAFCO in early 2012 in order to envision and plan LAFCO's work program and priorities, taking into account future opportunities and challenges.

The LAFCO Annual Report which will be published at the end of the current fiscal year will document the types of applications processed and the various activities / projects that LAFCO has completed in the current fiscal year.

STATUS OF CURRENT YEAR BUDGET (Fiscal Year 2011)

The adopted LAFCO budget for the current year is \$809,698. It is projected that there will be a savings of about \$112,028 at the end of this fiscal year. Please note that this amount excludes the \$100,000 currently budgeted as reserves. The \$100,000, expected to be unused, will be rolled over to the next year as is.

Projected Year End Savings = Projected Year End Revenue - Projected Year End Expenses - Reserves

Projected Year End Savings = \$895,807 - \$683,779 - \$100,000

Projected Year End Savings = \$112,028

This savings amount will largely be due to the following:

1. Having a larger fund balance than anticipated from the previous fiscal year. The actual fund balance from FY 2010 was approximately \$ 88,108 more than projected. (\$275,605 - \$187,497)

The estimated savings of \$112,028 at the end of the current fiscal year of 2011, will be carried over to reduce the proposed FY 2012 costs for the cities and the County.

PROPOSED FISCAL YEAR 2011-2012 BUDGET

At its February 2, 2011 LAFCO meeting, the Commission appointed a Budget Subcommittee composed of Commissioners Mike Wasserman and Pete Constant. The Commission directed the budget subcommittee to develop a draft budget for Commission consideration. The Budget Subcommittee held a meeting on March 7th to discuss issues related to the budget and to formulate the budget for FY 2012. The Budget Subcommittee discussed current and future budget related issues including the status of the current year budget, the highlights and progress on the current year work plan, and the proposed work plan for the upcoming fiscal year and recommended the proposed budget for FY 2012.

The proposed budget for FY 2011-2012 is \$739,602. A detailed itemization of the budget is provided below.

Object 1. SALARIES AND BENEFITS \$418,342

All three LAFCO staff positions are staffed through the County Executive's Office. There is no change in the proposed salaries for the LAFCO staff. The cost of benefits is as determined by the County.

Object 2. SERVICES AND SUPPLIES

5258200 INTRA-COUNTY PROFESSIONAL \$55,000

This amount remains the same as the current year budget and includes costs for services from the County Surveyors Office and the County Assessors' Office.

LAFCO Surveyor \$50,000

The County Surveyor will continue to assist with map review and approval. In addition, the Surveyors Office will also assist with research to resolve boundary discrepancies. It is estimated that about 400 hours of service will be required in the next fiscal year. The County Surveyor's Office charges a rate of \$117 per hour for FY 2012.

Miscellaneous Staffing \$5,000

This amount pays for the cost of reports prepared by the County Assessor's Office for LAFCO proposals. Additionally, it allows LAFCO to seek technical assistance from the County Planning Office on GIS/ mapping issues. LAFCO accesses data in the County Planning Office's GIS server. This item includes maintenance and technical assistance for GIS, if necessary.

5255800 LEGAL COUNSEL \$55,000

This item covers the cost for general legal services for the fiscal year. In February 2009, the Commission retained the firm of Best Best & Krieger for legal services on a monthly retainer. The contract was amended in 2010 to reduce the number of total hours required to 240 hours per year. The contract sets the hourly rate and allows for an annual automatic adjustment in the rates based on CPI. The monthly retainer for 2011 increases to \$4,431 - an increase of \$61.18 based on a 1.4% CPI.

5255500 CONSULTANT SERVICES \$80,000

This item is allocated for hiring consultants to assist LAFCO with special projects. This year, the amount is allocated for hiring consultants to conduct a service review and a sphere of influence update for all the cities and the remaining special districts.

5285700 MEAL CLAIMS \$750

This item is being maintained at \$750.

5220200 INSURANCE \$5,600

This item is for the purpose of purchasing general liability insurance and workers' compensation coverage for LAFCO. In 2010, LAFCO switched from the County's coverage to SDRMA, for the provision of general liability insurance. Additionally, LAFCO also obtains workers Compensation coverage for its commissioners from SDRMA. Worker's Compensation for LAFCO staff is currently covered by the County and is part of the payroll charge.

5250100 OFFICE EXPENSES \$2,000

This item is being maintained at \$2,000 and provides for purchase of books, periodicals, small equipment and supplies throughout the year.

5255650 DATA PROCESSING SERVICES \$22,634

This item includes \$2,634 for support from County Information Services Department (ISD) including for active directory (\$426), email support and licenses (\$1,082) and 10

hours of LAN support services (\$1,126). Additionally, an amount of \$20,000 is budgeted for upgrading the LAFCO website and to improve its functionality.

5225500 COMMISSIONER'S FEES \$7,000

This item includes a \$100 per diem amount for LAFCO Commissioners and Alternate Commissioners to attend LAFCO meetings and sub-committee meetings in the Fiscal Year 2012.

5260100 PUBLICATIONS AND LEGAL NOTICES \$2,500

This is being maintained at \$2,500 and will be used for publication of hearing notices for LAFCO applications and other projects/ studies, as required by state law.

5245100 MEMBERSHIP DUES \$7,000

This amount provides for the membership dues to the statewide association, CALAFCO - the California Association of LAFCOs. In recent years, CALAFCO has expanded its services with the CALAFCO web site, newsletter, CALAFCO Sacramento Office, legislative representation and member publications such as directories to name a few. In addition to these services, CALAFCO has implemented other new programs such as the CALAFCO University, insurance and employee benefit options and research resources.

5250750 PRINTING AND REPRODUCTION \$1,500

An amount of \$1,500 is being budgeted for printing expenses for reports such as service review reports or other studies.

5285800 BUSINESS TRAVEL \$11,000

This item is for both staff and commissioners to attend conferences and workshops. It would cover air travel, accommodation, conference registration and other expenses at the conferences. CALAFCO annually holds a Staff Workshop and an Annual Conference that is attended by commissioners as well as staff. In addition, this item covers the travel expenses for staff/commissioners' travel to the CALAFCO Board meetings. Commissioner Wilson is serving a fourth term on the CALAFCO Executive Board and is the president of the Board. Commissioner Wilson and the Executive Officer serve on the CALAFCO Legislative Committee.

5285300 PRIVATE AUTOMOBILE MILEAGE \$2,000

This item provides for travel to conduct site visits, attend meetings and training sessions etc.

5285200 TRANSPORTATION AND TRAVEL (for use of County car) \$629

This item would allow for the use of a County vehicle for travel to conferences, workshops and meetings.

5281600 OVERHEAD \$60,647

This is an amount established by the County Controller's Office, for service rendered by various County departments that do not directly bill LAFCO for service. The overhead includes LAFCO share of the County's FY 2012 Cost Allocation Plan which is based on actual overhead costs from FY 2010 – the most recent year for which actual costs are available. This amount totals to \$50,193 and includes the following charges from:

| | |
|--------------------------------|----------|
| County Executive's Office: | \$32,912 |
| Controller-Treasurer: | \$8,822 |
| Employee Services Agency: | \$3,003 |
| OBA: | \$413 |
| Procurement: | \$20 |
| Other Central Services: | \$112 |
| ISD Intergovernmental Service: | \$3,889 |
| ISD | \$1,022 |

Secondly, a "roll forward" is applied which is calculated by comparing FY 2011 Cost Plan with FY 2010 actuals. Since actuals exceeded the Plan by \$10,454, this amount is added to the FY 2011 Plan. This is a state requirement.

5275200 COMPUTER HARDWARE \$2,000

This item is being maintained at \$2,000 and will be used for hardware upgrades / purchases.

5250800 COMPUTER SOFTWARE \$2,000

This item is for purchases of computer software that would be required for the program and is also being maintained at \$2,000.

5250250 POSTAGE \$2,000

This amount is budgeted for the cost of mailing notices, agendas, agenda packets and other correspondence and is being maintained at \$2,000.

5252100 TRAINING PROGRAMS \$2,000

This item provides for staff development courses and seminars.

3. REVENUES

4103400 APPLICATION FEES \$25,000

It is anticipated that LAFCO will earn about \$25,000 in fees from processing applications. LAFCO has extended the fee waiver for island annexations, resulting in reduced revenues. The actual amount earned from fees is not within LAFCO control and depends entirely on the actual level of application activity.

4301100 INTEREST \$5,000

It is estimated that LAFCO will receive an amount of about \$5,000 from interest earned on LAFCO funds.

4. RESERVES

3400800 RESERVES \$100,000

This item includes reserves for two purposes: litigation reserve – for use if LAFCO is involved with any litigation and contingency reserve - to be used to deal with any unexpected expenses. If used during the year, this account will be replenished in the following year. In the past 9 years, LAFCO has not had to use the reserves and the amount has been rolled over to the following year to offset costs. Starting with this budget, the Reserves will be retained in the Reserves account if unused at the end of the Fiscal Year, thus eliminating the need for LAFCO to budget each year for this purpose.

COST APPORTIONMENT TO CITIES AND COUNTY

Calculation of Net Operating Expenses

FY 2012 Net Operating Expenses = Proposed FY 2012 Expenditures – Proposed FY 2012 Fee Revenues
– Projected FY 2011 Year End Savings

FY 2011 Net Operating Expenses = \$739,602 - \$30,000 - \$112,028

FY 2011 Net Operating Expenses = \$597,574

The proposed net operating expense for FY 2012 is approximately 2% higher than that of the current year net operating expense. Therefore there is a small increase in the cost to the cities and the County from the previous year. Please note that the projected operating expense for FY 2012 are based on projected savings and expenses for the current year and are not actual figures. It is therefore to be expected that there may be revisions to the budget as we get a better indication of current year expenses towards the end of this fiscal year. This could result in changes to the proposed net operating expenses for FY 2012 which could in turn impact the costs for each of the agencies. Provided below is the draft apportionment to the agencies based on the proposed net operating expenses for FY 2012 (\$597,574).

Cost to Agencies

| | |
|-----------------------------------|-----------|
| County of Santa Clara | \$298,787 |
| City of San Jose | \$149,394 |
| Remaining 14 cities in the County | \$149,394 |

Apportionment of the costs among the 14 cities will be based on a percentage of the cities’ total revenues and will be calculated by the County Controller’s Office after LAFCO adopts the final budget in June. A draft of the estimated apportionment to the cities is included as Attachment B to provide the cities a general indication of the costs.

ATTACHMENTS

Attachment A: Proposed LAFCO Budget for Fiscal Year 2012

Attachment B: Estimated Costs to Agencies Based on the Proposed Budget

**PROPOSED LAFCO BUDGET
FISCAL YEAR 2011 - 2012**

**ITEM No. 4
ATTACHMENT A**

| ITEM # | TITLE | APPROVED FY 2011 BUDGET | ACTUALS Year to Date 3/1/2011 | YEAR END 2011 PROJECTIONS | PROPOSED FY 2012 BUDGET |
|-------------------------------------|--|--|--|--|--|
| EXPENDITURES | | | | | |
| Object 1: | Salary and Benefits | \$408,826 | \$265,184 | \$414,007 | \$418,342 |
| Object 2: | Services and Supplies | | | | |
| 5258200 | Intra-County Professional | \$55,000 | \$27 | \$40,000 | \$55,000 |
| 5255800 | Legal Counsel | \$55,000 | \$30,590 | \$55,000 | \$55,000 |
| 5255500 | Consultant Services | \$90,000 | \$20,660 | \$90,000 | \$80,000 |
| 5285700 | Meal Claims | \$750 | \$228 | \$750 | \$750 |
| 5220200 | Insurance | \$6,033 | \$4,926 | \$6,033 | \$5,600 |
| 5250100 | Office Expenses | \$2,000 | \$641 | \$1,200 | \$2,000 |
| 5255650 | Data Processing Services | \$2,463 | \$1,251 | \$2,463 | \$22,634 |
| 5225500 | Commissioners' Fee | \$9,000 | \$2,000 | \$6,000 | \$7,000 |
| 5260100 | Publications and Legal Notices | \$2,500 | \$247 | \$500 | \$2,500 |
| 5245100 | Membership Dues | \$7,000 | \$7,000 | \$7,000 | \$7,000 |
| 5250750 | Printing and Reproduction | \$1,500 | \$0 | \$200 | \$1,500 |
| 5285800 | Business Travel | \$12,000 | \$2,922 | \$8,000 | \$11,000 |
| 5285300 | Private Automobile Mileage | \$2,000 | \$836 | \$2,000 | \$2,000 |
| 5285200 | Transportation&Travel (County Car Usage) | \$1,000 | \$0 | \$0 | \$629 |
| 5281600 | Overhead | \$46,626 | \$23,313 | \$46,626 | \$60,647 |
| 5275200 | Computer Hardware | \$2,000 | \$83 | \$1,000 | \$2,000 |
| 5250800 | Computer Software | \$2,000 | \$314 | \$1,000 | \$2,000 |
| 5250250 | Postage | \$2,000 | \$535 | \$1,000 | \$2,000 |
| 5252100 | Staff/Commissioner Training Programs | \$2,000 | \$0 | \$1,000 | \$2,000 |
| 5701000 | Reserves | \$100,000 | \$0 | \$0 | \$0 |
| TOTAL EXPENDITURES | | \$809,698 | \$360,756 | \$683,779 | \$739,602 |
| REVENUES | | | | | |
| 4103400 | Application Fees | \$30,000 | \$46,906 | \$30,000 | \$25,000 |
| 4301100 | Interest: Deposits and Investments | \$7,000 | \$2,846 | \$5,000 | \$5,000 |
| | Savings/Fund Balance from previous FY | \$187,497 | \$275,605 | \$275,605 | \$112,028 |
| TOTAL REVENUE | | \$224,497 | \$325,357 | \$310,605 | \$142,028 |
| NET LAFCO OPERATING EXPENSES | | \$585,201 | | | \$597,574 |
| 3400800 | RESERVES | | | | \$100,000 |
| COSTS TO AGENCIES | | | | | |
| 4600100 | Cities (San Jose 50% + Other Cities 50%) | \$292,601 | \$292,601 | \$292,601 | \$298,787 |
| 5440200 | County | \$292,601 | \$292,601 | \$292,601 | \$298,787 |

