



## **LAFCO MEETING AGENDA**

Board Meeting Chambers, 70 West Hedding Street, First Floor

San Jose, CA 95110

August 2, 2017

1:15 PM

**CHAIRPERSON: Sequoia Hall • VICE-CHAIRPERSON: Ken Yeager**

**COMMISSIONERS: Sergio Jimenez, Rob Rennie, John L. Varela, Mike Wasserman, Susan Vicklund Wilson**

**ALTERNATES: Sylvia Arenas, Cindy Chavez, Yoriko Kishimoto, Russ Melton, Terry Trumbull**

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### **NOTICE TO THE PUBLIC**

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1. Pursuant to Government Code §84308, no LAFCO commissioner shall accept, solicit, or direct a contribution of more than \$250 from any party, or his/her agent; or any participant or his /or her agent, while a LAFCO proceeding is pending, and for three months following the date a final decision is rendered by LAFCO. Prior to rendering a decision on a LAFCO proceeding, any LAFCO commissioner who received a contribution of more than \$250 within the preceding 12 months from a party or participant shall disclose that fact on the record of the proceeding. If a commissioner receives a contribution which would otherwise require disqualification returns the contribution within 30 days of knowing about the contribution and the proceeding, the commissioner shall be permitted to participate in the proceeding. A party to a LAFCO proceeding shall disclose on the record of the proceeding any contribution of more than \$250 within the preceding 12 months by the party, or his or her agent, to a LAFCO commissioner. For forms, visit the LAFCO website at [www.santaclaralafco.org](http://www.santaclaralafco.org). No party, or his or her agent and no participant, or his or her agent, shall make a contribution of more than \$250 to any LAFCO commissioner during the proceeding or for 3 months following the date a final decision is rendered by LAFCO.
2. Pursuant to Government Code Sections 56100.1, 56300, 56700.1, 57009 and 81000 et seq., any person or combination of persons who directly or indirectly contribute(s) a total of \$1,000 or more or expend(s) a total of \$1,000 or more in support of or in opposition to specified LAFCO proposals or proceedings, which generally include proposed reorganizations or changes of organization, may be required to comply with the disclosure requirements of the Political Reform Act (See also, Section 84250 et seq.). These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. More information on the scope of the required disclosures is available at the web site of the FPPC: [www.fppc.ca.gov](http://www.fppc.ca.gov). Questions regarding FPPC material, including FPPC forms, should be directed to the FPPC's advice line at 1-866-ASK-FPPC (1-866-275-3772).
3. Pursuant to Government Code §56300(c), LAFCO adopted lobbying disclosure requirements which require that any person or entity lobbying the Commission or Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. In addition to submitting a declaration, any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. Additionally every applicant shall file a declaration under penalty of perjury listing all lobbyists that they have hired to influence the action taken by LAFCO on their application. For forms, visit the LAFCO website at [www.santaclaralafco.org](http://www.santaclaralafco.org).
4. Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commissioners less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office, 777 North First Street, Suite 410, San Jose, California, during normal business hours. (Government Code §54957.5.)
5. In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408) 993-4705.

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777 North First Street, Suite 410 ▪ San Jose, CA 95110 ▪ (408) 993-4713 ▪ [www.santaclaralafco.org](http://www.santaclaralafco.org)

COMMISSIONERS: Sequoia Hall, Sergio Jimenez, Rob Rennie, John L. Varela, Mike Wasserman, Susan Vicklund Wilson, Ken Yeager

ALTERNATE COMMISSIONERS: Sylvia Arenas, Cindy Chavez, Yoriko Kishimoto, Russ Melton, Terry Trumbull

EXECUTIVE OFFICER: Neelima Palacherla

**1. ROLL CALL**

**2. PUBLIC COMMENTS**

This portion of the meeting provides an opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No action may be taken on off-agenda items unless authorized by law. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

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

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**CONSENT ITEM**

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

**Recommended Action:**

CEQA Action

1. As a Responsible Agency under CEQA, LAFCO must take the following actions regarding the Mitigated Negative Declaration for the proposed annexation of APN: 537-25-002 to West Valley Sanitation District:
  - a. Find that the Initial Study and Mitigated Negative Declaration approved by the Town of Los Gatos on April 18, 2017 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.
  - b. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the Initial Study and Mitigated Negative Declaration.
  - c. Find that a monitoring program was approved by the Town of Los Gatos as Lead Agency and that the monitoring program ensures compliance with the mitigation measures identified in the Mitigated Negative Declaration that would mitigate or avoid significant impacts associated with the proposed annexation to the West Valley Sanitation District, over which LAFCO has responsibility.
2. As Lead Agency under CEQA, determine that the proposed annexation of APN: 537-25-031 to West Valley Sanitation District is categorically exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15319 (a) and (b) and Section 15303(d).

Project Action

3. Approve the annexation of approximately 13.88 acres (Assessor Parcel Numbers 537-25-002 and 537-25-031) located at 15215 and 15401 Shannon Road, the former parcel consisting of unincorporated land within the Town of

Los Gatos' Urban Service Area and the latter parcel consisting of land within the Town of Los Gatos and Los Gatos' Urban Service Area, to the West Valley Sanitation District, as described and depicted in Attachment B (Exhibits "A" and "B") of the staff report.

4. Waive protest proceedings pursuant to Government Code §56662(a).

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**ITEMS FOR ACTION / INFORMATION**

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

**Recommended Action:**

1. Consider and approve, with revisions as necessary, LAFCO's response to the 2016-2017 Santa Clara County Civil Grand Jury's Report of June 5, 2017 entitled "LAFCO's Denials: A High School Caught in the Middle."
2. Authorize Vice-Chairperson Yeager to sign response letter and direct staff to forward LAFCO's response to the Presiding Judge of the Santa Clara County Superior Court.

**6. EXECUTIVE OFFICER'S REPORT**

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

For information only.

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

For information only.

**6.3 BAY AREA GREENPRINT LAUNCH AND WORKSHOP**

For information only.

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

For information only.

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

For information only.

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

For information only.

**7. CALAFCO RELATED ACTIVITIES**

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

**Recommended Action:** Authorize commissioners and staff to attend the Annual Conference and direct that associated travel expenses be funded by the LAFCO Budget for Fiscal Year 2018.

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

**Recommended Action:** Nominate interested Commissioners and provide further direction to staff, as necessary.

**7.3 DESIGNATE VOTING DELEGATE AND ALTERNATE**

**Recommended Action:** Appoint voting delegate and alternate voting delegate.

**7.4 REPORT ON THE CALAFCO LEGISLATIVE COMMITTEE MEETINGS**

For Information Only.

**8. PENDING APPLICATIONS / UPCOMING PROJECTS**

**9. COMMISSIONER REPORTS**

**10. NEWSPAPER ARTICLES / NEWSLETTERS**

- CALAFCO Quarterly, July 2017

**11. WRITTEN CORRESPONDENCE**

- Letter from the City of Mountain View (dated July 20, 2017) to Congresswoman Anna Eshoo regarding Department of the Army's potential lease/development of approximately 30 acres of vacant land located at the southwest corner of Moffett Field

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**CLOSED SESSION**

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**12. PERFORMANCE EVALUATION**

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

**13. ADJOURN**

Adjourn to the regular LAFCO meeting on October 4, 2017 at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

**LAFCO MEETING MINUTES  
WEDNESDAY, JUNE 7, 2017**

**CALL TO ORDER**

The meeting was called to order at 1:20 p.m.

**1. ROLL CALL**

The following commissioners were present:

- **Chairperson Sequoia Hall**
- **Commissioner Sergio Jimenez**
- **Commissioner Rob Rennie**
- **Commissioner John L. Varela**
- **Commissioner Mike Wasserman**
- **Commissioner Ken Yeager**
- **Alternate Commissioner Russ Melton**
- **Alternate Commissioner Terry Trumbull** (voting in place of Commissioner Susan Vicklund Wilson)

The following staff members were present:

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

**3. PUBLIC COMMENTS**

There was none.

**3. RESOLUTION OF COMMENDATION FOR LINDA J. LEZOTTE**

The Commission unanimously adopted and presented the Resolution of Commendation for former LAFCO Commissioner Linda J. LeZotte.

Doug Muirhead, a resident of Morgan Hill, stated that LAFCO has a challenging mission to promote orderly growth, and protect agricultural lands and open space, and outgoing Commissioner LeZotte made fair and balanced decisions, and came up with good solutions for challenging situations throughout her service on LAFCO and in her other roles.



In response to an inquiry by **Commissioner Yeager**, Ms. Hamilton indicated that it is not clear why pocket residents oppose annexation but she observed that some prefer annexation to a particular city or zip code. She informed that a city she previously worked in took advantage of the streamlined annexation process and annexed many of its pockets but one of the pockets preferred annexation to another jurisdiction.

**Commissioner Yeager** clarified that the city that Ms. Hamilton is referring to took advantage of the streamlined annexation process for all the good reasons of urban planning and the notion that the cities should provide urban services. In response to his inquiry, Ms. Hamilton indicated that it would be difficult to use the streamlined process in Monte Sereno since its residents want to be a party to decisions in their community, and she noted a recent upheaval when the city council tried to implement state-mandated zoning regulations allowing for all types of housing.