March 31, 2011

2011/2012 LAFCO COST APPORTIONMENT

Estimated Costs to Agencies Based on the Proposed LAFCO Budget

| LAFCO Net Operating Expenses for 2011/2012 | | | | \$597,574 |
|---|---|--|-----------------------------------|------------------------|
| Jurisdictions | Revenue per 2007/2008 Report | Percentage of Total Revenue | Allocation Percentages | Allocated Costs |
| County | N/A | N/A | 0.50000000 | \$298,787.00 |
| San Jose | N/A | N/A | 0.25000000 | \$149,393.50 |
| Campbell | 38,244,424 | 2.1678349% | 0.5419587% | \$3,238.60 |
| Cupertino | 57,764,219 | 3.2742889% | 0.8185722% | \$4,891.57 |
| Gilroy | 66,082,813 | 3.7458175% | 0.9364544% | \$5,596.01 |
| Los Altos | 45,666,717 | 2.5885579% | 0.6471395% | \$3,867.14 |
| Los Altos Hills | 13,239,141 | 0.7504433% | 0.1876108% | \$1,121.11 |
| Los Gatos | 35,111,318 | 1.9902389% | 0.4975597% | \$2,973.29 |
| Milpitas | 98,670,590 | 5.5930128% | 1.3982532% | \$8,355.60 |
| Monte Sereno | 3,072,897 | 0.1741831% | 0.0435458% | \$260.22 |
| Morgan Hill | 61,064,613 | 3.4613674% | 0.8653418% | \$5,171.06 |
| Mountain View | 175,514,445 | 9.9488058% | 2.4872014% | \$14,862.87 |
| Palo Alto | 402,989,000 | 22.8429021% | 5.7107255% | \$34,125.81 |
| Santa Clara | 462,443,209 | 26.2129859% | 6.5532465% | \$39,160.50 |
| Saratoga | 20,437,685 | 1.1584833% | 0.2896208% | \$1,730.70 |
| Sunnyvale | 283,874,941 | 16.0910782% | 4.0227695% | \$24,039.02 |
| Total | 1,764,176,012 | 100.0000000% | 100.0000000% | \$597,574.00 |

LAFCO Meeting: April 20, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Mala Subramanian, LAFCO Counsel
SUBJECT: El Camino Hospital District and Services Outside its Boundary
Agenda Item # 5

STAFF RECOMMENDATION

Accept staff report and provide further direction to staff, as necessary.

ISSUE ANALYSIS

Was the Los Gatos Hospital purchased / operated with El Camino Hospital District's funds?

At the February 2nd LAFCO meeting, the Commission deferred the item on El Camino Hospital District, without discussion. On February 18, LAFCO met with the attorneys for the El Camino Hospital District and the El Camino Hospital - a nonprofit corporation, to explain LAFCO's concerns and get more information / additional clarity on the matter of the District providing services outside its boundaries. At the meeting, it became clear that in order to determine if the District was providing services outside its boundaries, more detailed information was necessary on whether or not the Los Gatos Hospital was purchased or operated using funds from the El Camino Hospital District. Please see attached staff report dated February 2, 2011 for background information on the issue, as well as the letter dated February 1, 2011 from the District. (Attachment A).

The District, in a letter dated March 30, 2011 (see Attachment B) provided various documents and a description of how the District has transferred / sold assets/ finances to the Corporation, explaining that the revenues from assets sold or transferred by the District to the Corporation and generated after the date of such sale or transfer are revenues of the Corporation and not the District. The following is a brief summary of the District's letter regarding the agreements on the sale/transfer/lease of between the District and the Corporation.

Lease of land owned by the District to the Corporation

The District originally leased the land upon which the Mountain View hospital campus is located to the Corporation for a 30-year term starting in December 1992 and continuing until December 2022, under the terms of the Ground Lease. In November 2004, the terms of the lease were extended to December 2054. The Corporation pays the District an annual rent of \$50,000 set initially and adjusted annually based on CPI index.

Sale of District's Buildings to the Corporation

In December 1992, the Corporation purchased all Mountain View hospital buildings (except the maternal-child health building which was then under construction) from the District for a cash payment of \$31,645,000. The Corporation assumed liabilities of the District in an amount of \$16,950,000. Together, this amount equaled the fair market value of the buildings: \$48,595,000. The Corporation (through the Santa Clara County Financing Authority) issued \$32,576,000 in bonds to raise cash proceeds to purchase the buildings from the District under the Building Sale Agreement. At the end of the Ground Lease, the buildings located on the leased land would revert back to the District and the District would be required to pay the residual value of the buildings to the Corporation.

Construction of New Improvements by the District

In November 2004, it was also agreed that the District would construct a new five level main hospital building of approximately 550,000 square feet on the leased land. These new improvements would be owned by the Corporation and revert back to the District at the end of the Ground Lease. However, the District is not obligated to pay the Corporation for the residual value of the new improvements at the end of the Ground Lease. The cost of new improvements totaled \$460 million, which is funded from proceeds of GO bonds issued by the District for \$148 million and from proceeds of bonds issued by the Corporation for \$200 million. The balance \$112 million was funded by cash reserves of the Corporation. The new improvements were completed in November 2009, six months after the Corporation acquired the Los Gatos Hospital.

Transfer of District's Assets to the Corporation

In December 1992, the District transferred personal property and other assets to the Corporation pursuant to the Asset Transfer Agreement. In exchange, the Corporation agreed to "use, operate and maintain the Transferred Assets exclusively for the benefit of the present and future health care needs of the communities served by the District and the Corporation." The Corporation did not make any payment in cash to the District for the transfer of assets.

CONCLUSION

Based on the information provided by the District in its letter, it appears that District funds were not used by the Corporation for the acquisition/operation of the Los Gatos Hospital and the District did not contribute any monies directly for the purchase or operation of the Los Gatos Hospital. Therefore, staff concludes that the District is not providing services outside its boundaries.

ATTACHMENTS

Attachment A: LAFCO Staff Report dated February 2, 2011 Regarding El Camino Hospital District and letter dated February 1, 2011 from Greg Caligari on behalf of the District.

Attachment B: Letter dated March 30, 2011, from Gregory Caligari regarding the El Camino Hospital District

LAFCO Meeting: February 2, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Mala Subramanian, LAFCO Counsel
SUBJECT: El Camino Hospital District and Services Outside its Boundary
Agenda Item # 4

STAFF RECOMMENDATION

Accept staff report and provide further direction to staff, as necessary.

BACKGROUND

El Camino Hospital District

The El Camino Hospital District's boundaries include the cities of Los Altos, Los Altos Hills, Mountain View, a majority of Sunnyvale, a small portion of Cupertino and some adjacent unincorporated areas. The District was formed in 1956 pursuant to the Health and Safety Code. Funded by property taxes and a bond measure, the District's construction of the El Camino Hospital in Mountain View was completed in 1961.

In 1993, the District created the El Camino Hospital Corporation (Corporation) a 501(c)(3) corporation. The Board of the Corporation was different than the District Board. The District transferred all of its employees to the Corporation. In 1997, the Board of the Corporation resigned and the District Board placed itself as the Board to the Corporation. The District currently has no employees.

The District has several funding sources including a share of the 1% property tax from properties within the District's boundary, maintenance and operations funds from a 1950s bond measure, funds to retrofit and rebuild the El Camino Hospital from a 2003 general obligation bond measure, interest income from District investments and income from leasing the land for the El Camino Hospital to the Corporation.

We have been informed that in 2008, the Corporation purchased land and some assets of a community hospital in Los Gatos using surplus cash from operating the El Camino Hospital and in 2009 started operating a hospital on the Los Gatos Campus.

Locating Facility and Providing Service Outside District's Boundary Using District Funds

The District has stated that it is the Corporation and not the District that purchased and is operating the Los Gatos Hospital. The District and the Corporation appear on paper to be two different entities; however, we believe that in reality they are operating as one entity. Pursuant to the Bylaws of the Corporation, the District is the sole member of the

Corporation. For instance, the District selects the Corporation's Board, which is the same board as the District, they have the same administration, same website, and in the event of dissolution of the Corporation all assets, including all property such as the Los Gatos Hospital would transfer to the District. We do not believe there is transparency in how these two entities truly operate. While the Corporation purchased the Los Gatos Hospital, the funds for the purchase came from operations of the El Camino Hospital which in turn was constructed with funds from taxes levied by the District. For that reason, we believe District funds have been used to acquire/ operate the Los Gatos Hospital through the Corporation.

We are therefore concerned that the District is operating a health care facility and providing services outside its jurisdiction via the Corporation. While the District can operate a health care facility outside of their boundaries under certain circumstances under the Health and Safety Code, this does not as we understand it, alleviate the requirement for LAFCO approval.

Government Code section 56133 states that a district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from LAFCO. LAFCO may authorize a district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change or reorganization.

The Los Gatos Hospital is located outside the District's jurisdiction and sphere of influence. The area served by the Los Gatos Hospital is benefitting from District services / funding without participating in the funding mechanism. Taxes levied by the District within its boundaries are being used outside the current District's boundary to benefit residents there.

Staff has discussed these concerns with the District and recommended that the District consider submitting an application to LAFCO for expanding its sphere of influence into the areas that it is currently serving and for annexation of those areas. LAFCO in its review of the application will consider among other things, the District's ability to provide/fund service in the new areas and the fiscal/service impacts of the annexation on the residents and other affected agencies in the area.

We have been informed that the El Camino Hospital District will discuss this issue at their February 9th Board meeting.

NEXT STEPS

Staff will send a letter to the El Camino Hospital District informing the District that it is providing service outside its jurisdiction without LAFCO approval (in violation of Government Code Section 56133) and recommend that the District submit an application to LAFCO for a sphere of influence amendment and annexation of the area to the District in order to remedy the situation. Staff will update the Commission as this issue progresses.



Cox, Castle & Nicholson LLP
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San Francisco, California 94104-1513
P 415.392.4200 F 415.392.4250

Gregory B. Caligari
415.262.5111
gcaligari@coxcastle.com

February 1, 2011

File No. 58723

BY EMAIL (.PDF)

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

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

Re: El Camino Hospital District
February 2, 2011 LAFCO Meeting, Agenda Item No. 4

Dear Chairperson Kniss and Honorable Commissioners:

On behalf of the El Camino Hospital District (the "District"), we respectfully request that the Commission defer or continue the above-referenced agenda item concerning the El Camino Hospital District.

The District strongly disagrees with the conclusions in the staff report that the District is operating health care facilities outside its jurisdiction without Commission approval in violation of Government Code Section 56113. The staff report bases these conclusions on the premise that the existence of El Camino Hospital, a California nonprofit public benefit corporation (the "Corporation"), as a separate legal entity should be disregarded, which is not supported by the facts before you or the law.

The issues raised in the staff report come on very short notice to the District, and we do not believe that requiring the District to respond to these issues on such an expedited basis is productive. Rather, we believe that providing additional time for these issues to be discussed by the District Board of Directors, and then for continued dialogue between Commission staff and District representatives, is the most productive way to address all parties' concerns regarding this matter. We are not aware of any deadline that requires immediate action by LAFCO on this issue.

In response to our request to Commission staff to continue this matter, we were informed that "The item on the LAFCO Agenda regarding the El Camino Hospital is only to provide information to the [C]ommission on the issue and to let them know about the discussions we have had so far. The item is not on the agenda for a definite action by LAFCO on the issue." We concur, and request that the Commission not take any action on this item at this time.

A. Prior Correspondence with Commission Staff.

By way of background, on November 4, 2010, the District received from Commission staff a written request that the District provide certain information related to the legal and financial relationship between the District and the Corporation. The District provided all requested information in a 144-page response on November 30, 2010.

Subsequently, Commission staff requested a follow-up meeting with Matt Harris, Controller for El Camino Hospital. Mr. Harris and counsel met with Commission staff as requested on January 7, 2011.

The District has been open and cooperative with Commission staff regarding these requests for information and meetings, and previously informed Commission staff that the District would be considering issues raised by Commission staff related to the service boundaries of the District. However, the District Board of Directors has not yet had time to consider these issues and provide direction for continuing discussions with Commission staff, which is one of the reasons why we believe Commission action on this matter at this time is premature.

B. Factual Corrections to Staff Report.

There are a number of factual errors contained in the staff report for this matter. Some examples including the following:

1. The staff report states that the District issued general obligation bonds in 2003. The general obligation bonds were actually issued in 2006.