**Commissioner Rennie** noted that he was seeking a compromise and inquired if the city is making any progress at all related to island annexations. He indicated that the city could have complied with the 2013 conditions for approval if they were attainable. In response to his inquiry, Ms. Hamilton indicated that the city is working to annex the La Hacienda property although there is ongoing litigation and she is unable to discuss details.

In response to an inquiry by **Chairperson Hall**, Ms. Hamilton indicated that she does not know why Monte Sereno withdrew from an agreement between the County and the west valley cities related to hillside preservation.

**Commissioner Jimenez** stated that it is important that policies are implemented without exception and he inquired if the approval of San Jose's Evergreen #202 USA expansion demonstrates the flexibility of LAFCO policies as stated by Mr. Woodward. Ms. Palacherla informed that the purpose of Evergreen #202 USA expansion was to correct the USA boundary by making it coterminous with the 15% slope line as established by San Jose's urban limit line/green line policy, and was based on a finding that there was a discrepancy between the USA and the 15 percent slope line. She reported that the parcels were annexed to avoid splitting assessment lines but a conservation easement was secured beyond the 15% slope line. She advised that San Jose's expansion is uniquely different from the Monte Sereno application, and she informed that San Jose has policies against growth beyond the 15% slope line, and the city has already annexed many of its pockets. In response to another inquiry by **Commissioner Jimenez**, Ms. Subramanian informed that LAFCO would consider the Civil Grand Jury Report and the Commission's response at the August meeting. She advised that the law requires LAFCO to respond but it does not require it to agree to the findings or implement their recommendations.

**Commissioner Wasserman** informed that the residents in a Los Gatos pocket have opposed annexation for over 40 years, and even after the County has improved the affected roads. He informed that pocket residents prefer to remain unincorporated so they can build larger homes or keep livestock. He questioned why LAFCO is opposed to this USA expansion request when it generally wants people annexed and prefers that the cities provide urban services. He informed that the application would not result in sprawl but would connect seven properties to sewer and transfer the County's responsibilities for street maintenance and public safety to Monte Sereno. He expressed support for approval based on these reasons.

**Alternate Commissioner Trumbull** expressed agreement about the environmental benefits of the sewer connection. He indicated, however, that the approval of the request violates policies and there is currently no strong argument for LAFCO to do that. He informed that as a former member of the County Planning Commission, he is aware that pockets confuse service providers and that serving a sprawling community is up to seven times more expensive. He warned against changing policies just to accommodate certain applications and expressed concern that Monte Sereno is not a party to the joint County-cities agreement regarding hillside preservation in the west valley. He stated his opposition to the motion.

**Chairperson Hall** expressed his opposition to the motion since Monte Sereno has not taken any action toward pocket annexations while the other cities recognize that eliminating pockets improves service efficiency and saves taxpayer money, and some cities even took advantage of the streamlined process when their residents opposed annexation. He suggested that Monte Sereno follow Saratoga's example by removing from its USA a pocket that it does not plan to annex. He observed that there has to be a reason why Monte Sereno is expanding its USA boundary to an area that was not in its original USA. He further stated that the Civil Grand Jury report came out too late to be included on the current agenda.

**Commissioner Wasserman** informed that LAFCO policies, like those of other bodies, were adopted at a time when they were considered appropriate, and they could be replaced or exceptions could be made. He indicated that there is no one policy that fits all circumstances. He noted that the USA expansion proposal is for sewer service and based on his site visit, he does not believe that the application would have an adverse effect on the community.

**Commissioner Varela** iterated his prior comments and informed that this application would be denied repeatedly if LAFCO strictly applies its policies. He suggested that LAFCO make an exception in order to set a good precedent and to demonstrate that the Commission is open-minded and looking to move forward.

**Commissioner Rennie** observed that while the application has its positive aspects, he is hesitant to support it without the City annexing any of its islands since that will set a precedent for future incremental expansions.

A motion to approve the USA/SOI amendment request.

Motion: Wasserman

Second: Varela

AYES: Varela, Wasserman, Yeager

NOES: Hall, Jimenez, Rennie, Trumbull

ABSTAIN: None

ABSENT: None

### **MOTION FAILED**

A motion to deny the USA/SOI amendment request.

**Commissioner Jimenez** indicated that his vote demonstrates his support for the LAFCO policies and his opposition for eroding them or making them flexible, especially in the light of the Civil Grand Jury report. He indicated that LAFCO must decide on an application based on the policies that are in place. He observed that the Civil Grand Jury



Report may have valid points and noted that these issues would keep coming back if they are not addressed.

The Commission denied the USA/SOI amendment request.

Motion: Trumbull

Second: Jimenez

AYES: Hall, Jimenez, Rennie, Trumbull, Yeager      NOES: Varela, Wasserman

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

**6. FINAL LAFCO BUDGET FOR FISCAL YEAR 2018**

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

Ms. Palacherla informed that the only change on the budget since the April meeting is the addition of a separate line item for office space rent as requested by Commissioner Wasserman.

**Commissioner Varela** questioned the need to allocate \$100,000 for consultant fees for improving the community's understanding of the importance of agricultural lands. He stated that as a member of the Santa Clara County Farm Bureau he is aware that over 20,000 acres, mostly in District 1, have gone fallow in the last 20 years. He indicated that while large farms are doing well, small farmers are finding it difficult to stay in business. He questioned the need to study the preservation of agricultural lands when the farmers themselves no longer want to farm. In response to his inquiry, Ms. Palacherla advised that staff is proposing to use \$75,000 for the communications plan but there is no specific plan at this time.

**Chairperson Hall** indicated that the primary mission of LAFCO is to preserve agricultural lands. **Commissioner Varela** stated that the problem is how to make farmers continue farming and **Chairperson Hall** expressed agreement. **Commissioner Rennie** likewise expressed agreement and noted that he toured the farmlands in the South County. He observed that given the nature of the area, a study would give LAFCO a better understanding for how to do its mission of saving farmlands.

**Commissioner Wasserman** expressed agreement and indicated that there is an ongoing study to identify prime agricultural lands in South County and to determine a strategy to save them, such as clustering of farmlands. He noted that smaller parcels may no longer be viable for farming. **Commissioner Valera** noted the proliferation of McMansions and gated communities in the South County and indicated that an average home is being sold at \$2.5 million. He expressed his interest for various jurisdictions to work together and find a way to save open space and to let the farmers continue farming.

**Chairperson Hall** expressed disagreement with the idea that small farms are not profitable as he indicated that many farmers have offered to operate a four-acre farm that the Santa Clara Valley Open Space Authority had recently acquired. He informed that there are many farming models with interesting business opportunities.

**Commissioner Varela** expressed agreement and invited commissioners to attend the Farm Bureau meetings. At the request of **Commissioner Rennie**, **Commissioner Varela** indicated that he would invite LAFCO members to Farm Bureau meetings through the LAFCO Executive Officer. At the request of **Chairperson Hall**, **Commissioner Varela** indicated that he would ensure that those who have subscribed to the Farm Bureau’s email list would regularly receive updates.

**Chairperson Hall** determined that there are no more speakers from the public and declared the public hearing closed.

The Commission:

1. Adopted the Final Budget for Fiscal Year 2017-2018.
2. Found that the Final LAFCO Budget for Fiscal Year 2018 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the Final LAFCO Budget adopted by the Commission including the estimated agency costs to the cities, the special districts, the County, the Cities Association and the Special Districts Association.
4. Direct the County Auditor–Controller to apportion LAFCO costs to the cities; to the special districts; and to the County; and to collect payment pursuant to Government Code §56381.

Motion: Yeager

Second: Rennie

AYES: Hall, Jimenez, Rennie, Trumbull, Varela, Wasserman, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

**7. STRATEGIC COMMUNICATIONS AND PUBLIC OUTREACH PLAN/ IMPLEMENTATION**

Ms. Noel presented the staff report.

Doug Muirhead, in reference to Commissioner Valera’s invitation to the Farm Bureau meetings, informed that the Farm Bureau’s executive director has indicated to him that their meetings are not open to the public. He suggested that staff attend meetings of various groups and jurisdictions with LAFCO-related agenda items in order to explain LAFCO’s goals and policies and to ensure balanced discussions at those meetings. He likewise proposed that LAFCO participate in the community outreach efforts of its partners, including the County Parks, the open space districts and the Santa Clara Valley Water District, to gain visibility and public support, and to reach out to decision makers.

**Chairperson Hall** determined that there are no more speakers from the public.

**Commissioner Yeager** expressed concern that the proposal could be similar to the rebranding efforts of some agencies in the county and he inquired as to the need for such an effort. Ms. Noel advised that the communications plan was recommended at the last Strategic Planning Workshop, and that while staff produced brochures and reports, there is a need for professionally created materials and targeted messages. Ms. Palacherla indicated that the target audience is composed of the local agencies, cities, special

districts, elected officials, planning commissioners, farm bureaus, chambers of commerce and environmental organizations among others. She observed that many of these agencies and groups generally agree with LAFCO's mission and goals, and this effort may help people understand the connection between LAFCO's actions and their shared goals.

In response to the inquiry of **Commissioner Jimenez**, Ms. Palacherla advised that the proposed allocation would remain in the budget if the Commission takes no action.

**Commissioner Varela** suggested that one idea for outreach is through the Morgan Hill Chamber of Commerce's Friday Night Music Series where LAFCO could pay \$10,000 to have a display tent and a five-minute talk time onstage. He encouraged the importance of partnership with the Chamber of Commerce.

**Chairperson Hall** indicated that LAFCO does not have enough resources for this type of community outreach. He stated that LAFCO has a good website and indicated that LAFCO must invest in professionally developed collateral materials to communicate LAFCO's messages efficiently as staff does not have this type of expertise.

**Alternate Commissioner Trumbull** proposed to appoint a commissioner to the consultant selection panel. **Commissioner Rennie** offered to participate in the consultant selection process. He indicated that based on his experience as a former product manager, he understands that a different skillset is required to develop communication materials and that staff is focused on other skills. He advocated for developing a communications plan as he believed that most people do not understand what LAFCO does. He noted that the targeted communications will help explain LAFCO's decisions to the public which in turn will help LAFCO make better decisions.

**Commissioner Wasserman** requested that staff provide information on how the \$75,000 would be spent and the public benefit it would provide. He expressed concern about spending public resources for the communication strategy and materials since members of the public rarely interact with LAFCO unless they need to annex a property. He moved to defer the item to the next meeting and directed staff to provide additional information with options. Ms. Palacherla advised that the purpose of issuing the RFP is to hire a consultant who would determine the best communications strategies and mechanisms to communicate how LAFCO's work affects people's daily lives and why LAFCO does what it does. **Commissioner Wasserman** indicated that regardless of whether the public is aware about and appreciate what LAFCO does, they would only come if they need LAFCO services. He stated that he is requesting more information to understand the public benefit of the effort. **Commissioner Rennie** suggested that LAFCO consider how the communications materials can help advance LAFCO policies. As an example, he explained that the communications materials may be used to explain that island annexations promote efficient delivery of services and save tax dollars.

In response to an inquiry by **Chairperson Hall**, **Commissioner Rennie** indicated that he would be willing to work with staff on the communications plan. Ms. Noel advised that a key step in the process is a strategic planning session with the Commission to develop consensus on the focus of the communications efforts but it requires a consultant to guide the Commission through the planning process. **Chairperson Hall** stated that the staff time is focused on applications and service reviews and, therefore, staff has limited

resources to lead the communications planning process with its current workload. He stated that LAFCO is an important agency that affects lives in the County. In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla advised that the \$75,000 is sufficient to cover the costs for designing and implementing a communications plan. Ms. Noel advised that the scope of services listed the specific materials, including fact sheets on various topics like preservation of agricultural lands, transparency and public accountability, island annexations and affordable housing, among others. **Commissioner Wasserman** requested that the proposal does not become a continuing project in the future budgets and suggested that the new staff assume some of the responsibilities related to this effort. He also suggested that staff prioritize performing key LAFCO functions in a timely manner before launching outreach efforts. Ms. Palacherla informed that staff had focused on applications and service review functions and thus the lag in launching this effort.

The Commission deferred approval of the RFP and directed staff to provide additional information.

Motion: Wasserman

Second: Varela

AYES: Jimenez, Rennie, Trumbull, Varela, Wasserman, Yeager

NOES: Hall

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

## **8. SECOND AMENDMENT TO AGREEMENT FOR LEGAL SERVICES**

Ms. Palacherla presented the staff report.

The Commission approved the second amendment to the agreement for legal services between LAFCO and the law firm of Best Best & Krieger LLP.

Motion: Jimenez

Second: Yeager

AYES: Hall, Jimenez, Rennie, Trumbull, Varela, Wasserman, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

**MOTION PASSED**

## **9. EXECUTIVE OFFICER'S REPORT**

In response to an inquiry by **Commissioner Jimenez**, Ms. Noel indicated that the various meetings listed in the report are generally staff-level and involve preliminary discussions on various issues.

### **9.1 INDEPENDENT SPECIAL DISTRICT SELECTION COMMITTEE MEETING: MAY 16, 2017**

The Commission noted the report.

### **9.2 INQUIRY FROM SAN MARTIN NEIGHBORHOOD ALLIANCE CONCERNING SEWAGE SPILL AND SEWER LINE IN SAN MARTIN COMMUNITY**

The Commission noted the report.

**9.3 MEETING WITH MIDPENINSULA REGIONAL OPEN SPACE DISTRICT STAFF**

The Commission noted the report.

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

The Commission noted the report.

**9.5 SAN JOSE FOOD WORKS IMPLEMENTATION KICK-OFF MEETING**

The Commission noted the report.

**9.6 UPDATE ON THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION**

The Commission noted the report.

**9.7 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS MEETING**

The Commission noted the report.

**9.8 INTER-JURISDICTIONAL GIS WORKING GROUP MEETINGS**

The Commission noted the report.

**10. PENDING APPLICATIONS / UPCOMING PROJECTS**

Ms. Palacherla informed that staff received an application for annexation to the West Valley Sanitation District.

**11. COMMISSIONER REPORTS**

**12. NEWSPAPER ARTICLES / NEWSLETTERS**

**13. WRITTEN CORRESPONDENCE**

Ms. Palacherla directed attention to the letter from the South Santa Clara Valley Memorial District's legal counsel, dated June 6, 2017, in response to correspondence from Robert Armendariz of American Legion Post 217.

She also informed that the Civil Grand Jury Report was released on June 5, 2017, and LAFCO has until September 5, 2017 to provide a formal response. She indicated that staff will work with the Chairperson and Vice-Chairperson to prepare a draft response to the report which the Commission will consider at its August meeting.

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

The Commission adjourned to Closed Session at 2:52 p.m., and reconvened to an open meeting at 3:05 p.m.

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

**13. ADJOURN**

The Commission adjourned at 3:06 PM to the regular LAFCO meeting on August 2, 2017 at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

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

\_\_\_\_\_  
Sequoia Hall, Chairperson  
Local Agency Formation Commission of Santa Clara County

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

**LAFCO MEETING:** August 2, 2017  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** WEST VALLEY SANITATION DISTRICT 2017-01 (Shannon Road)

**STAFF RECOMMENDATION**

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**CEQA ACTION**

1. As a Responsible Agency under CEQA, LAFCO must take the following actions regarding the Mitigated Negative Declaration for the proposed annexation of APN: 537-25-002 to West Valley Sanitation District:
  - a. Find that the Initial Study and Mitigated Negative Declaration approved by the Town of Los Gatos on April 18, 2017 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.
  - b. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the Initial Study and Mitigated Negative Declaration.
  - c. Find that a monitoring program was approved by the Town of Los Gatos as Lead Agency and that the monitoring program ensures compliance with the mitigation measures identified in the Mitigated Negative Declaration that would mitigate or avoid significant impacts associated with the proposed annexation to the West Valley Sanitation District, over which LAFCO has responsibility.
2. As Lead Agency under CEQA, determine that the proposed annexation of APN: 537-25-031 to West Valley Sanitation District is categorically exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15319 (a) and (b) and Section 15303(d).

## **PROJECT ACTION**

3. Approve the annexation of approximately 13.88 acres (Assessor Parcel Numbers 537-25-002 and 537-25-031) located at 15215 and 15401 Shannon Road, the former parcel consisting of unincorporated land within the Town of Los Gatos' Urban Service Area and the latter parcel consisting of land within the Town of Los Gatos and Los Gatos' Urban Service Area, to the West Valley Sanitation District, as described and depicted in **Attachment B (Exhibits "A" and "B")**.
4. Waive protest proceedings pursuant to Government Code §56662(a).

## **WAIVER OF PROTEST PROCEEDINGS**

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The annexation territory is uninhabited, i.e., fewer than 12 registered voters reside within the territory. The annexation proposal has consent from all landowners of the properties proposed for annexation. LAFCO has not received a request from the West Valley Sanitation District (WVSD) or from any other affected local agency, for notice, hearing or protest proceeding on the proposal. Therefore, pursuant to GC §56662(a), LAFCO is considering this proposal without notice or hearing and may waive protest proceedings.

## **PROJECT DESCRIPTION AND BACKGROUND**

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LAFCO of Santa Clara County received an application, by landowner petition, to annex Assessor Parcel Numbers 537-25-002 and 537-25-031 into the West Valley Sanitation District (WVSD) in order to allow the District to provide sanitary sewer services to the parcels. Please see **Attachment A** for an overview map depicting the current WVSD and the Town of Los Gatos boundaries in relationship to the annexation proposal.