2. The staff report states that "in 2009 [the Corporation] started operating a hospital on the Los Gatos Campus." To clarify, the Corporation is operating the Los Gatos campus as part of a single hospital that includes both the Mountain View campus and the Los Gatos campus that operate under a single consolidated license issue to the Corporation pursuant to Health and Safety Code Section 1250.8. The Los Gatos campus is not a separate hospital.

3. The staff report states that the Corporation's Board is the same as the District's Board. In fact, the Corporation and the District have separate Boards, which meet separately, and the Corporation's Board includes the Chief Executive Officer of the Corporation, who is not a member of the District's Board.

4. The staff report incorrectly states that District funds have been used to acquire/operate the Los Gatos campus, that the area served by the Los Gatos campus is benefitting from District services/funding without participating in the funding mechanism, and that taxes levied by the District within its boundaries are being used outside the current District's boundary to benefit residents there. As the District has previously disclosed to the Commission staff, no District funds or taxes levied by the District have been used to acquire, purchase equipment for, or operate the Los Gatos campus.

C. Disregarding El Camino Hospital Corporation as a Separate Legal Entity Is Not Justified.

LAFCO staff appears to recommend that the Commission conclude that the District is operating health care facilities outside of its jurisdiction without Commission approval in violation of Government Code Section 56113, essentially because of the Corporation's acquisition of the Los Gatos campus assets in 2009 and the Corporation's operations at the Los Gatos campus. The staff bases this recommendation upon an assertion that the Corporation should be disregarded as a separate legal entity from the District. The staff report asserts that the District and the Corporation are not separate legal entities because of the following:

1. The District is the sole member of Corporation.
2. The District selects the Board of Directors of the Corporation.
3. The District and the Corporation have the same Board of Directors. (As noted above, this is not correct.)
4. The District and the Corporation do not have a separate administrations, employees or websites.
5. In the event of dissolution of Corporation, all assets of the Corporation would transfer the District.

In fact, all of the above factors are extremely common in situations where one legal entity is wholly owned by another legal entity -- and it is well settled that this does not mean that the parent and the subsidiary are not separate legal entities. In California, "[c]orporate entities are presumed to have separate existences" and "common ownership or control alone is never enough to establish parent liability." (*Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 738; *see also, Mid-Century Ins. Co. v. Gardner* (1992) 9 Cal.App.4th 1205, 1212 ("*Mid-Century*").) Accordingly, when determining whether to disregard corporate status, "[t]he courts have cautioned against relying too heavily in isolation of the factors of ... concentration of ownership or control." (*Mid-Century, supra*, 9 Cal.App.4th at p. 1213.) This caution applies with particular force here, where the District and the Corporation are recognized as separate legal entities under state statutes. (*See, e.g., Health and Safety Code* § 32121.7.) Indeed, it is questionable whether the "alter ego" doctrine can ever be applied against a governmental entity. (*Tucker Land Co. v. California* (2001) 94 Cal.App.4th 1191, 1201.)

The staff report then makes the additional incorrect assertion that the revenues from the Mountain View campus operations are not in fact revenues of Corporation, but rather are revenues of District. This is incorrect. The Mountain View campus property has been ground leased by the District to the Corporation since 1992, and the Mountain View campus improvements were purchased from the District by the Corporation in 1992 for fair market value, after such improvements were constructed by the District using tax-exempt debt. As the ground lessee of the property and the owner of the improvements constituting the Mountain View campus, revenues generated by the Mountain View campus are Corporation revenues, not District revenues. To assert otherwise would also requires the Commission to disregard that the Corporation as a separate legal entity from the District, which is not justified or legally defensible.

D. Conclusion.

For the reasons stated above, the District strongly disagrees with statements in the staff report that the District is operating health care facilities outside its jurisdiction without Commission approval in violation of Government Code Section 56113, and that the Corporation should be disregarded as a separate legal entity.

We respectfully request that the Commission defer or continue the El Camino Hospital District item on the agenda for the February 2nd Commission meeting until a later date, to allow additional time for Commission staff and District representatives to continue discussions to identify and address all parties' concerns regarding this matter.

Sincerely,



Gregory B. Caligari

58723\4056322v2A

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



ITEM NO. 5

ATTACHMENT B

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

Gregory B. Caligari
415.262.5111
gcaligari@coxcastle.com

March 30, 2011

File No. 62721

VIA E-MAIL (NEELIMA.PALACHERLA@CEO.SCCGOV.ORG)
AND U.S. MAIL

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

Re: El Camino Hospital District

Dear Neelima:

We are writing to follow-up on our meeting of February 23, 2011. As requested, we have reviewed the historic files of El Camino Hospital District (the "District") and El Camino Hospital, a California nonprofit public benefit corporation (the "Corporation") in relation to the 1992 sale and transfer of the Mountain View hospital campus facilities and related assets and liabilities from the District to the Corporation.

At the time of such transfer, the Board of Directors of the District determined that it would best serve the interests of the District and the communities served by the District for the District to:

(a) lease its land (not including the buildings, fixtures and other improvements on the land) owned by the District to El Camino Healthcare System, a California nonprofit public benefit corporation, pursuant to that certain Ground Lease Agreement between the District and the Corporation dated as of December 17, 1992 (the "Ground Lease") (note that the Corporation is the successor in interest to the original lessee under the Ground Lease by name change, as reflected in the Corporation's Articles of Incorporation, and such predecessor is also sometimes referred to in this letter as "Corporation");

(b) transfer all of the District's personal property and certain other assets and obligations to the Corporation pursuant to that certain Asset Transfer Agreement between the District and the Corporation dated as of December 17, 1992 (the "Asset Transfer Agreement"); and

(c) sell most of the District's buildings and certain other assets to the Corporation pursuant to that certain Building Sale Agreement between the District and the Corporation dated as of December 17, 1992 (the "Building Sale Agreement").

A copy of the Ground Lease was previously provided as an attachment to the November 30, 2010 letter to you from Matt Harris, Controller of El Camino Hospital. A copy of the Asset Transfer Agreement is attached to this letter as Attachment 1. A copy of the Building Sale Agreement is attached to this letter as Attachment 2.

Pursuant to the original Ground Lease, the real estate upon which the Mountain View hospital campus is located was leased by the District to the Corporation for a 30-year term, commencing on December 31, 1992 and continuing until December 31, 2022, unless otherwise terminated or extended pursuant to the Ground Lease. On November 3, 2004, the District and the Corporation entered into that certain First Amendment to the Ground Lease (the "First Amendment to Ground Lease"), which extended the term of the Ground Lease to December 31, 2054. A copy of the First Amendment to Ground Lease is attached hereto as Attachment 3.

Under the Ground Lease, the Corporation pays the District annual rent that was initially set at \$50,000 per year, and which amount is adjusted annually pursuant to a CPI index adjustment. (See Section 3.1, Ground Lease) In addition, the Corporation is required to undertake a number of other obligations under the Ground Lease, including without limitation, completing construction of the maternal-child health building on the leased property and entering into the PRN Agreement (See Sections 5.7 and 5.9, Ground Lease).

The original Ground Lease provided that, at the end of the term of the Ground Lease, the leased property would revert back to the District along with all the buildings and other permanent fixtures located on the leased property, and that the District would be required to pay the residual value of such buildings and fixtures to the Corporation. In addition to extending the term, the First Amendment to Ground Lease provided that the District would construct certain "New Improvements" (as defined in the First Amendment to Lease) on the leased property, which New Improvements would be owned by the Corporation during the term of the Ground Lease, and which ownership would also revert to the District upon the termination of the Ground Lease. The First Amendment to Ground Lease clarified that the District's obligation to pay the Corporation for the residual value of the buildings and fixtures on the leased property at the end of the term did not apply to the New Improvements, for which no residual value was required to be paid by the District. The New Improvements consisted primarily of a new five-level main hospital building consisting of approximately 550,000 square feet of new and upgraded facilities. The total cost of the new hospital building and associated equipment totaled approximately \$460 million dollars, which was funded in part from proceeds of (i) the District's 2006 General Obligation Bonds issued in December 2006 in the aggregate amount of \$148 million (i.e., the GO Bonds described in the First Amendment to Lease), (ii) the Corporation's Insured Revenue Bonds issued by the Santa Clara County Financing Authority, Series 2007A, 2007B, and 2007C in the aggregate principal amount of \$150 million, and (iii) the Corporation's Variable Rate Revenue Bonds issued by the Santa Clara County Financing Authority, Series 2009A, in the amount of \$50 million. The balance was funded by cash reserves of the Corporation. The new hospital building was not completed and opened for occupancy until November of 2009, over six (6) months after the Corporation acquired the El Camino Hospital Campus in Los Gatos.

Pursuant to the Asset Transfer Agreement, in December of 1992, the District transferred to the Corporation the District's right, title and interest in and to the personal property and other assets defined in the Asset Transfer Agreement as the "Transferred Assets." In exchange, the Corporation agreed to "use, operate and maintain the Transferred Assets exclusively for the benefit of the present and future health care needs of the communities served by [the] District and [the] Corporation." (See Section 1.04, Asset Transfer Agreement.) The Corporation also agreed to indemnify and defend the District and pay any sums ultimately owed by the District with respect to any assessments, fees, taxes or other payments due as a result of the transfer of the Transferred Assets pursuant to the Asset Transfer Agreement, and to administer the employee compensation, benefit and retiree health programs as set forth in Schedule 3.04 to the Asset Transfer Agreement and any revisions thereto. (See Sections 2.02 and 3.04, Asset Transfer Agreement.) The Corporation was not obligated to make any payment of cash to the District in exchange for the Transferred Assets. (See Section 2.01, Asset Transfer Agreement.)

The Asset Transfer Agreement expressly provided that the District did not intend by the transfer of the assets pursuant thereto to dissolve the District, *de facto* or otherwise, that the District intended to maintain its existence as a local hospital district organized under the Local Hospital District Law of the State of California, and that the District would continue to exercise all of its rights and powers under the Local Hospital District Law and did not grant or delegate any such rights or powers. (See Section 5.04, Asset Transfer Agreement). The Asset Transfer Agreement also expressly provided that the agreement did not "vest in District any right to control or govern the activities or operations of [the] Corporation." (See Section 5.04, Asset Transfer Agreement).

Separately, pursuant to the Building Sale Agreement, in December of 1992, the District sold to the Corporation the "Buildings" (as defined in the Building Sale Agreement), consisting of all the buildings and other fixtures and improvements located on the land subject to the Ground Lease, other than the maternal-child health building that was then under construction and was separately included as one of the Transferred Assets under the Asset Transfer Agreement – essentially, all the buildings that constituted the Mountain View hospital. In exchange, the Corporation assumed liabilities of the District in an amount of \$16,950,000, and also made a cash payment to the District in the amount of \$31,645,000, the total of which equaled the \$48,595,000 fair market value of the Buildings. (See Article 3, Building Sale Agreement.)

In 1992, the Board of the Directors of the Corporation authorized the Corporation to incur debt in an amount up to \$40,000,000. Pursuant to this authorization, in December 1992, the Corporation issued \$32,576,000 of Nonrecourse Taxable Commercial Paper Bond Anticipation Notes, to raise cash proceeds that were used by the Corporation to pay the District to acquire the Buildings under the Building Sale Agreement.

The transactions consummated under the Ground Lease, the Asset Transfer Agreement and the Building Purchase Agreement were undertaken by the District in accordance with the Local Hospital District Law, and in particular Health and Safety Code §§ 32121(c) and (p)(1), which at the time of the transfer stated that local hospital districts shall have and may exercise the following powers:

(c) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of the district, and to control, dispose of, convey, and encumber the same and create a leasehold interest in the same for the benefit of the district.

(p)(1) To transfer, with or without consideration, any part of its assets to one or more nonprofit corporations to operate and maintain the assets for the benefit of the communities served by the district. The initial members of the board of directors of the nonprofit corporation or corporations shall be approved by the board of directors of the hospital district and shall be residents of the district

A copy of Section 32121 of the Local Hospital District Law in effect as of December 1992 is attached hereto as Attachment 4. There is nothing under the Ground Lease, the Asset Transfer Agreement, the Building Purchase Agreement, or in the Local Hospital District Law which states or requires that revenues from the assets sold or transferred by the District to the Corporation and generated after the date of such sale or transfer are revenues of the District and not of the Corporation.

We hope this information addresses your outstanding questions regarding this matter. That said, please do not hesitate to contact me if you have any further questions or would like us to provide you with any further information.

Sincerely,



Gregory B. Caligari

GBC

62721\4067341v4

cc: (by email/.pdf)

Malathy Subramanian, Esq. (Malathy.Subramanian@bbklaw.com)

Mitchell J. Olejko, Esq. (Mitchell.Olejko@ropesgray.com)

LAFCO MEETING: April 20, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: **Appointment of LAFCO Public Member and Alternate Public Member**

Agenda Item #6

RECOMMENDED ACTION

Reappoint Susan Vicklund-Wilson as Public Member and Terry Trumbull as Alternate Public Member to new four-year terms, for the period from May 2011 to May 2015.

BACKGROUND

LAFCO Public Member, Susan Vicklund-Wilson's and Alternate Public Member, Terry Trumbull's terms expire in May 2011. Both Commissioners have expressed interest in being reappointed to LAFCO for new 4-year terms starting in May 2011. Government Code Section 56327 requires that the public member be appointed by the four members of the Commission. The statute leaves the public member selection process to the discretion of the four commission members except to provide (applicable to Santa Clara County only) that the public member must not be a resident of a city which is already represented on the Commission.