Assessor Parcel Number 537-25-002 consists of approximately 12.95 acres, located at 15215 Shannon Road in the unincorporated area within the Town of Los Gatos' Urban Service Area. The parcel is currently developed with a single-family residence. However, the landowner has a pending request with the Town of Los Gatos for approval of a Planned Development application to annex the parcel into the Town and to subdivide the parcel. In April 2017, the Town adopted a Planned Development Ordinance that changed the pre-zoning of the parcel from HR-5 (Hillside Residential, 5-acres minimum lot size) to HR-2½:PD (Hillside Residential, 2.5 acres minimum lot size with Planned Development overlay), which became effective on May 19, 2017. The Ordinance allows for subdivision of the existing lot into a total of five lots. Future development of the lots would be subject to the Town's site approval and architecture review process. The landowner would like to abandon their onsite septic system serving an existing single-family home and receive sewer service from WVSD and also secure sewer service for the anticipated four new lots/single-family homes. In order to receive sewer service from WVSD, this parcel must first be within the District's boundaries.

Assessor Parcel Number 537-25-031 consists of approximately 0.93 acres, located at 15401 Shannon Road, within the Town of Los Gatos and within the Town's Urban Service Area. The parcel is developed with a single-family residence that is served by an onsite septic system. The owner of APN: 537-25-031 would like to abandon their onsite septic



system and receive sewer service from WVSD. In order to receive sewer service from WVSD, APN: 537-25-031 must first be annexed to the District.

On May 10, 2017, WVSD adopted Resolution No. 17.05.12 indicating that the District supports the requested annexation and has the ability to provide sewer service to the two subject parcels and the anticipated future development.

**Attachment B** (Exhibits “A” and “B”) describes and depicts the boundaries of the proposed annexation.

## **ENVIRONMENTAL ASSESSMENT**

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### **Mitigated Negative Declaration and Categorical Exemption**

Per the Los Gatos Town Council’s approved meeting minutes for April 4, 2017, the Town adopted a Mitigated Negative Declaration for the property owner’s requested Planned Development, which includes the proposed annexation of APN: 537-25-002 to the WVSD. Therefore, the Town of Los Gatos is the Lead Agency under the California Environmental Quality Act (CEQA) for the proposed annexation to WVSD and LAFCO is a Responsible Agency under CEQA. See **Attachment C** for the Town’s environmental documents.

LAFCO of Santa Clara County is the Lead Agency under the California Environmental Quality Act (CEQA) for the proposed annexation of APN: 537-25-031 to the West Valley Sanitation District. The proposed annexation is exempt under State CEQA Guidelines Section 15319(a) & (b) and Section 15303(d).

Section 15319: Class 19 consists of only the following annexations:

- (a) Annexation to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.
- (b) Annexation of individual small parcels of the minimum size for facilities exempted by Section 15303, New Construction or Conversion of Small Structures.

Section 15303: Class 3 consists of construction and location of limited numbers of new, small facilities or structures, installation of small new equipment and facilities in small structures...The number of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:

- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

## **CONSISTENCY WITH LAFCO FACTORS AND POLICIES**

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### **Impacts to Prime Agricultural Lands and Open Space**

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

### **Logical & Orderly Boundaries**

The subject parcels are within the WVSD's Sphere of Influence and are contiguous to the District's boundary. APN: 537-25-002 is located in an unincorporated area and within the Town of Los Gatos' Urban Service Area. The Town Council is scheduled to consider annexing the parcel in early August. APN: 537-25-031 is located in the Town and is within the Town's Urban Service Area (USA).

The County Surveyor has reviewed the application and has found that the boundaries are definite and certain. The Surveyor has also determined that the project conforms to LAFCO's policies regarding the annexation of roads. The proposal will not create an island, corridor, or strip. The County Assessor has reviewed the proposal and found that the proposal conforms to lines of assessment.

### **Growth Inducing Impacts**

The long-standing joint urban development policies adopted by the cities, the County, and LAFCO, discourage urban development in the unincorporated area. Furthermore, by definition land outside an urban service area will not be annexed to a city and thus will not be able to receive urban services.

A sanitary district provides an urban service which promotes urban development. However, the Town and WVSD have a joint policy which calls for lands proposed to be annexed into the District to be already located within the Town or concurrently annexed to the Town, as illustrated by the current proposal.

APN: 537-25-002 is approximately 12.95 acres in size and currently located in the unincorporated area within the Town of Los Gatos' Urban Service Area. However, the Town Council is scheduled to consider annexing the parcel in early August. APN: 537-25-031 is approximately 0.93 acres and located within the Town and the Town's Urban Service Area. As such, both the Town and LAFCO have anticipated that the subject territory would be eventually annexed by the Town and provided with urban services.

Properties in the vicinity of the subject territory, that are outside the WVSD's boundary, but within the District's Sphere of Influence are mostly developed and served by onsite septic systems. These properties are either located within the Town of Los Gatos and/or within the Town's Urban Service Area. Therefore, the Town and LAFCO have also anticipated that these properties would be eventually annexed by the Town and provided with urban services.

Annexation of any additional lands to the WVSD would require LAFCO's approval and LAFCO would conduct the required environmental analysis, including the consideration of the growth inducing impacts of such a proposal at that time.

## Ability of District to Provide Services

WVSD has indicated that it has adequate sewer capacity to provide sanitary sewer services to the single family home located at 15401 Shannon Road (APN: 537-25-031) and to the existing single-family home and anticipated four new lots/single-family homes located at 15215 Shannon Road (APN: 537-25-002) without detracting from the existing service levels within the District.

According to WVSD staff, there is an existing public sewer system adjacent to APN: 537-25-002 that includes a 6-inch sewer main and manhole at the intersection of Santella Court and Santella Drive, just northeast of the subject parcels. The owner of APN: 537-25-002 proposes to construct a private sewer line that would extend across their property to the west and northwest and across APN: 537-09-023 to connect, via existing easements, to the District's public sewer main at the Santella Drive/Shady Lane intersection. The owner of APN: 537-25-002 will install a sewer lateral that will connect to the proposed private sewer line and it is anticipated that future planned development would connect using individual sewer laterals. A copy of all private sanitary sewer easements and maintenance agreements will be provided to WVSD prior to the Town of Gatos' recordation of the Final Subdivision Map.

According to District staff, the owner of APN: 537-25-031 has made arrangements with the owners of APNs: 537-25-002 and 537-09-023 to utilize the planned future private sewer system to ultimately connect to the public sewer at the intersection of Santella Drive and Shady Lane. The owner of APN: 537-25-031 will install a sewer lateral that will connect to the proposed private sewer line. A copy of all private sanitary sewer easements and maintenance agreements will be provided prior to the District's issuance of a Sewer Connection Permit.

Please see **Attachment D** for conceptual map of approximate location of future private sanitary sewer.