At the February 2, 2011 LAFCO Meeting, LAFCO staff presented the following two possible options for appointing the public member and alternate public member:

Option 1: Reappoint Public Member Susan Vicklund- Wilson and Alternate Public Member Terry Trumbull each to a 4-year term.

Option 2: Use a formal recruitment process to fill the public member and alternate public member positions.

LAFCO (with Commissioner Vicklund-Wilson abstaining), at its February 2, 2011 Meeting, indicated that they would like to reappoint Susan Vicklund-Wilson as Public Member and Terry Trumbull as Alternate Public Member for a four-year term, from May 2011 to May 2015. LAFCO directed staff to place this item on the April 20, 2011 LAFCO agenda for their action.

LAFCO MEETING: April 20, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: Update on Legislation Relevant to LAFCO
Agenda Item #7

STAFF RECOMMENDATION

Accept staff report and provide further direction to staff, as necessary.

CURRENT BILLS OF PARTICULAR INTEREST TO SANTA CLARA LAFCO

Several of the bills introduced in the current legislative session are placeholders at this time and will be amended over the next several months to clarify their specific purpose. A complete list of bills under review is attached. Four bills of specific interest to LAFCO of Santa Clara County are summarized below:

SB 244 (Wolk) Disadvantaged Unincorporated Communities.

This bill would require LAFCO review of disadvantaged unincorporated communities. It adds a definition for disadvantaged unincorporated communities, requires LAFCO to review water, sewer services to such communities in the next sphere of influence update, places more emphasis on LAFCO sphere of influence recommendations of reorganizations for efficient and effective services, requires LAFCO to identify service deficiencies to these communities in municipal service reviews and specifically requires LAFCO to assess alternatives for efficient and affordable infrastructure and services, including consolidations, in municipal service reviews. The bill also requires LAFCO to look at communities "in or adjacent to the sphere of influence."

Status: Set for hearing before the Senate Governance and Finance Committee on April 27, 2011.

AB 54 (Solorio) Mutual Water Companies.

This bill would require mutual water companies to respond to municipal service review information requests from a LAFCO; submit a map of its boundaries to LAFCO (and others); allows a LAFCO to also include compliance with drinking water standards in service reviews if it so chooses; and allows LAFCO to annex territory served by a mutual to a city or district (which LAFCO can already do).

Status: Re-referred to Assembly Local Government Committee

AB 912 (Gordon) Special District Dissolution.

This bill, intended to provide an expedited process for dissolution of special districts that are no longer providing the primary service for which they were formed, would authorize LAFCO to dissolve a special district with a sphere of influence or to dissolve a district after a public hearing and the lack of majority protest.

Status: Referred to Assembly Local Government Committee

AB 1430 (Committee on Local Government) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 Omnibus Bill.

This bill would make technical, non-substantive changes to the Cortese-Knox-Hertzberg Act and includes a major update of the various definitions found and used in the Act.

Status: Referred to Assembly Local Government Committee

CALAFCO LEGISLATIVE COMMITTEE

Commissioner Wilson and the Executive Officer are members of the California Association of Local Agency Formation Commissions (CALAFCO) Legislative Committee. The Legislative Committee meets on a regular basis to review, discuss, and take positions on new legislation that impact LAFCOs and is currently tracking over 35 bills. In addition, the Legislative Committee also proposes amendments to the LAFCO law, as necessary. The Legislative Committee's actions are guided by the CALAFCO Board's adopted policies, which are periodically reviewed and amended.

ATTACHMENTS

Attachment A: CALAFCO Legislative Report (4/14/2011)

ITEM NO. 7
ATTACHMENT A

CALAFCO Daily Legislative Report
as of 4/14/2011

1

AB 54 (Solorio D) Drinking water.

Current Text: Amended: 4/4/2011 [pdf](#) [html](#)

Introduced: 12/6/2010

Last Amended: 4/4/2011

Status: 4/5/2011-Re-referred to Com. on L. GOV.

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

Summary:

Would specify that any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for irrigation purposes, and any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for domestic use shall be known as a mutual water company. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject: Water

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

AB 912 (Gordon D) Local government: organization.

Current Text: Introduced: 2/17/2011 [pdf](#) [html](#)

Introduced: 2/17/2011

Status: 3/14/2011-Referred to Com. on L. GOV.

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

Calendar:

5/11/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

Summary:

Would authorize the commission, where the commission is considering a change of organization that consists of the dissolution of a district with zero sphere of influence, to immediately order the dissolution if the dissolution was initiated by the district board, or to, within 30 days following the approval of the application by the commission, hold at least one noticed public hearing on the proposal, and order the dissolution without an election, unless a majority protest exists, as specified.

Position: None at this time

Subject: Special District Consolidations, Special District Powers

CALAFCO Comments: Allows a commission to immediately dissolve a special district with a zero SOI or to dissolve a districts after a public hearing and the lack of a majority protest.

AB 1430 (Committee on Local Government) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 omnibus bill.

Current Text: Introduced: 4/5/2011 [pdf](#) [html](#)

Introduced: 4/5/2011

Status: 4/11/2011-Referred to Com. on L. GOV.

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

Calendar:

5/11/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

Summary:

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

Position: Support

Subject: CKH General Procedures

CALAFCO Comments: CALAFCO Sponsored bill. Makes technical, non-substantive changes to Cortese-Knox-Hertzberg. Includes major definitions update.

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

Current Text: Amended: 3/15/2011 [pdf](#) [html](#)

Introduced: 2/10/2011

Last Amended: 3/15/2011

Status: 3/29/2011-Set for hearing April 27.

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

Calendar:

4/27/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary:

Would require, prior to January 1, 2014, and thereafter upon each revision of its housing element, a city or county to review and update one or more elements of its general plan, as necessary to address the presence of island, fringe, or legacy unincorporated communities, as defined, inside or near its boundaries, and would require the updated general plan to include specified information. This bill would also require the city or county planning agency, after the initial revision and update of the general plan, to review, and if necessary amend, the general plan to update the information, goals, and program of action relating to these communities therein. By adding to the duties of city and county officials, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Attachments:

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

Position: None at this time

Subject: Disadvantaged Communities

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

2

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

Current Text: Amended: 4/4/2011 [pdf](#) [html](#)

Introduced: 12/6/2010

Last Amended: 4/4/2011

Status: 4/5/2011-Re-referred to Com. on L. GOV.

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

Summary:

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

Position: None at this time

Subject: Disincorporation/dissolution

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

AB 187 (Lara D) State Auditor: audits: high-risk local government agency audit program.**Current Text:** Introduced: 1/25/2011 [pdf](#) [html](#)**Introduced:** 1/25/2011**Status:** 3/31/2011-Referred to Com. on A. & A.R.

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

Calendar:

4/27/2011 9 a.m. - State Capitol, Room 437 ASSEMBLY ACCOUNTABILITY AND ADMINISTRATIVE REVIEW, DICKINSON, Chair

Summary:

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

Position: None at this time**Subject:** Financial Viability of Agencies, Service Reviews/Spheres**CALAFCO Comments:** Would allow the State Auditor to audit and issue reports on any local agency it identifies at being at high risk for waste, fraud, abuse or mismanagement.**AB 555 (Norby R) Local agency formation.****Current Text:** Introduced: 2/16/2011 [pdf](#) [html](#)**Introduced:** 2/16/2011**Status:** 2/17/2011-From printer. May be heard in committee March 19.

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

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation, change of organization, and reorganization of cities and special districts. This bill would make technical, nonsubstantive changes to the act.

Position: None at this time**Subject:****CALAFCO Comments:** Placeholder bill, currently targeted to C-K-H.**AB 781 (John A. Pérez D) Preservation of lands: open-space subventions.****Current Text:** Amended: 3/23/2011 [pdf](#) [html](#)**Introduced:** 2/17/2011**Last Amended:** 3/23/2011**Status:** 4/6/2011-In committee: Set, first hearing. Hearing canceled at the request of author.

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

Calendar:

4/27/2011 1:30 p.m. - State Capitol, Room 126 ASSEMBLY AGRICULTURE, GALGIANI, Chair

Summary:

Would authorize a city, county, or city and county to accept contributions from public and private entities to offset a reduction in state subvention payments, as specified.

Position: None at this time**Subject:** Ag Preservation - Williamson**CALAFCO Comments:** Allows a city or county to accept private contributions to offset reductions in Williamson Act funding.**AB 1266 (Nielsen R) Local government: Williamson Act: agricultural preserves: advisory board.****Current Text:** Introduced: 2/18/2011 [pdf](#) [html](#)**Introduced:** 2/18/2011**Status:** 3/21/2011-Referred to Coms. on L. GOV. and AGRI.

| 2Year | Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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| Dead | 1st House | 2nd House | Conc. | | | |
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Calendar:
5/4/2011 1:30 p.m. - State Capitol, Room 127 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

Summary:
Would specify matters on which the advisory board may advise the legislative body of a county or city. This bill would also state that the advisory board is not the exclusive mechanism through which the legislative body can receive advice on or address matters regarding agricultural preserves.

Position: None at this time
Subject: Ag Preservation - Williamson
CALAFCO Comments: Specifies additional responsibilities for the county or city Williamson Act advisory board. May also be a placeholder for more significant modifications to the Williamson Act.

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

Current Text: Introduced: 2/15/2011 [pdf](#) [html](#)
Introduced: 2/15/2011
Status: 2/16/2011-From printer. May be heard in committee March 18.

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

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

Position: None at this time
Subject: LAFCo Administration
CALAFCO Comments: Changes state mandate law in a proposed constitutional amendment. Included is specific language that releases mandate responsibility if the local agency can change an individual or applicant for the cost of providing the mandated service. Would likely exempt some mandates to LAFCo from state funding.

SB 31 (Correa D) Local government: lobbyist registration.

Current Text: Amended: 3/23/2011 [pdf](#) [html](#)
Introduced: 12/6/2010
Last Amended: 3/23/2011
Status: 3/31/2011-Re-referred to Com. on E. & C.A.

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

Summary:
Would enact a comprehensive scheme to regulate lobbying entities, as defined, that lobby local government agencies, including requirements to register and make periodic reports regarding certain lobbying activities. The bill would require each local government agency to create a commission to implement and enforce the provisions of the bill. By requiring local government agencies to implement a new program, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: LAFCo Administration
CALAFCO Comments: Would require any "local government agency" to establish a commission to regulate lobbyists and lobbying activities of that agency and prepare periodic reports. Would appear to include LAFCo, although "local government agency" is not defined. In some ways similar to the recent laws requiring disclosure to LAFCo of financial contributions regarding a LAFCo decision.

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

Current Text: Amended: 4/6/2011 [pdf](#) [html](#)

Introduced: 12/9/2010

Last Amended: 4/6/2011

Status: 4/6/2011-From committee with author's amendments. Read second time and amended. Re-referred to Com. on Gov. & F.

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

Calendar:

4/27/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary:

Would until January 1, 2019, require every person, except a candidate for public office, who is required to file a statement of economic interests to include, as a part of that filing, a compensation disclosure form that provides compensation information for the preceding calendar year, as specified. This bill would, until January 1, 2019, require each designated employee who is required to file statements under a conflict of interest code to include, as a part of that filing, a compensation disclosure form that provides compensation information for the preceding calendar year. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject: LAFCo Administration

CALAFCO Comments: Similar to a 2010 bill, this would require all those who file a Form 700 to also file a compensation disclosure report.

SB 160 (Huff R) Local government: reorganization.

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

Introduced: 2/2/2011

Status: 2/10/2011-Referred to Com. on RLS.

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

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. This bill would make a technical, nonsubstantive change to that act.

Position: None at this time

Subject:

CALAFCO Comments: Appears to be a placeholder bill. Typically the senior republican on the Senate Finance & Committee introduces this bill as a placeholder. Usually used for some other purpose than LAFCo.

SB 191 (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/8/2011 [pdf](#) [html](#)

Introduced: 2/8/2011

Status: 3/31/2011-Referred to Com. on L. GOV.

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

Calendar:

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

Summary:

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

Attachments:

[CALAFCO Support Letter](#)

Position: Support

Subject: LAFCo Administration

CALAFCO Comments: One of three annual acts which validate the boundaries of all local agencies.

SB 192 (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/8/2011 [pdf](#) [html](#)

Introduced: 2/8/2011

Status: 3/31/2011-Referred to Com. on L. GOV.

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

Calendar:

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

Summary:

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

Attachments:

[CALAFCO Support Letter](#)

Position: Support

Subject: LAFCo Administration

CALAFCO Comments: One of three annual acts which validate the boundaries of all local agencies.

SB 193 (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/8/2011 [pdf](#) [html](#)

Introduced: 2/8/2011

Status: 3/31/2011-Referred to Com. on L. GOV.

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

Calendar:

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

Summary:

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

Attachments:

[CALAFCO Support Letter](#)

Position: Support

Subject: LAFCo Administration

CALAFCO Comments: One of three annual acts which validate the boundaries of all local agencies.

SB 194 (Committee on Governance and Finance) Local government: omnibus bill.

Current Text: Amended: 4/7/2011 [pdf](#) [html](#)

Introduced: 2/8/2011

Last Amended: 4/7/2011

Status: 4/7/2011-From committee with author's amendments. Read second time and amended. Re-referred to Com. on Gov. & F.