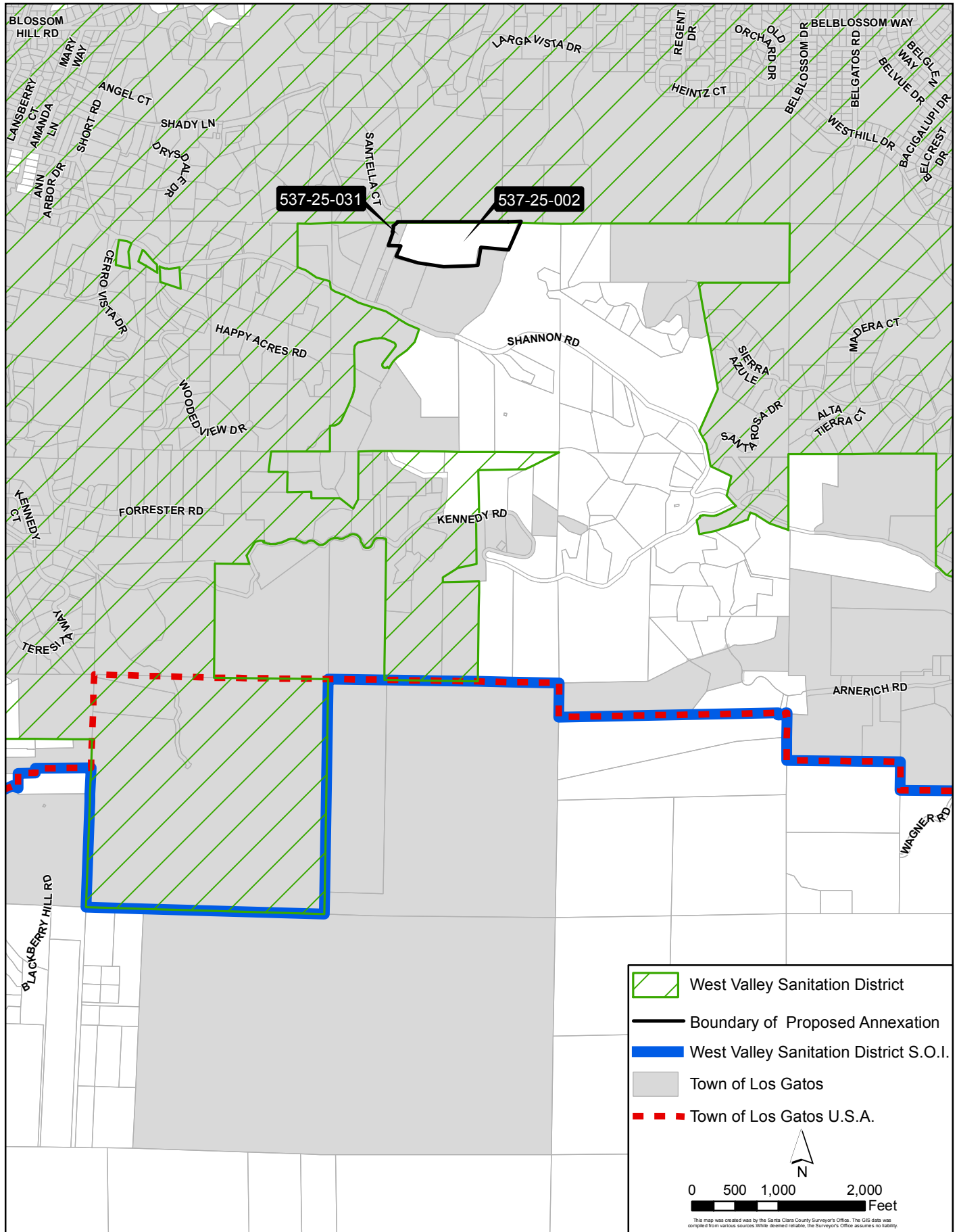
## ATTACHMENTS

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- Attachment A: Overview Map of West Valley Sanitation District's Existing Boundaries and Town of Los Gatos' Existing Boundaries and the subject parcels proposed for annexation
- Attachment B: Legal Description (Exhibit "A") and Map (Exhibit "B") of Proposed Annexation to the West Valley Sanitation District
- Attachment C: [Town of Los Gatos Initial Study and Mitigated Negative Declaration for 15215 Shannon Road Planned Development Application PD 15-001 \(August 2016\)](#)
- Attachment D: Conceptual Map of Approximate Location of Future Private Sanitary Sewer



# West Valley Sanitation District 2017-01 (Shannon Road)







AGENDA ITEM # 4  
Attachment B  
Exhibit A

Rev. June 19, 2017  
April 27, 2017  
HMH 4130.50.122  
Page 1 of 2

EXHIBIT "A"  
"WEST VALLEY SANITATION DISTRICT 2017-01 (SHANNON ROAD)"  
ANNEXATION TO WEST VALLEY SANITATION DISTRICT  
GEOGRAPHIC DESCRIPTION

REAL PROPERTY in the unincorporated area of the County of Santa Clara and the Town of Los Gatos, State of California, being all of that parcel of land described in the grant deed recorded March 16, 2010, in Document No. 20641964 of Official Records, and all of Parcel One and Parcel Eight as described in the grant deed recorded August 11, 1998, in Document No. 14328854 of Official Records, both of Santa Clara County Records, situate in a portion of Section 23, Township 8 South, Range 1 West, M.D.M., described as follows:

BEGINNING at the northeasterly corner of said parcel of land, said corner bears South  $89^{\circ}24'50''$  West, 495.99 feet from the northeast corner of said Section 23, being on the southerly line of that certain annexation entitled "County Sanitation District No. 4 of Santa Clara County", recorded November 4, 1948 in Book 1699 of Official Records, page 197, Santa Clara County Records;

Thence along the easterly, general southerly and westerly line of said parcel of land the following eight course:

1. Thence South  $20^{\circ}34'00''$  West, 348.94 feet;
2. Thence North  $84^{\circ}02'00''$  West, 334.30 feet;
3. Thence South  $08^{\circ}53'00''$  West, 215.36 feet;
4. Thence South  $83^{\circ}43'00''$  West, 122.55 feet;
5. Thence North  $89^{\circ}05'00''$  West, 276.00 feet;
6. Thence North  $81^{\circ}21'00''$  West, 277.50 feet;
7. Thence North  $77^{\circ}17'00''$  West, 279.20 feet;
8. Thence North  $20^{\circ}42'00''$  East, 137.00 feet to the southerly line of said Parcel One;

Thence along said southerly line and the westerly line of said Parcel One the following two courses:

9. Thence South  $88^{\circ}46'30''$  West, 136.03 feet;
10. Thence North  $20^{\circ}10'30''$  East, 180.42 feet, to the southerly line of said Parcel Eight;

Thence along said southerly line, and general westerly line of said Parcel Eight the following four courses:

11. Thence North  $61^{\circ}15'20''$  West, 12.53 feet;
12. Thence northerly, along a non-tangent curve to the left, having a radius of 115.00 feet, whose center bears North  $61^{\circ}15'20''$  West, through a central angle of  $22^{\circ}18'00''$  for an arc length of 44.76 feet;
13. Thence along a compound curve to the left, having a radius of 19.00 feet, through a central angle of  $46^{\circ}00'00''$  for an arc length of 15.25 feet;
14. Thence North  $50^{\circ}26'40''$  East, 48.00 feet, to the westerly line of said Parcel One;
15. Thence along said westerly line, North  $20^{\circ}10'30''$  East, 21.48 feet, to the southerly line of said annexation;

Thence along said southerly line the following two courses:

16. Thence North  $88^{\circ}46'30''$  East, 136.00 feet;
17. Thence East, 1,277.80 feet, to the POINT OF BEGINNING.

Containing 13.88 acres, more or less

*For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.*





**AGENDA ITEM # 4**  
**Attachment B**  
**Exhibit B**

APN 527-17-006

"COUNTY SANITATION  
 DISTRICT NO. 4 OF  
 SANTA CLARA COUNTY"  
 1699-OR-197



APN 527-12-002

| LINE TABLE |             |         |
|------------|-------------|---------|
| LINE       | BEARING     | LENGTH  |
| L1         | S88°46'30"W | 136.03' |
| L2         | N20°10'30"E | 180.42' |
| L3         | N61°15'20"W | 12.53'  |
| L4         | N50°26'40"E | 48.00'  |
| L5         | N20°10'30"E | 21.48'  |
| L6         | N88°46'30"E | 136.00' |

| CURVE TABLE |         |           |        |
|-------------|---------|-----------|--------|
| CURVE       | RADIUS  | DELTA     | LENGTH |
| C1          | 115.00' | 22°18'00" | 44.76' |
| C2          | 19.00'  | 46°00'00" | 15.25' |

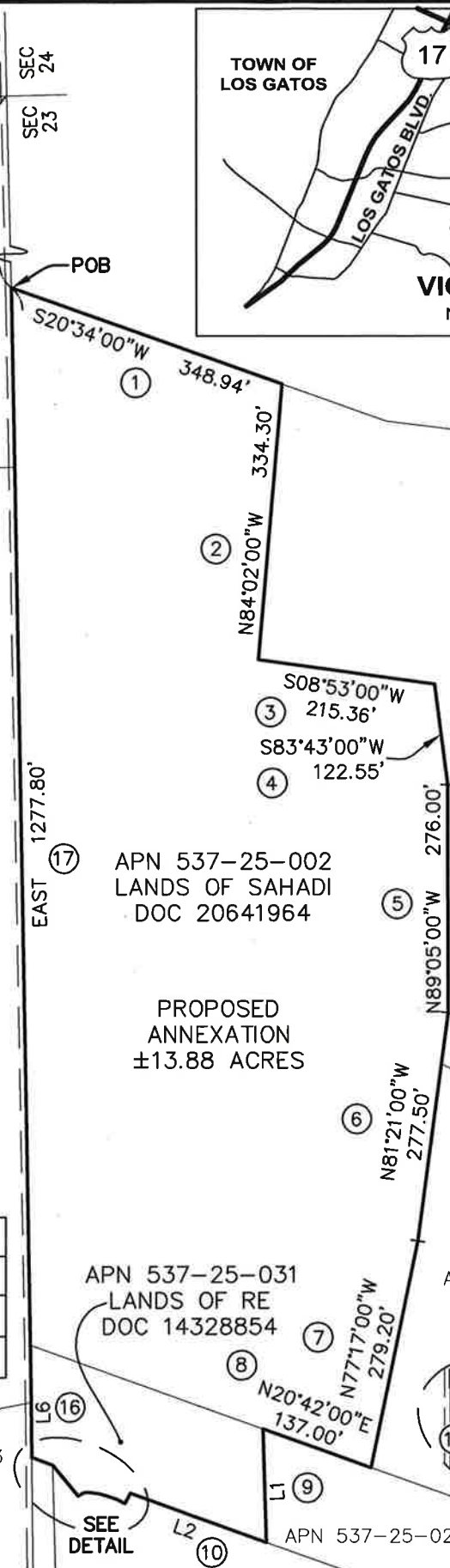
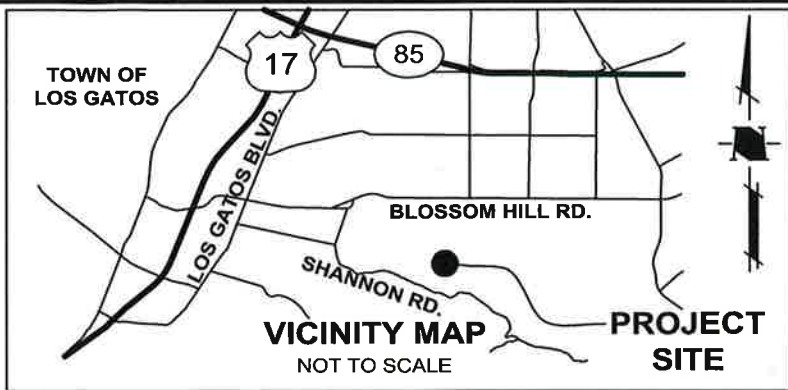
APN 527-09-023  
 SITUATE IN A PORTION OF SECTION  
 23, TOWNSHIP 8 SOUTH, RANGE 1  
 WEST, M.D.M.

REVISED 2017-06-19

|              |             |
|--------------|-------------|
| Date:        | 2017-04-27  |
| Designed:    | -           |
| Drawn:       | RF          |
| Checked:     | TG          |
| Proj. Engr.: | JC/DW       |
|              | 413050PL047 |



1570 Oakland Road (408) 487-2200  
 San Jose, CA 95131 HMMHca.com



APN 537-25-016



APN 537-25-021

**DISCLAIMER:**  
 "FOR ASSESSMENT PURPOSES ONLY.  
 THIS DESCRIPTION OF LAND IS NOT  
 A LEGAL PROPERTY DESCRIPTION AS  
 DEFINED IN THE SUBDIVISION MAP  
 ACT AND MAY NOT BE USED AS THE  
 BASIS FOR AN OFFER FOR SALE OF  
 THE LAND DESCRIBED."

**LEGEND**

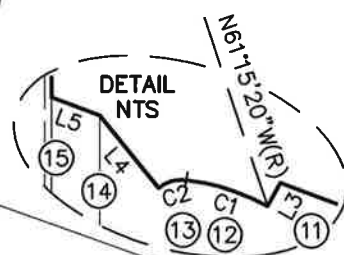
- POB
- EXISTING WEST VALLEY SANITATION DISTRICT BOUNDARY LINE
- PROPOSED BOUNDARY ANNEXATION LINE

APN 537-25-002  
 LANDS OF SAHADI  
 DOC 20641964

PROPOSED  
 ANNEXATION  
 ±13.88 ACRES

APN 537-25-031  
 LANDS OF RE  
 DOC 14328854

APN 537-25-022

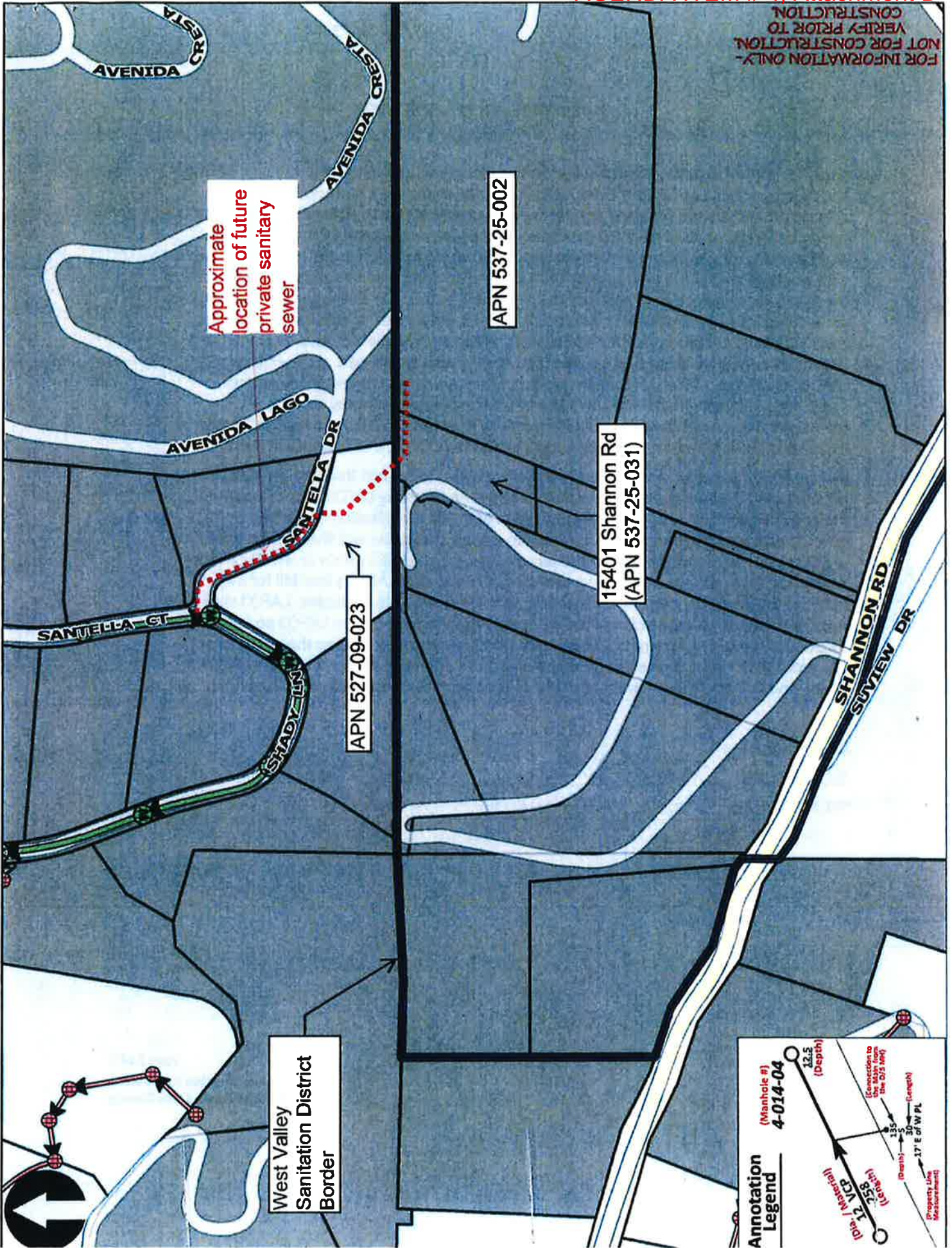


SEE  
 DETAIL

SHEET 1 OF 1

**EXHIBIT "B"**  
**PROPOSED ANNEXATION TO WEST VALLEY SANITATION  
 DISTRICT "WVSD 2017-01 (SHANNON ROAD)"**  
 SANTA CLARA COUNTY/TOWN OF LOS GATOS CALIFORNIA







**LAFCO MEETING:** August 2, 2017  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Mala Subramanian, Legal Counsel  
Dunia Noel, Analyst  
**SUBJECT:** Response to the 2016-2017 Civil Grand Jury Report Entitled,  
“LAFCO’s Denials: A High School Caught in the Middle”

**STAFF RECOMMENDATIONS**

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1. Consider and approve, with revisions as necessary, LAFCO’s response to the 2016-2017 Santa Clara County Civil Grand Jury’s Report of June 5, 2017 entitled “LAFCO’s Denials: A High School Caught in the Middle.”
2. Authorize Vice-Chairperson Yeager to sign response letter and direct staff to forward LAFCO’s response to the Presiding Judge of the Santa Clara County Superior Court.

**BACKGROUND**

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On June 5, 2017, the Santa Clara County Civil Grand Jury released a report entitled “LAFCO’s Denials: A High School Caught in the Middle.” **See Attachment B.** The Civil Grand Jury’s Report centers on LAFCO’s processing of and action on the Morgan Hill Urban Service Area Amendment 2015 application, and more specifically on the proposed South County Catholic High School, which was a part of the City’s application.

A subcommittee of the 2016-2017 Civil Grand Jury tasked with investigating the matter interviewed EO Palacherla on February 28<sup>th</sup> and again on May 18<sup>th</sup>.

As required by the statutes, LAFCO Chair and EO Palacherla were provided with a copy of the Grand Jury final report on May 31<sup>st</sup> – two working days prior to the public release date of the report, but were prohibited from disclosing its contents until the public release of the report in accordance with the state law. A review of the report at that time revealed numerous factual errors and misinformation or lack of understanding of how LAFCO operates, the roles and responsibilities of LAFCO staff versus that of commissioners and some fundamental tenets of LAFCO law and policies. Due to the nature of the report and the extent of the corrections needed; and also since previous corrections offered did not

get factored into the report, EO Palacherla in consultation with the Chairperson and LAFCO Counsel decided that it was best to address the report comprehensively rather than offer some corrections in the narrow timeframe before the public release of the report. Working with Chairperson Hall and Vice-Chairperson Yeager, staff has prepared a draft response for full commission consideration. Please see **Attachment A** for LAFCO's draft response to the Grand Jury Report. The Commission may direct staff to make revisions to the draft response, as necessary.