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

Calendar:

4/27/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary:

Would repeal this act. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject:

CALAFCO Comments: This is the Senate local government Omnibus Bill. At this point CALAFCO does not have any items in the bill nor has any objections to any of the items currently in the bill.

SB 436 (Kehoe D) Land use: mitigation lands: nonprofit organizations.

Current Text: Amended: 3/24/2011 [pdf](#) [html](#)

Introduced: 2/16/2011

Last Amended: 3/24/2011

Status: 4/12/2011-Set for hearing April 26.

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

Calendar:

4/26/2011 9:30 a.m. - Room 112 SENATE NATURAL RESOURCES AND WATER, PAVLEY, Chair

Summary:

Would authorize a state or local public agency to provide funds to a nonprofit organization to acquire land or easements that satisfy the agency's mitigation obligations, including funds that have been set aside for the long-term management of any lands or easements conveyed to a nonprofit organization if the nonprofit organization meets certain requirements. The bill would also state the findings and declarations of the Legislature with respect to the preservation of natural resources through such mitigation, and would state that it is in the best interest of the public to allow state and local public agencies and nonprofit organizations to utilize the tools and strategies they need for improving the effectiveness, cost efficiency, and durability of mitigation for California's natural resources.

Position: None at this time

Subject: Ag/Open Space Protection

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

SB 618 (Wolk D) Local government: Williamson Act: compatible uses.

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

Introduced: 2/18/2011

Status: 3/9/2011-Set for hearing April 27.

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

Calendar:

4/27/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary:

Would additionally provide that the erection, construction, alteration, operation, or maintenance of renewable energy, and the operation of gas, electric, water, communication, or agricultural laborer housing are considered compatible uses within any agricultural preserve.

Position: None at this time

Subject: Ag Preservation - Williamson

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

SB 648 (Berryhill R) Local government: Williamson Act.

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

Introduced: 2/18/2011

Status: 3/3/2011-Referred to Coms. on Gov. & F. and APPR.

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

Summary:

Would provide an alternative method of cancellation of a contract by a landowner for contracts that are 10 or more years old, and where the landowner has not received a lowered assessment value on the land during the previous 10 consecutive years based on the existence of a residence, including agricultural laborer housing, on the land being valued. The bill would require the board or council, upon petition by the landowner and a showing that these conditions exist, and would prohibit the board or council from charging a cancellation fee.

Position: None at this time

Subject: Ag Preservation - Williamson

CALAFCO Comments: Provides an alternative method for immediate cancellation of a Williamson Act contract under certain circumstances.

SB 668 (Evans D) Local government: Williamson Act.**Current Text:** Amended: 3/25/2011 [pdf](#) [html](#)**Introduced:** 2/18/2011**Last Amended:** 3/25/2011**Status:** 4/8/2011-Set for hearing May 4.

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

Calendar:

5/4/2011 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair

Summary:

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

Position: None at this time**Subject:** Ag Preservation - Williamson

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

3

AB 83 (Jeffries R) Environment: CEQA exemption: recycled water pipeline.**Current Text:** Introduced: 1/5/2011 [pdf](#) [html](#)**Introduced:** 1/5/2011**Status:** 4/11/2011-In committee: Set second hearing. Failed passage. Reconsideration granted.

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

Summary:

Would additionally exempt a project for the installation of a new pipeline, not exceeding a specified length, for the distribution of recycled water within an improved public street, highway, or right-of-way. Because a lead agency, which may include a local agency, is required to determine whether a project qualifies for those exemptions, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: None at this time**Subject:** CEQA

CALAFCO Comments: Exempts recycled water pipelines from CEQA in certain circumstances.

AB 148 (Smyth R) Local government: ethics training: disclosure.**Current Text:** Amended: 3/16/2011 [pdf](#) [html](#)**Introduced:** 1/14/2011**Last Amended:** 3/16/2011**Status:** 3/17/2011-Re-referred to Com. on L. GOV.

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

Calendar:

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT SPECIAL ORDER, SMYTH, Chair

Summary:

Would additionally define the term ethics laws to include compensation setting guidelines as established by specified organizations or the local agency. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject: Financial Disclosure Requirements, LAFCo Administration
CALAFCO Comments: Would add compensation setting guidelines to the ethics training requirements for officials.

AB 162 (Smyth R) Local government: financial reports.

Current Text: Introduced: 1/19/2011 [pdf](#) [html](#)

Introduced: 1/19/2011

Status: 2/18/2011-Referred to Com. on L. GOV.

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

Summary:

Would additionally require that, if an audit of a local agency reveals certain financial irregularities, the findings be sent separately to the Controller immediately after the audit has been concluded. By increasing the duties of local officials, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject: Financial Viability of Agencies

CALAFCO Comments: Requires disclosure to the State Controller of a variety of irregularities discovered in a local agency annual audit. May have some application for MSR updates.

AB 229 (Lara D) Controller: audits.

Current Text: Amended: 4/13/2011 [pdf](#) [html](#)

Introduced: 2/2/2011

Last Amended: 4/13/2011

Status: 4/13/2011-Read second time and amended.

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

Calendar:

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT
 SPECIAL ORDER, SMYTH, Chair

Summary:

Would require the audit reports prepared in this regard to be submitted to the Controller within 9 months of the end of the period audited or in accordance with applicable federal law. This bill would authorize the Controller to appoint a qualified certified public accountant to complete an audit report if it is not submitted by the local agency within the required timeframe, with associated costs to be borne by the local agency, as specified. This bill would require the audit to comply with the Government Auditing Standards issued by the Comptroller General of the United States. This bill would require the audits to be made by a certified public accountant that is licensed by the California Board of Accountancy and selected by a local agency from a directory of accountants to be published by the Controller by December 31 of each year. The Controller would be required to use specified criteria to determine those certified public accountants that are to be included in the directory. This bill contains other related provisions.

Position: None at this time

Subject: Financial Viability of Agencies

CALAFCO Comments: Requires audits of local agencies to be sent to controller within 9 months and sets requirements for the CPA or firm which conducts the audits.

AB 253 (Smyth R) Local agencies: accounting.

Current Text: Amended: 3/15/2011 [pdf](#) [html](#)

Introduced: 2/3/2011

Last Amended: 3/15/2011

Status: 3/16/2011-Re-referred to Com. on L. GOV.

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

Calendar:

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT
 SPECIAL ORDER, SMYTH, Chair

Summary:

Would instead require the Controller to prescribe uniform accounting procedures that are

applicable only to specified types of special districts, subject to these provisions. The bill would require the Controller to prescribe uniform accounting procedures for cities, subject to specified criteria, in collaboration with the Committee on City Accounting Procedures, which would be created by the bill.

Position: None at this time

Subject: Financial Viability of Agencies

CALAFCO Comments: Establishes uniform accounting practices for special districts and cities.

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

Current Text: Amended: 3/29/2011 [pdf](#) [html](#)

Introduced: 2/9/2011

Last Amended: 3/29/2011

Status: 4/11/2011-Read second time. Ordered to third reading.

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

Calendar:

4/14/2011 #79 ASSEMBLY ASSEMBLY THIRD READING FILE

Summary:

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

Position: None at this time

Subject: Municipal Services

CALAFCO Comments: Would allow any federally recognized Indian tribe to act as a public agency to participate in any Joint Powers Authority. Significantly expands current law on Indian tribe participation in a JPA.

AB 392 (Alejo D) Ralph M. Brown Act: posting agendas.

Current Text: Introduced: 2/14/2011 [pdf](#) [html](#)

Introduced: 2/14/2011

Status: 3/29/2011-In committee: Set, first hearing. Hearing canceled at the request of author.

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

Calendar:

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

Summary:

Would additionally require the legislative body of the local agency, at least 72 hours before a regular meeting of that body, to post the writings that relate to an agenda item for the open session of that regular meeting. This bill would require the legislative body to post the agenda and the writings on its Internet Web site, if any, as specified. The bill would repeal the procedure for the disclosure of any writings that are distributed less than 72 hours prior to the meeting and would instead prohibit the legislative body from acting on or discussing an item on the agenda for which a related writing was not properly disclosed at least 72 hours prior to the meeting, except as provided. By expanding the duties of local agencies, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject: LAFCo Administration

CALAFCO Comments: Adds additional posting requirements to Brown Act.

AB 582 (Pan D) Open meetings: local agencies.

Current Text: Introduced: 2/16/2011 [pdf](#) [html](#)

Introduced: 2/16/2011

Status: 3/7/2011-Referred to Com. on L. GOV.

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

Calendar:

4/27/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT

SPECIAL ORDER, SMYTH, Chair

Summary:

Would require that proposed compensation increases for unrepresented employees be publicly noticed, as prescribed. By adding to the duties of local officials, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject: Financial Disclosure Requirements

CALAFCO Comments: Requires public disclosure of compensation increases for unrepresented employees.

AB 779 (Fletcher R) Municipal water districts: oversight.

Current Text: Amended: 3/30/2011 [pdf](#) [html](#)

Introduced: 2/17/2011

Last Amended: 3/30/2011

Status: 3/31/2011-Re-referred to Com. on W., P. & W. Re-referred to Com. on L. GOV. pursuant to Assembly Rule 96.

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

Calendar:

5/11/2011 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

Summary:

Would authorize a municipal water district to establish an independent oversight committee to assist in tracking and reviewing revenues of the district to advance capital improvements, operations and maintenance of district facilities, and allocation methodologies. The bill would authorize an independent oversight committee to perform specified functions for those purposes.

Position: None at this time

Subject: Water, Special District Principle Acts

CALAFCO Comments: Allows a municipal water districts to establish an oversight committee on the financial operations of the district.

AB 785 (Mendoza D) Political Reform Act of 1974: public officers: contracts: financial interest.

Current Text: Amended: 4/4/2011 [pdf](#) [html](#)

Introduced: 2/17/2011

Last Amended: 4/4/2011

Status: 4/13/2011-In committee: Hearing postponed by committee. (Refers to 4/12/2011 hearing)

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

Calendar:

5/3/2011 1:30 p.m. - State Capitol, Room 444 ASSEMBLY ELECTIONS AND REDISTRICTING, FONG, Chair

Summary:

Would provide, for purposes of this prohibition, that a public official who is an elected or appointed member of any state or local body, board, or commission has a financial interest in a decision if an immediate family member of the public official has a financial interest in the decision, and would include a person lobbying on behalf of a party that has an order of business before the body, board, or commission to be an agent of that party. This bill would define "immediate family member" to include public official's spouse or domestic partner, children, parents, siblings, and the spouse or domestic partner of a child, parent, or sibling. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject: LAFCo Administration

CALAFCO Comments: Adds additional restrictions on participating in decisions when one's family members as defined have a financial interest or are lobbying on behalf of an interested party.

AB 1198 (Norby R) Land use: housing element: regional housing need assessment.

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

Introduced: 2/18/2011

Status: 4/11/2011-In committee: Set, first hearing. Hearing canceled at the request of author.

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

Summary:

Would repeal the requirement that the department determine the existing and projected need for housing for each region, as specified, and other specified provisions relating to the assessment or allocation of regional housing need.

Position: None at this time

Subject: Housing

CALAFCO Comments: Would repeal the entire RHNA process and Housing and Community Development authority over housing.

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

Current Text: Amended: 4/4/2011 [pdf](#) [html](#)

Introduced: 2/18/2011

Last Amended: 4/4/2011

Status: 4/5/2011-Re-referred to Com. on L. GOV.

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

Calendar:

5/4/2011 1:30 p.m. - State Capitol, Room 127 ASSEMBLY LOCAL GOVERNMENT, SMYTH, Chair

Summary:

Would beginning January 1, 2012, and until January 1, 2015, authorize a county, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue are less than 1/2 of the participating county's actual foregone general fund property tax revenue, to revise the term for newly renewed and new contracts and require the assessor to value the property, as specified, based on the revised contract term. The bill would provide that a landowner may choose to nonrenew and begin the cancellation process. The bill would also provide that any increased revenues generated by properties under a new contract shall be paid to the county.

Position: None at this time

Subject: Ag Preservation - Williamson

CALAFCO Comments: Defers payments until 2015.

AB 1287 (Buchanan D) Local government: audits.

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

Introduced: 2/18/2011

Status: 3/21/2011-Referred to Com. on L. GOV.

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

Summary:

Would require local agencies, defined to include cities, counties, a city and county, special districts, authorities, or public agencies, to comply with General Accounting Office standards for financial and compliance audits and would prohibit an independent auditor from engaging in financial compliance audits unless, within 3 years of commencing the first of the audits, and every 3 years thereafter, the auditor completes a quality control review in accordance with General Accounting Office standards.

Position: None at this time

Subject: Financial Viability of Agencies

CALAFCO Comments: Would require regular audits of all local agencies.