### **Individual Meetings with New Commissioners**

LAFCO membership has changed significantly in the last year. Several of the current commissioners were not on the Commission during LAFCO's processing and consideration of the Morgan Hill Urban Service Area Amendment 2015 application which is the subject of the Grand Jury Report. Staff met individually with each of the new commissioners including with Commissioners Jimenez, Rennie, and Varela and Alternate Commissioners Arenas and Melton in order to provide background information on the application that would be helpful for the Commission's discussion and consideration of a response to the Grand Jury Report.

### **LAFCO's Response Due to Presiding Judge by September 5, 2017**

State law requires that no later than 90 days of the report date, the governing body of the public agency which is the subject of the report shall respond to the Presiding Judge of the Superior Court on the findings and recommendations of the Grand Jury report. LAFCO is required to submit its response no later than September 5, 2017.

The Grand Jury Report contains nine findings and twelve recommendations directed to LAFCO of Santa Clara County. LAFCO's response must state whether the Commission agrees or disagrees wholly or partially with each of the applicable findings in the report. If the Commission disagrees, the response must include an explanation and reason for the disagreement.

LAFCO's response must also report one of the following four possible actions regarding the applicable recommendations in the report: (1.) the Commission has implemented the recommendation; (2.) will implement the recommendation with a timeframe for the implementation; (3.) requires further analysis with an explanation, scope of analysis, and a timeframe for the matter to be prepared for discussion not to exceed 6 months from date of the report; and (4.) will not be implemented because it is not warranted or reasonable with an explanation.

### **Correspondence Received**

LAFCO has received a joint letter on July 17, 2017 from Committee for Green Foothills and 7 other organizations (American Farmland Trust, Santa Clara Valley Audubon Society, Greenbelt Alliance, Sierra Club, San Martin Neighborhood Alliance, Thrive Morgan Hill, Save Open Space- Gilroy) concerning the Grand Jury Report. **Attachment C** includes this letter and an email received from Doug Muirhead, resident of Morgan

Hill, on the Grand Jury Report. Any additional correspondence received after the publication of the staff report will be provided to the Commission in a supplemental packet.

#### **NEXT STEPS**

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Upon approval by the Commission, the response will be forwarded to the Honorable Patricia M. Lucas, who is the Presiding Judge of the Santa Clara County Superior Court. A copy will be kept on file in the LAFCO Office.

#### **ATTACHMENTS**

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- Attachment A: LAFCO's Draft response to the Santa Clara County Grand Jury Report
- Attachment B: June 5, 2017 Santa Clara County Grand Jury Report Entitled "LAFCO's Denials: A High School Caught in the Middle"
- Attachment C: Correspondence received regarding the Grand Jury Report
- Attachment D: Article from Morgan Hill Times entitled "Grand Jury Report on SEQ Draws Fire" (July 19, 2017)





August 2, 2017

Honorable Patricia M. Lucas  
Judge of the Superior Court  
Hall of Justice  
191 North First Street  
San Jose, CA 95113

**RE: Response to 2016-2017 Santa Clara County Civil Grand Jury Report Entitled  
“LAFCO Denials: A High School Caught in the Middle”**

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Dear Judge Lucas and Members of the 2016-2017 Civil Grand Jury:

The Local Agency Formation Commission of Santa Clara County (LAFCO) reviewed the 2016-2017 Santa Clara County Civil Grand Jury Report and at its meeting on August 2, 2017, approved this letter in response to the report and the findings and recommendations contained within it.

LAFCO is disappointed in the Civil Grand Jury Report entitled “LAFCO Denials: A High School Caught in the Middle” because the report is filled with numerous factual errors and many allegations and findings in the report are not appropriately substantiated by facts or details. Additionally it appears that there is a lack of understanding of how LAFCO operates, the roles and responsibilities of LAFCO staff versus that of commissioners and some fundamental tenets of LAFCO law and policies. Therefore, in addition to responding directly to the findings and recommendations contained in the report, this letter includes some background information on LAFCO and its processing of the recent Morgan Hill Urban Service Area Amendment application in order to more fully inform the Civil Grand Jury and the public of the facts surrounding this matter.

## **A PRIMER ON LAFCO OF SANTA CLARA COUNTY**

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### **LAFCO's Mandate**

LAFCO is an independent local agency created by the State legislature in 1963 to encourage orderly growth and development of local agencies. LAFCO's mission is to promote sustainable growth and good governance in Santa Clara County by preserving agricultural and open space lands, preventing urban sprawl, and encouraging efficient delivery of services.

The Cortese-Knox-Hertzberg Local Government Reorganization Act 2000 (CKH Act) governs LAFCO and includes provisions which define the general composition of LAFCO and the process for the seating of commissioners on LAFCO, among other things.

### **Commission Composition & Staffing**

LAFCO of Santa Clara County is composed of seven commissioners, as follows:

- Two County Supervisors appointed by the Board of Supervisors
- One Council Member from the City of San Jose appointed by the City Council
- One Council Member from any of the other cities appointed by the Cities Selection Committee
- Two Board Members from independent special districts:
  - One appointed by the Santa Clara Valley Water District
  - One appointed by the Independent Special District Selection Committee
- One Public Member appointed by the other members of the Commission

Alternate members are appointed for each of the categories.

In recognition of the unique structure of LAFCOs – where its commissioners are not elected directly as LAFCO commissioners, but are appointed by different appointing entities – the CKH Act contains a special provision (Government Code §56325.1) which requires all LAFCO commissioners to exercise their independent judgement and represent the interests of the public as a whole in furthering the goals of LAFCO and not solely the interests of the appointing authority.

State law requires LAFCO to hire its own staff including an Executive Officer and Legal Counsel and to provide all necessary support services including equipment, facilities and supplies; or alternately, it allows LAFCO to contract with a private or public agency for its staffing, services or facilities. Santa Clara LAFCO has a Memorandum of Understanding with the County of Santa Clara under which the County provides staffing and services to LAFCO. LAFCO has four staff (i.e. executive officer, analyst, clerk, and a vacant analyst position). Although LAFCO staff are County employees; they

take policy direction solely from the Commission and only report to the County on administrative matters. LAFCO contracts with a private firm for legal counsel.

### **Roles and Responsibilities of Commissioners versus Staff**

State law requires LAFCO to establish local written policies and procedures and exercise its powers in a manner consistent with those policies and procedures that “encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns.” The Commission has adopted various sets of policies that are based on State law, and the long-standing countywide growth management policy framework jointly adopted by the County, cities and LAFCO; and in concurrence with the County General Plan Policies.

When LAFCO considers a boundary change proposal, LAFCO staff first prepares a report analyzing the proposal’s consistency with State law and with LAFCO’s goals and policies. The staff report includes a staff recommendation and the reasons for the recommendation; as well as other options or alternative possible actions for commission consideration. The staff report is provided to the Commission and posted on the LAFCO website for public review and is also presented orally to the Commission for their consideration at the LAFCO meeting. However, the Commission, as the ultimate decision maker, is free to reject or modify staff’s recommendation. Therefore, LAFCO decisions on a proposal are made ultimately by majority vote of the commissioners, who are guided by State law, LAFCO’s policies, staff analysis, testimony of both the applicant and the public, and by their own independent judgement as LAFCO commissioners.

### **MORGAN HILL URBAN SERVICE AREA AMENDMENT 2015 APPLICATION: LAFCO STAFF ANALYSIS / RECOMMENDATION AND COMMISSION ACTION**

The following is a brief overview of LAFCO’s process and actions related to the Morgan Hill Urban Service Area Amendment application. In 2015, the City of Morgan Hill submitted an application to LAFCO for an USA amendment. The proposal involved the conversion of 229 acres of prime farmland to urban uses, including a school, sports complex, recreational facilities, retail and commercial uses. This is the largest request for urban development that LAFCO has considered in nearly two decades.

Staff had been following this project for more than 5 years, and had provided several comment letters and extensive feedback to the City on the project and its associated EIR, prior to the City submitting the proposal to LAFCO.

LAFCO, the County and the Santa Clara Valley Open Space Authority (OSA) jointly and separately provided comment letters to the City identifying numerous concerns about the proposal, the overall effectiveness of the agricultural lands preservation program that the City was developing and the adequacy of the City’s associated CEQA documentation. See **Attachment A1** for the agencies’ joint letter to the City.

LAFCO staff also spent a considerable amount of time working with the City, the County and OSA in hopes of jointly developing an alternative plan that would be more in alignment with local policies and plans. That collaborative effort was discontinued when the City informed the group of its intention to proceed with its own plans and move forward with City Council action.

Because this was a complex and controversial proposal of great local and regional significance, LAFCO staff prepared a rigorous analysis of the proposal in a 500 plus-page Staff Report. Please see **Attachment A2** for the LAFCO Staff Report and March 11, 2016 meeting materials for this item.

Among other things, the staff report included a detailed analysis of vacant lands availability based on information provided by the City (Appendix X and pages 1 – 3 of Attachment A in the Staff Report); a detailed analysis of the City's agricultural mitigation program (Appendix Y and pages 6 – 11 of Attachment A in the Staff Report); and an analysis of the City's plan for services (pages 12 – 17 of Attachment A in the Staff Report).