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

Current Text: Amended: 3/3/2011 [pdf](#) [html](#)

Introduced: 12/6/2010

Last Amended: 3/3/2011

Status: 4/11/2011-Placed on APPR. suspense file.

| 2Year | Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
|-------|------|--------|--------|-------|------|--------|--------|-------|-------|----------|--------|-----------|
| Dead | | | | | | | | | Conc. | | | |

| | 1st House | 2nd House | | | |
|--|-----------|-----------|--|--|--|
|--|-----------|-----------|--|--|--|

Summary:

Would revise the definition of creditable compensation for these purposes and would identify certain payments, reimbursements, and compensation that are creditable compensation to be applied to the Defined Benefit Supplement Program. The bill would prohibit one employee from being considered a class. The bill would revise the definition of compensation with respect to the Defined Benefit Supplemental Program to include remuneration earnable within a 5-year period, which includes the last year in which the member's final compensation is determined, when it is in excess of 125% of that member's compensation earnable in the year prior to that 5-year period, as specified. The bill would prohibit a member who retires on or after January 1, 2013, who elects to receive his or her retirement benefit under the Defined Benefit Supplemental Program as a lump-sum payment from receiving that sum until 180 days have elapsed following the effective date of the member's retirement. This bill contains other related provisions and other existing laws.

Position: None at this time

Subject: LAFCo Administration

CALAFCO Comments:

SB 186 (Kehoe D) The Controller.

Current Text: Amended: 4/6/2011 [pdf](#) [html](#)

Introduced: 2/7/2011

Last Amended: 4/6/2011

Status: 4/11/2011-Placed on APPR. suspense file.

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

Summary:

Would authorize the Controller to exercise discretionary authority to perform an audit or investigation of any county, city, special district, joint powers authority, or redevelopment agency, if the Controller has reason to believe, supported by documentation, that the local agency is not complying with the financial requirements in state law, grant agreements, local charters, or local ordinances. This bill would require the Controller to prepare a report of the results of the audit or investigation and to file a copy with the local legislative body.

Position: None at this time

Subject: Financial Viability of Agencies

CALAFCO Comments: Allows Controller to audit local agencies and determine fiscal viability.

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

Current Text: Amended: 3/14/2011 [pdf](#) [html](#)

Introduced: 2/9/2011

Last Amended: 3/14/2011

Status: 3/29/2011-In Assembly. Read first time. Held at Desk.

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

Summary:

Would authorize a water conservation district, except districts within the County of Ventura, whose board of directors consists of 7 directors, to reduce the number of directors to 5, consistent with specified requirements.

Position: None at this time

Subject: Special District Principle Acts

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

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

Current Text: Amended: 3/29/2011 [pdf](#) [html](#)

Introduced: 2/14/2011

Last Amended: 3/29/2011

Status: 4/7/2011-Read second time. Ordered to consent calendar.

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

Calendar:

4/14/2011 #85 SENATE CONSENT CALENDAR-SECOND LEGISLATIVE DAY

Summary:

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

Position: None at this time**Subject:** Special District Powers, Special District Principle Acts**CALAFCO Comments:** Allows special districts as defined by C-K-H to set up special revolving funds.**SB 449 (Pavley D) Controller: local agency financial review.****Current Text:** Amended: 4/7/2011 [pdf](#) [html](#)**Introduced:** 2/16/2011**Last Amended:** 4/7/2011**Status:** 4/13/2011-Set for hearing May 2.

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

Calendar:

5/2/2011 11 a.m. - John L. Burton Hearing Room (4203)

SENATE APPROPRIATIONS, KEHOE, Chair

Summary:

Would additionally authorize the Controller to conduct a preliminary review to determine the existence of a local agency financial problem, and perform an audit upon completion of that review, subject to specified criteria. This bill contains other related provisions.

Position: None at this time**Subject:** Financial Viability of Agencies**CALAFCO Comments:** Allows state controller to audit local agencies.

Total Measures: 39

Total Tracking Forms: 39

4/14/2011 11:32:30 AM

February, 2011

New Board Elected at Annual Meeting *Board of Directors elected for first time by regions*

The 2010 CALAFCO Annual Meeting marked the implementation of the new regional system to elect Board Members and the election of an all-new Board of Directors.

Over the summer the membership approved an amendment to the Association Bylaws. That change allowed board members to be elected by regions at the Annual Meeting in Palm Springs last October. Four regions were created with four members elected from each region. The Board was also expanded by one person to 16 members. Since all 16 seats were up for election, half the seats (randomly selected) were for one-year terms and half for two-year terms. A record 32 commissioners were nominated!

During the annual meeting, each region met separately and elected its four Board members.

Congratulations to the new Board!

Northern Region

- ◆ **Larry Duncan**
Butte LAFCo-District; Term 2011
Paradise Irrigation District
- ◆ **Mary Jane Griego**
Yuba LAFCo-County; Term 2011
Yuba County Board of Supervisors
- ◆ **Kay Hosmer**
Colusa LAFCo-City; Term 2012
City of Colusa
- ◆ **Josh Susman**
Nevada LAFCo-Public; Term 2012

Central Region

- ◆ **Julie Allen**
Tulare LAFCo-Public; Term 2011
- ◆ **Gay Jones**
Sacramento LAFCo-District; 2012
Sacramento Metro Fire District
- ◆ **Ted Novelli**
Amador-County; Term 2012
Amador County Board of Supervisors
- ◆ **Stephen Souza**
Yolo-City; Term 2011
City of Davis

Coastal Region

- ◆ **Juliana Inman**
Napa-City; Term 2011
City of Napa
- ◆ **John Leopold**
Santa Cruz-County; Term 2012
Santa Cruz County Board of Supervisors
- ◆ **Cathy Schlottmann**
Santa Barbara-District; Term 2012
Mission Hills Community Services District
- ◆ **Susan Vicklund Wilson**
Santa Clara-Public; Term 2011

Southern Region

- ◆ **Jon Edney***
Imperial-City; Term 2012
City of El Centro
- ◆ **Jerry Gladbach**
Los Angeles-District; Term 2011
Castaic Lake Water Agency
- ◆ **Brad Mitzelfelt**
San Bernardino-County; Term 2011
San Bernardino County Board of Supervisors
- ◆ **Andy Vanderlaan**
San Diego-Public; Term 2012

*Cheryl Brothers (Orange) was originally elected to this seat, but lost her city election in November. Jon was appointed by the Board to complete the term. He placed second in the regional election.

CALAFCO Elects New Board

Comments from the New CALAFCO Chair

Sustainability in the World of LAFCo Operations

Implications of Prop. 26

News from LAFCos Around the State

Achievement Award Recipients

The Sphere

CALAFCO Journal

February 2011

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

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Ted Novelli, Secretary
Mary Jane Griego, Treasurer
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Larry R. Duncan
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To submit articles, event announcements, comments or other materials noteworthy to LAFCo commissioners and staff, please contact the Editor at 916-442-6536 or info@calafco.org.

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

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California Association of Local Agency Formation Commissions
CALAFCO

FROM THE CHAIR To New Beginnings



Susan Vicklund Wilson
Chair, CALAFCO
Board of Directors

This year marks the start of a new chapter in the history of CALAFCO. We have come a long way since 1972. Our new structure is a testament to the fact that, although LAFCos are diverse and have varying interests and viewpoints, the benefit and strength we gain from our statewide organization produce positive results. We came out of the October Annual Conference energized and enthusiastic about the breadth of the new Board and more aware of opportunities and challenges that lay ahead for LAFCo members.

Although it is time of great uncertainty under the current political and economic climate, we know that when we work together LAFCos can make a difference locally and statewide in promoting orderly growth while protecting agricultural and open space lands.

The new CALAFCO Board and our Executive Director are already hard at work. With the By-laws revised, the Board will now take the time to think long-term and plan for the continued improvement of the Association's work.

We have identified discussion items and issues for the Board of Directors' upcoming strategic planning retreat which was held in Irvine on February 17th. We will keep you informed of our progress.

Thank you again to the Riverside LAFCo team and the many others who made the Annual Conference in Palm Springs a success. We received high rating for the Conference. Thank you all for taking the

time to send in your evaluations; your input provides vital information to ensure that the Conference continues to be a valuable and educational event for our members and their staffs. The planning is already underway for the 2011 Annual Conference to be held in Napa August 31 and September 1-2. Save the dates! There is also an upcoming Staff Workshop to be held April 6-8 in Ventura.

With your support, CALAFCO continues to provide excellent educational opportunities and a strong legislative presence. The CALAFCO University Program for 2011 kicked off with a class on Facilitation Skills for LAFCo staff in early February. Two additional courses are now scheduled in April and October. The Legislative Committee continues to work on several important items. I applaud the committee members for their tireless efforts to review and monitor proposed legislation that may impact LAFCos and for ensuring that our legislative role and purpose remain relevant and appropriate.

And last, but definitely not least, I would like to give a special thank you to Roger Andersen, my friend and predecessor for his hard work and leadership last year.

I look forward to serving as chair of the Board in this year of new beginning. I know the Board of Directors and I thank you for your participation and welcome your ideas and input at all times.

CALAFCO BOARD ELECTS OFFICERS; APPOINTS COMMITTEES

At its first meeting following Board elections at the Annual Conference, the Board elected its new officers.

Elected as Chair of the Board was **Susan Vicklund Wilson**. Susan is the public member of Santa Clara LAFCo and has served on the CALAFCO Board since 2004. In addition to her work with LAFCo and CALAFCO, Susan is a family law attorney.

Other officers elected include **Jerry Gladbach** as Vice Chair, **Ted Novelli** as Secretary and **Mary Jane Griego** as Treasurer. Jerry is a special district commissioner on Los Angeles LAFCo; Ted is a county commissioner on Amador LAFCo; and Mary Jane is a county commissioner on Yuba LAFCo.

Appointments were also made to the CALAFCO standing committees.

Legislative Committee

Kay Hosmer (Colusa)
John Leopold (Santa Cruz)
Stephen Souza (Yolo)
Susan Vicklund Wilson (Santa Clara)
Andy Vanderlaan (San Diego)

Alternates include:

Mary Jane Griego (Yuba)
Juliana Inman (Napa)
Gay Jones (Sacramento)
Brad Mitzelfelt (San Bernardino)
Ted Novelli (Amador)

Awards Committee

Ted Novelli (Amador) – Chair
Jerry Gladbach (Los Angeles)
Mary Jane Griego (Yuba)
Cathy Schlottmann (Santa Barbara)

Nominations Committee

Jon Edney (Imperial)
Kay Hosmer (Colusa)
Gay Jones (Sacramento) – Co-Chair
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FROM THE EXECUTIVE DIRECTOR

A New Norm for Local Agencies ... and LAFCo



Bill Chiat
Executive Director

The title is no surprise to any LAFCo. We are in the midst of unprecedented times for local governments and elected officials. For the first time in the careers of most of us, local agencies are experiencing *permanent* fiscal stress. Most are rapidly coming to the realization this is not a dip in a long-term growth cycle but rather a permanent drop in the level of resources available to local governments. No longer is the discussion about bridging finances until we are out of the economic meltdown, but rather how are agencies going to provide services and be responsive to changing needs in the new economy.

LAFCos see this from two perspectives: 1) as local agencies themselves; and 2) in their interactions with local agencies in their counties.

As local agencies, many LAFCos have worked to reduce their budgets in light of a major reduction in applications and



financial stress facing local agencies that fund LAFCo. A variety of strategies have been employed, from reducing the use of consultants for MSRs to decreasing staffing or hours. LAFCos need to continue to explore innovative approaches to accomplish their responsibilities and operate within the new reality. Several LAFCos, for example, have partnered on certain projects, such as audits, to achieve better pricing. At a statewide level, CALAFCO is exploring options for LAFCos to move the SOI/MSR update cycle from

five to eight years and tie it to the regional plan cycle. With potential legislation in 2012, this could have the effect of lowering the annual workload and costs for the updates by perhaps 30%.

At the same time, as small signs of growth emerge, LAFCos are becoming an increasingly visible and important decision point in the planning process. We cannot compromise the critical analysis in LAFCo review of applications and proposals, nor in the updates to Spheres of Influence and Municipal Service Reviews. Other entities are recognizing the value of these documents and are using them (or required to review them) as part of their own decision-making process. The requirement for metropolitan planning agencies to review SOI/MSRs in preparing sustainable communities strategies is but one example.

LAFCos are also dealing with the impact of the meltdown on local agencies. A review of topics at recent CALAFCO workshops, conferences and University courses shows the interest in consolidations, mergers and other reorganizations. For the first time in decades, the question of disincorporation has emerged. CALAFCO receives four or five calls a month about disincorporation or dissolution. The potential realignment of more services from the state to local agencies will provide additional opportunities to carefully look at local service delivery. In a discussion at the Capitol the other day someone asked if the state really needs some 5,000 local agencies to deliver municipal services.

Continued on next page

A New Norm for Local Agencies

Continued from page 3

The legislature (for better or worse) continues to see LAFCo as their “watchdog” of local agencies. Several legislative proposals are being discussed that may add more authority for LAFCo to address some service delivery issues identified in an MSR, such as “paper” agencies or agencies that no longer perform their intended purpose(s). The intent of the Legislature is to ensure that every available resource – including property tax and user fees – is used as efficiently as possible to deliver effective services and to potentially free up needed funds for local services.

Many LAFCos are engaged with their local agencies in seeking opportunities for efficiencies in service delivery and facilitating discussions to preserve critical municipal services or service levels and opportunities for shared resources or facilities. The article in this issue from Orange LAFCo highlights the approaches they have implemented.

In the January issue of the League of Cities’ *Western Cities* magazine, Dr. Frank Benest (former City Manager of Palo Alto) identified “Ten New Rules for Elected Officials in Times of Economic Meltdown.” Several of these have merit for LAFCos to consider in their work with local agencies and their own operations:

- ◆ Identify the “core” – identify core versus non-core services and programs. Stick to the core.
- ◆ Focus on a few priorities – relentlessly pursue those three or four priorities with limited resources.
- ◆ Have the courage to say “no” – keep the focus on core services and the few priorities. Say no to new demands.

- ◆ Help develop talent and rebuild organizational capacity – retain talent and develop new talent with continuing education and development opportunities.

In concluding his article, Benest argues that “...courage will become a hallmark of effective governance. Convening stakeholders, starting courageous conversations and engaging all groups in difficult decisions will become the core competencies of leadership.” LAFCos have a leadership role they can play in assuring the delivery of efficient, quality municipal services in a “permanently disrupted world.”

TRACKS



New Commissioners at Sonoma LAFCo

Sonoma LAFCo welcomes three new commissioners! David Rabbitt, a former member of the Petaluma City Council elected as a County Supervisor in November 2010, joins the Commission as a regular member while Mike McGuire, also elected as a County Supervisor last year, joins as an alternate member; Commissioner McGuire previously served as a councilmember in the City of Healdsburg.

Aimee Crawford, a land conservation specialist and former board member of a local recreation and park

district, was selected, in November, as the alternate public member by other members of the Commission. Welcome!

SAN JOAQUIN LAFCo

Loss of Long-Time Legal Counsel

Michael F. McGrew

On November 30, 2010, Michael F. McGrew, Legal Counsel for San Joaquin LAFCo, passed away. McGrew served as San Joaquin LAFCo’s legal counsel since March 1972, over 38 years of service. This perhaps may be the longest, uninterrupted legal service provided to a LAFCo.

McGrew began practicing law in the San Joaquin County Counsel’s Office soon after passing the bar. His first assignment was to provide legal counsel to a LAFCo meeting for a senior staff member who couldn’t make the meeting. This first assignment in 1972 soon became a permanent undertaking and he would eventually provide legal support to San Joaquin LAFCo for another 38 years.



Michael F. McGrew

McGrew provided exemplary legal advice and guidance to the Commission and staff and had defended San Joaquin LAFCo decisions on controversial projects during his career.

Continued on next page

Michael F. McGrew

Continued from page 4

His most notable case was the South San Joaquin Irrigation District vs. San Joaquin LAFCo which ultimately resulted in a favorable decision for LAFCo from the California Third Appellate District Court of Appeals.

The case has a far-reaching effect on all LAFCo staff members and commissioners, as well as those persons serving on city, county and special district boards and commissions. The Third District Court of Appeals overturned a Superior Court's original ruling allowing depositions of LAFCo commissioners and staff. The decision preserves the sanctity of public office and protects other officeholders from interrogation by disgruntled applicants.

McGrew was also instrumental in the successful outcome of the South San Joaquin Irrigation District vs. Superior Court (San Joaquin LAFCo) in which the court reaffirmed that a special district may not provide a "new or different service" without first receiving approval from LAFCo.

He will be missed.

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ORANGE COUNTY LAFCo



Redefining Roles: We're Not Your Daddy's LAFCo Anymore

With California facing an estimated \$28 billion deficit and a new Governor and Legislature desperately looking for ways to close that gap, local governments are bracing for a new round of fiscal impacts. Most LAFCos around the state are dependent on local governments (counties, cities and special districts) to fund their annual operations. As local governments continue to feel the economic squeeze at all levels, how can LAFCos find new ways to provide value to their funding agencies? How can we ensure that those agencies that do not use LAFCo's "standard" services (e.g., annexation, reorganization, incorporation) get some type of return for their annual investment to fund LAFCos?

One option your LAFCo may want to consider is to step outside the typical boundaries of LAFCo as defined by Cortese-Knox-Hertzberg. Because of our independent status and diverse make-up, LAFCos are uniquely positioned to think "big," raise important issues and undertake special studies that others may shy away from due to political or public sensitivity. The broad latitude given to LAFCos to complete Municipal Service Reviews (Government Code Section §56430), for example, provides the perfect opening for LAFCos to explore a wide range of fiscal and service-related issues.

Want some specifics? Here are some "outside the boundaries" examples that Orange LAFCo (OC LAFCo) is currently working on:

Shared Services

In August 2010, OC LAFCo directed its staff to explore the potential for a web-based tool matching up agencies seeking specific services with other agencies offering services (think of it as LAFCo's own dating website). As local governments within OC continue to balance rising costs (and demands) for service with dwindling revenues, sharing services may be one way to help. Staff has also designed a stakeholder process for exploring shared service opportunities and possible cost savings. Stakeholders include not only cities and special districts but also school districts, homeowner associations and the Orange County Business Council. Dream matches (at an agency level) will soon be a click away.

Fiscal Early Warning System

Results of past municipal service reviews showed that most Orange County cities and special districts are on stable financial footing. Given the current depressed economic climate, however, all bets are off. Many local agencies have begun to significantly reevaluate their budget planning and evaluation process.

OC LAFCo has initiated a stakeholder process to develop an "Early Warning System" based on the State of North Carolina's Financial Analysis Tool. When completed, this tool will allow agencies to compare themselves to "industry" benchmarks based on key financial indicators. The final product will be another web-based "financial

dashboard” that will allow local governments (and the public) to monitor key financial indicators of each local agency on LAFCo’s website. (So... if you use both the Shared Services website and the Early Warning System dashboard together, you could potentially find an agency that both meets your service needs and is financially well off, too. Talk about a dream match. (Now, that’s facilitating good government.)



County Boundary Report

While LAFCo has no authority over county boundary adjustments (those are decided by the affected Boards of Supervisors), it did not stop OC LAFCo from raising some long-standing service issues that resulted from irregular boundaries along the Orange County/Los Angeles border. LAFCo staff has facilitated discussions among the counties of LA and Orange, affected border cities and residents which have resulted in moving forward on several minor county boundary adjustments and corresponding city reorganizations. The result will be improved service and response times for our border cities.

Joint Audit Contract

Most LAFCos have similar budget structures: the majority of revenues are provided by counties, cities and special

districts and expenditures are primarily for staff salaries and benefits, consultants, special services, office space and supplies. Members of the California Coalition of LAFCos in the Southern California area have taken advantage of their commonalities and are utilizing one CPA firm to perform audits for five LAFCos. Through this joint audit contract process, each of the participating LAFCo will realize a reduction in audit fees.



Upcoming Courses Focus on Land Use Law and Regional Governance

California Planning and Land Use Laws for LAFCo Staff

Tuesday, 5 April 2011, 1:00—5:00 p.m. *Preceding the CALAFCO Staff Workshop in Ventura*

This course provides an overview of contemporary planning and land use laws and practices in California and how they pertain to LAFCos. Learn about state planning and land use laws and how cities and counties implement them. Understand how these laws and practices intersect with the Cortese-Knox-Hertzberg Local Government Reorganization Act, the similarities and differences, and effective ways to participate in local planning processes.

Moderated by Bruce Baracco, the session includes as faculty, Fernando Avilia with Best Best & Krieger, Scott Porter with Colantuono & Levin, and Matthew Winegar, AICP, Development Services Director, City of Oxnard.

LAFCo’s Role in Regional Governance – A Best Practices Workshop

Friday, 28 October 2011, 10:00 a.m.—3:30 p.m. *Sacramento*

For information and registration for these courses, please visit the CALAFCO web site at www.calafco.org. Course registration for CALAFCO members is \$75/person or \$60/person for 3 or more from the same LAFCo.

Courses are eligible for AICP credit.

Save the Date!

CALAFCO 2011 Conference

in the beautiful Napa Valley

August 31—September 2 2011

- ◆ Inspiring mobile workshop
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- ◆ Best practices in LAFCo process and operations

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Includes resort fee - free wifi, fitness center, valet parking, bell gratuities, tennis and more.

Watch the CALAFCO web site for registration and resort reservation details!

Sustainability in the World of LAFCo Operations

By Daniel Hamilton, AICP, Hamilton Planning and Research

Sustainability is the new frame of reference for local decision making. Like most broad concepts, its definition and application vary widely by jurisdiction and geography. Sustainability is labeled by governments and advocates as environmental protection, resource conservation, green job development, a balancing of resources, and by many other definitions. But regardless of how it is defined, it is a notion in use by many of the cities and special districts overseen by LAFCos, and myriad state laws and programs recognize it as an integral part of the future of our communities. As such, it will become essential for each of our LAFCos to account for its consideration and application in the review of municipal boundaries and operations.

159 of 377 cities surveyed by the Governor's Office of Planning and Research (OPR) in 2010 had adopted a Climate Action Plan (CAP) or other greenhouse gas (GHG) reduction plan. 154 cities and counties indicated to OPR they have either adopted or are preparing general plan policies to address climate change or other aspects of sustainability. With both federal (American Recovery and Reinvestment Act) and state (Proposition 84) funds available for such efforts for the next several years, it is reasonable to expect the number of such plans addressing sustainability and its components will continue to grow. The further implementation of laws such as SB 375 and AB 32 will also add to the number of cities and special districts with principles of sustainability incorporated in policies and plans.

As we in the LAFCo community initiate or see new applications for boundary changes and growth plans, we will be called upon to exercise judgment on whether such plans are consistent with sustainability policies in both local (General and Specific Plans) and regional (sustainable community strategies, regional climate action plans) documents. With these new changes already in place in many communities, here are some options for addressing these sustainability

issues in the most common applications and actions:

Spheres of Influence – Since 2002, SOIs have been based on both the determinations found in Municipal Service Reviews and CKH standards (56425(e)) for SOI establishment. The determinations in the latter include calculation of the need for public facilities and services in the area, as well as the capacity of existing facilities and services. For many communities, sustainability efforts include programs and policies to reduce demand for services through conservation, technology, and behavioral change. Stormwater management, for example, can be significantly affected by low impact development standards, installation of bioswales, use of pervious concrete, and onsite water retention. More measures exist for water, sewer, energy, and solid waste disposal, and are changing frequently. These efforts are not always codified in General Plan policy, and thus may not be among the documents typically reviewed by LAFCo staff in the review of an agency's SOI. As part of the SOI Update process, LAFCos can amend application procedures to provide applying cities and counties the opportunity to list details of their sustainability measures affecting facility needs and service demands. To effectively review the boundaries of a city or special district, it is going to become necessary to understand how these efforts will affect land demands, growth expectations, and abilities relative to service expansion.



Municipal Service Reviews – Like Spheres of Influence, MSR determinations are going to require additional analysis of sustainability measures to effectively and accurately gauge service provision and facility demands. Changes in demand for services such as water,

energy, and solid waste are expected from these programs and are also found in documents outside the General Plan and utility master plans. For instance, a Climate Action Plan for a city typically includes programs and policies to increase energy efficiency in existing and planned structures, expand recycling programs citywide, increase water conservation through building renovation and new construction standards, reduce roadway demands, and promote infill development. Each of these has the potential to affect both service provision and growth demands, and may not have been included in the previous round of service reviews. Additionally, these documents also

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Legislative Report

From Sacramento

By Bill Chiat, CALAFCO
Legislative Chair

The Legislature is back in session, and after a slow start has now introduced over 1,000 new bills. In a major reorganization, the Senate combined the Local Government and the Revenue and Taxation committees into the new Governance and Finance Committee. A key motivator is the Governor's push for realignment of more state services to the counties. The Governance and Finance Committee is meeting weekly and has already held hearings on realignment and redevelopment agencies.



A number of the bills introduced could impact LAFCo law and operations, although at the time of this writing, not in a significant way. CALAFCO staff continues to work with sponsors and authors on proposed legislation.

Among the 23 bills CALAFCO is tracking:

AB 54 (Solario) – Adds authority for LAFCo to consolidate mutual water companies. LAFCo is seeking language to require mutuals to be responsive to LAFCo requests for information.

AB 46 (Pérez) – Provides for the disincorporation of any city with a population under 150.

AB 244 (Wolk) – Requires the Housing Element to address the presence of island, fringe, or legacy unincorporated communities inside or near its boundaries, and requires the updated general plan to include

information on sewer, water and other infrastructure services. Similar to AB 853 last year, this bill is expected to be amended with additional requirements.

AB 62 (Smyth) – Requires that, if an audit of a local agency reveals certain financial irregularities, the findings be sent separately to the Controller immediately after the audit has been concluded.

AB 187 (Lara) – Authorizes State Auditor to identify, audit and issue reports on any local agency the Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness. Allows Auditor to consult with other agencies, including LAFCo.

SB 46 (Correa) – Requires all filers of the Form 700 to also file an annual compensation form.

SB 27 (Simitian) – Limits final compensation calculations for state and local agency pensions.

A complete list of CALAFCO bills and daily updates is available in the Member section of the web site.

CALAFCO staff is working with Members and staff on other proposed legislation.

C-K-H Omnibus Bill – Each year CALAFCO sponsors a bill with technical, non-substantive changes to Cortese-Knox-Hertzberg. This year in addition to a number of minor corrections, the CALAFCO Legislative Committee has completed a major update of the definitions section of C-K-H. CALAFCO is working to include this significant improvement in the Omnibus. After discussions with the Republican Caucus and various stakeholders no objections have been raised to date. The bill is expected to be introduced in late February.

Proposed Legislation – CALAFCO is reviewing several proposed bills. In an expansion of last year's AB 853, one proposal would require a review of disadvantaged unincorporated community services in MSR/ SOI updates and require the extension of services to these communities. Another proposal would give LAFCo more authority to dissolve or consolidate "paper" districts or districts that no longer provide their primary service. Watch for further information if these and other LAFCo-related bills are introduced.

Sustainability in the World of LAFCo

Continued from page 7

represent potential new areas of service provision to be generated by cities and special districts, such as solar power generation. As MSRs are updated in coming years, new areas of analysis need to be incorporated into the existing review criteria set forth in CKH 56430(a) to assess the impact these sustainability measures will have on services and demands. Whether through addition as a component of the five major areas of analysis or as a stand-alone section, it will become part of updates to these reviews.

In addition to these examples, LAFCo staff and commissioners may find the creation and implementation of regional sustainability plans such as the sustainable community strategy to be adopted by regional governments, will further complicate this process. As both techniques and technologies evolve, the methods cities and districts use to address sustainability will also change. LAFCos will need to be responsive to these changes and find new and creative ways to ensure service and boundary determinations accurately reflect the new ways California's providers are planning for our future.

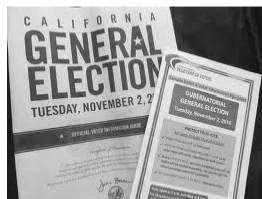
Prop. 26 is Latest Initiative Limit on Local Revenues

By Michael G. Colantuono

By a relatively narrow 53% margin, on November 2, 2010 California voters approved Prop. 26 to convert some local fees to taxes requiring voter approval. Although, like most initiatives, the measure raises many questions, some initial guidance is possible.

Background. In 1997 the California Supreme Court decided *Sinclair Paint Co. v. State Board of Equalization*, upholding a fee imposed on businesses that make products containing lead to fund health services to children and to otherwise mitigate the social and environmental consequences of lead contamination. The Court ruled that the use of the proceeds of a fee need not benefit those charged to avoid making the fee a tax as long as the fee bears a reasonable relationship to the burden imposed by those charged. Similar fees have been proposed, such as fees on sweetened beverages to fund anti-obesity programs and fees on alcohol vendors to fund police services and public education efforts to address the adverse consequences of alcohol consumption. In addition, a number of proposals in the Legislature sought to avoid the two-thirds approval required for taxes, such as a proposed surcharge on vehicle license fees to fund state parks; and a 2010 action to reduce state taxes on gasoline, but to increase fees on gasoline to fund public transportation and other programs.

The Measure. The heart of Prop. 26 is its definition of “tax:” As used in this article, ‘tax’ means “any levy, charge, or exaction of any kind imposed by a local government, except the following... .” Seven exceptions to this sweeping definition are all that remain of local governments’ power to impose fees without voter approval. The first of these covers fees “imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.” This should cover fees associated with planning and police permits, franchises, and parking passes, and the like, provided that those fees are limited to cost of the permit program and the benefit or privilege “is not provided to those not charged.” If taken literally, this means that



no one can be charged for a benefit or privilege if anyone gets it for free, thus prohibiting free passes for senior citizens and lower-income households. It certainly prohibits discounts or free passes if the cost of services to those charged less than the full price is recovered from fees imposed on others – *i.e.*, the measure prohibits cross-subsidies among fee payors by which some pay more than the cost of service so others may pay less or nothing. It seems likely that discounts are permissible if funded from non-fee revenues, because the language of the exception is “those not charged” rather than “those not charged in full.” Less clear is whether free passes can be subsidized with non-fee revenues while still allowing a city to impose a fee on others.

Next are fees “imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.” This exception will cover utility fees not subject to Prop. 218, park and recreation fees that are not admission or equipment rental fees (which are governed by the fourth exception discussed below), transit fees, emergency response fees, and a wide range of other government fees. We believe this exception will apply to such inter-governmental charges as booking fees, property tax administration fees, etc.

Next are fees “imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.” This exception will cover a wide range of local government regulatory fees such as building permit fees, fire inspection fees, weed abatement assessments, alarm permit fees, and the like.

The fourth exemption is for fees “imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.” Notably, this exception does not require a city to limit fees for use of its property to cost nor is this exception limited to real property. If a city makes personal property available for purchase or rental, it can charge whatever the market will bear. Among the fees that will be protected by this exception are: franchise fees for which rights to use rights-of-way or other government property are provided, like cable, gas, electric, and pipeline franchises; and park and recreation entrance fees and equipment rental fees (but not fees for park and recreation services, like classes).

The fifth exception is for “[a] fine, penalty, or

Continued next page

Prop 26 Implications Examined *(continued)*

other monetary charge imposed ... as a result of a violation of law.” This exception will include parking fines, administrative penalties imposed in the code enforcement context, late payment fees, interest charges, and any “other monetary charge imposed by” a city “as a result of a violation of law,” defining the last term broadly.

The sixth exemption is for fees “imposed as a condition of property development.” In general, most planning and building fees will fall within this exemption or one of the first three exceptions listed above.

Finally, Prop. 26 has no application to assessments and property related fees subject to Prop. 218. This will include retail (but not wholesale) fees for government water, sewer and trash services.

In light of this, what can we determine is plainly a tax requiring voter approval as a result of Prop. 26? For now, this list is short. It includes mainly the kinds of fees authorized by the *Sinclair Paint* case, like the state’s fee on lead-containing products, the alcohol impacts fees some local governments have imposed to address nuisance behaviors near alcohol vendors, and the air pollution district fees noted above. It also appears to prevent increases in the Fish & Game fees imposed on local governments to fund review of CEQA documents. It may also require rethinking of some 1989 Act (non-property-based) business improvement districts to separate services to the public from services to the assessed businesses.

What to do now? Initially, we recommend local governments do the following:

- ◆ Don’t adopt a new fee or increase an existing fee without legal advice.
- ◆ Review existing fees to better understand the impacts of the measure on a city and begin to plan to deal with its consequences.
- ◆ Consider segregating unrestricted fee revenue from revenues newly restricted by this measure to ensure that it can comply with the spending restrictions of the measure without imposing restrictions on funds that would otherwise be discretionary.
- ◆ Consider whether some fee obligations can be established by agreement rather than by legislation, such as a solid waste contractor agreement rather than a solid waste hauling “franchise” adopted by ordinance.

Stay tuned! As always, the law in this area will develop over time and rapid developments can be expected initially. We’ll keep you posted!

CALAFCO 2011 STAFF WORKSHOP

April 6 to 8 at
Ventura Beach
Marriott



Remember to register for the 2011 Staff Workshop in beautiful Ventura on April 6-8! The Workshop is preceded by a CALAFCO U course on April 5 regarding planning and land use law. The Workshop includes a mobile workshop to the Reagan Presidential Library and Museum, which was recently annexed to Simi Valley. The Reagan Library, operated by the National Archives, is one of only two presidential libraries located in the western U.S. and is home to Reagan’s Air Force One.

The Workshop includes a wide array of interesting and thought-provoking sessions, with several sessions dedicated specifically to clerks. Learn about how the effects of climate change can impact your LAFCo, budget tips to reduce costs and increase revenue, the requirements of the Public Records Act, and how to write a more effective staff report. Hear executive officers, city managers, LAFCo Commissioners, public law attorneys, and other local officials and experts discuss these and many other topics. Go to www.calafco.org to learn more and register for the CALAFCO U course and Workshop. *Hope to see you there!*

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CALAFCO Honors 2010 Achievement Award Recipients

Each year CALAFCO recognizes outstanding achievements by dedicated individuals and agencies to LAFCo and Cortese-Knox-Hertzberg principles through the CALAFCO Achievement Awards. The 2010 awards were announced and presented at a special awards banquet during the CALAFCO Conference in Palm Springs last October.

CALAFCO is proud to recognize the following individuals and agencies for their outstanding contributions:

OUTSTANDING CALAFCO MEMBER

Roger Anderson, Ph.D.
CALAFCO Board of Directors Chair and public member of the Santa Cruz LAFCo



Awards Chair Ted Novelli (l) presents Outstanding Member award to Roger Anderson (r)

George Lange receives Outstanding Commissioner Award

DISTINGUISHED SERVICE AWARD

Kathleen Rollings-McDonald
Executive Officer of San Bernardino LAFCo and member of the CALAFCO Legislative Committee

Bob Braitman
Executive Officer of Santa Barbara LAFCo and member of the CALAFCO Legislative Committee



Executive Officers Kathy Rollings-McDonald and Bob Braitman receive the Distinguished Service Award

OUTSTANDING LAFCO CLERK

Candie Fleming
Clerk of the Fresno LAFCo

GOVERNMENT LEADERSHIP AWARD Nipomo Community Services District and the County of San Luis Obispo



Bill Connelly receives Butte LAFCo Project of the Year Award



David Church accepts SLO Government Leadership Award

MIKE GOTCH COURAGE & INNOVATION IN LOCAL GOVERNMENT LEADERSHIP AWARD

Helen Thomson
Commissioner, Yolo LAFCo

MOST EFFECTIVE COMMISSION

Tulare LAFCo

OUTSTANDING COMMISSIONER

George Lange
Commissioner, Ventura LAFCo

OUTSTANDING LAFCO PROFESSIONAL

Harry Ehrlich
Local Government Consultant, San Diego LAFCo and Vice Chair of CALAFCO Legislative Committee

PROJECT OF THE YEAR

Butte LAFCo
Sewerage Commission-Oroville Region
Municipal Service Review

SPECIAL ACHIEVEMENT

Chris Tooker
Public member of Sacramento LAFCo and CALAFCO Board of Directors



Chris Tooker accepts a Special Achievement award in recognition of 16 years of service on the Board



Harry Ehrlich is recognized as Outstanding LAFCo Professional

The Sphere

CALAFCO Journal

CALIFORNIA ASSOCIATION OF LOCAL AGENCY
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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

PHOTO HIGHLIGHTS

CALAFCO 2010 Conference

October in Palm Springs



David Church and Kim Uhlich kick off Conference with LAFCo 101



CALAFCO Chair Roger Anderson opens 2011 Conference



Host Riverside LAFCo EO George Spiliotis with yet another door prize



General session focused on fiscal realities for local agencies



CALAFCO Executive Assistant Jamie Szutowicz ready to help



Commissioner Juliana Inman campaigns during regional elections



Newly elected CALAFCO Board meets for first time during Conference



Newly elected Board Chair Susan Wilson and Vice Chair Jerry Gladbach



Nominations Chair Chris Tooker tallies ballots after regional election



General session focused on the role of conservation in urban water supplies

The Mercury News

MercuryNews.com

Saratogans join with Monte Sereno residents for La Hacienda debate

By Judy Peterson
jpeterson@community-newspapers.com

Posted: 04/11/2011 07:33:48 PM PDT

The thorny question of annexation and the future of La Hacienda Inn once again dominated a Monte Sereno City Council meeting, with a long line of residents queuing up to voice their opinions.

First in line at the April 5 meeting was unincorporated county resident Chuck Kappen. "Monte Sereno has nothing to offer me," Kappen said. "Don't take my property. Take property within Monte Sereno."

The city is considering annexing a total of 11 acres that would include the 4.5-acre Hacienda site. The goal is to satisfy the state's requirement that Monte Sereno rezone land for multi-family housing.

Council members are concerned that residents are reacting to misinformation, so they're taking steps to clarify the issues.

"This issue is not about low-income housing," Mayor Marshall Anstandig said. "It's about multi-family housing." Anstandig also pointed out that it's not about a proposal to build 31 single-family homes and nine townhouses at La Hacienda. "That's putting the cart before the horse," he said.

But Councilman Burton Craig disagreed. "In people's minds they really aren't separate," Craig said.

The controversy has spilled over to Saratoga, where people who live on the Saratoga-Monte Sereno border are mobilizing against the Hacienda plan.

"The true concern is traffic and the scenic highway," Saratoga resident Betsy Bryant said. "There are many Saratoga people who are not happy with what's happening at the Hacienda.

Forty houses equals 80 cars. The scenic highway is also a very important element in this whole thing."

Bryant has been contacting state officials to find out what the penalties would be if Monte Sereno does not comply with the multi-family housing mandate. "What can the state take away from you if you do not comply?" she asked.

That's one question city leaders expect to answer at a May 3 study session. Between now and then, city manager Brian Loventhal said he will seek a legal opinion on the matter.

Loventhal also noted that because of the way the city's housing element is written, "You have to consider all 11 acres for annexation. You don't have to decide all 11 acres are appropriate for annexation."

The idea of annexing the Hacienda, but not the other acreage, could appease the state and the unincorporated residents. "What I think is really important is there's a lot of people here who are opposed to annexation," Hacienda owner Russ Stanley said. "I agree with them." Stanley would like to see his annexation issue "divorced" from the rest.

If La Hacienda is not annexed, then Stanley would institute a back-up plan for the property. He already has permits from the county for a 130-seat bar and a 250-person outdoor wedding venue. But he really wants to do a development. "It's been our intention for several years to redevelop the property," Stanley said.

In addressing the traffic issue, Stanley said that his housing plan would drop the number of parking spaces at La Hacienda from 160 to 111. Former

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Monte Sereno Councilman Curtis Wright, who is working for Stanley, passed around a photo showing two 18-wheelers and 20 trucks occupying the parking lot. "The Hacienda is not being used to its highest purpose," Wright said.

Currently, the hotel rooms are rented out as apartments and a catering company is using the old restaurant's kitchen.

The May 3 city council study session will be held at 7:30 p.m. in the multi-purpose room at Daves Avenue Elementary School.



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