The Staff Report included a staff recommendation to deny the project along with detailed reasons for the recommendation. The report also identified various other possible options for the commission's consideration/action. The Staff Report was published 25 days prior to the LAFCO hearing and posted on the LAFCO website in order to allow the commissioners, the City, the public and various stakeholders sufficient review time.

The Commission received over 500 comment letters and emails, many in favor of and the majority opposed to the proposal. The Commission held a public hearing on March 11, 2016 on the proposal, and took extensive public testimony at the 6-hour meeting. After careful consideration, the Commission voted (6 – 1) to deny the proposal. The Commission also considered whether to approve a smaller portion of the proposal which included the private high school, and on a 5 - 2 vote denied that option as well.

The Commission received nearly a hundred letters of appreciation from various entities and community members for its action on the proposal and its commitment to LAFCO's mandate.

LAFCO then received a request to reconsider its action on the smaller portion of the proposal which included the private high school. At its June 1, 2016 meeting, on a 6 – 1 vote, LAFCO rejected the reconsideration request. However, LAFCO waived over \$7,000 in fees that were incurred in processing the reconsideration request, finding "that the full payment of LAFCO fees in this specific case would be detrimental to the public interest, in that the San Jose Diocese, the non-profit entity paying for the application, does serve a better community good; and that requiring the full payment of LAFCO fees would not promote the applicant finding a suitable school site in Santa Clara County." Please see **Attachment A3** for the LAFCO Staff Report and the June 1, 2016 LAFCO meeting materials for this item.

The Commission encouraged the San Jose Diocese/South County Catholic High School to locate the proposed school within the City limits and similarly encouraged the Morgan Hill Unified School District (MHUSD) to plan to locate future school sites and facilities within the City limits. Please see **Attachment A4** for LAFCO's letters to the MHUSD. LAFCO's letter noted that locating schools within the existing urban core will help curb sprawl, preserve agricultural lands, and reduce greenhouse gas emissions. Similarly, the County also contacted MHUSD to communicate similar concerns regarding MHUSD's potential plans for school sites outside city limits and encouraged the MHUSD to consult with the County on future school siting plans as required by State law.

### **LAFCO Approved City's 2002 USA Amendment for the Proposed South County Catholic High School, but High School was Never Built**

The Grand Jury Report implies that the ownership of the property by the Diocese was deliberately or negligently misreported, in the staff report. This is not the case. All LAFCO staff reports were consistent with the information that was believed at the time and were based on the information provided to LAFCO back in 2002, when LAFCO approved the City's urban service area amendment proposal to facilitate a private high school. And LAFCO did not receive any correction on this information until 2016.

The South County Catholic High School (SCCHS) representative provided testimony at the public hearing on March 11, 2016 about the inaccuracy of the ownership information, which was heard by the Commission prior to the vote being taken, and was documented subsequently in LAFCO's minutes for the public hearing. The letters sent by the SCCHS subsequent to the public hearing containing corrections were appended to the Staff Report discussed on June 1, 2016. The so-called "erroneous statement" quoted in the first paragraph of page 7 of the Civil Grand Jury Report is, in fact, not erroneous, and makes no statement about the ownership of the land. It is factual that the original plan to build a private high school on the land was never realized. To summarize, the Commission made its final decisions in March and June of 2016 with the corrected information as presented by the SCCHS.

### **No Interjurisdictional Miscommunications and No LAFCO Staff Bias**

The Civil Grand Jury Report seems to imply that the numbers of application rejections are evidence of a bias against Morgan Hill. **Attachment A5** is a listing of all the Urban Service Area amendment proposals that LAFCO has considered since 2000. This information was compiled and submitted on March 2, 2017 to the Civil Grand Jury at their request. **Attachment A5** documents that over the years, staff has recommended in favor of many Morgan Hill Urban Service Area amendment proposals and LAFCO has approved many Morgan Hill Urban Service Area amendment proposals.

As discussed previously, LAFCO staff evaluates each proposal against LAFCO goals and policies and provides a recommendation and the reasons for the recommendation; as

well as other possible actions for commission consideration. The commission as the ultimate decision maker, takes final action on a proposal based on its merits.

For an understanding of the LAFCO staff's analysis and recommendation for a proposal and for the Commission deliberations and action / votes on a proposal, we refer the Civil Grand Jury to the complete LAFCO public records relating to each of those decisions.

## **RESPONSE TO THE FINDINGS AND RECOMMENDATIONS**

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### **FINDING 1**

The Local Agency Formation Commission staff developed criteria to evaluate the Morgan Hill 2016 Urban Service Area amendment, including the South County Catholic High School, that were not specified in the agency's adopted Urban Service Area Policies. These staff-written criteria include the definition of "vacant land," "premature conversion of agricultural lands," and "adequacy of urban services."

#### **LAFCO Response**

LAFCO disagrees wholly with the finding. The MH USA Amendment 2015 application was analyzed by LAFCO staff using the same criteria that LAFCO staff has used to analyze previous applications from the City of Morgan Hill and applications from other cities, as documented in the various staff reports for those applications.

### **RECOMMENDATION 1A**

The Local Agency Formation Commission should amend its Urban Service Area Policies to define "vacant land," "premature conversion of agricultural lands," and "adequacy of urban services." The amendment process should provide the opportunity for all affected stakeholders to participate.

#### **LAFCO Response**

This recommendation requires further analysis and will be considered during LAFCO's comprehensive review of its policies which is anticipated to begin within the next six months. LAFCO's current work plan calls for a comprehensive review and update of its policies with the intent of strengthening them to enable LAFCO to better meet its legislative mandate; and to further clarify alignment and consistency of the policies with state law, long-standing countywide growth management policy framework, and regional plans and goals.

### **RECOMMENDATION 1B**

The Local Agency Formation Commission should consider a project's specific requirements, such as the size of the parcel needed and proximity to incompatible uses, in determining whether parcels in the Urban Service Area are "vacant land."

## **LAFCO Response**

This recommendation requires further analysis and will be considered during LAFCO's comprehensive review of its policies which is anticipated to begin within the next six months. LAFCO's current work plan calls for a comprehensive review and update of its policies with the intent of strengthening them to enable LAFCO to better meet its legislative mandate; and to further clarify alignment and consistency of the policies with state law, long-standing countywide growth management policy framework, and regional plans and goals.

## **FINDING 2**

The Local Agency Formation Commission staff interpreted the Commission's Island Annexation Policies to be mandatory rather than advisory in the staff's evaluation of the Morgan Hill 2016 Urban Service Area Amendment that includes the South County Catholic High School.

## **LAFCO Response**

LAFCO disagrees wholly with the finding. Staff provided an analysis of the proposal's consistency with State law and the Commission's policies and goals in its Staff Report. As explained below, staff described the special circumstances pertaining to Morgan Hill's remaining unincorporated islands.

On page 11 of the Staff Report for MH USA Amendment 2015, staff notes that the City has not annexed all of its unincorporated islands within its urban service area prior to seeking the urban service area expansion. On page 19 of Attachment A of the Staff Report, staff also notes that "the City is open to annexation of Holiday Lake Estates provided sufficient resident support for the sewer infrastructure assessment" and that the City is "unable to annex the Llagas Road island because portions of properties are located outside the USA." As shown on pages 12 through 17 of the Staff Report, the fact that the City has not annexed all of its islands is not one of the reasons that staff provided for its recommendation that the Commission deny approval of the MH USA Amendment 2015.

## **RECOMMENDATION 2**

The Local Agency Formation Commission should amend its Island Annexation Policies to clarify whether the annexation of all unincorporated urban islands is a prerequisite for Urban Service Area amendments. The amendment process should provide the opportunity for all affected stakeholders to participate.

## **LAFCO Response**

This recommendation requires further analysis and will be considered during LAFCO's comprehensive review of its policies which is anticipated to begin within the next six months. LAFCO's current work plan calls for a comprehensive review and update of its policies with the intent of strengthening them to enable LAFCO to better meet its

legislative mandate; and to further clarify alignment and consistency of the policies with state law, long-standing countywide growth management policy framework, and regional plans and goals.

### **FINDING 3**

The Local Agency Formation Commission staff deviated from the Commission's Agricultural Mitigation Policies in the staff's evaluation of the Morgan Hill 2016 Urban Service Area Amendment that includes the South County Catholic High School. The staff interpreted the policies to be mandatory rather than advisory and established its own criteria for a satisfactory agriculture mitigation program.

#### **LAFCO Response**

LAFCO disagrees wholly with the finding. Staff provided an analysis (See pages 6 through 11 of Attachment A of the MH USA Amendment 2015 Staff Report; and Appendix Y of the MH USA Amendment 2015 Staff Report) of the proposal's consistency with LAFCO's Agricultural Mitigation Policies using the criteria included in the Policies. The Commission makes the final decision in regards to any proposal.

Since 2010, LAFCO staff has provided comments and submitted various letters to the City requesting the City to consider policies and programs that are consistent with LAFCO's Urban Service area and Agricultural Mitigation policies.

### **RECOMMENDATION 3A**

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to clarify whether the policies are advisory or mandatory. The amendment process should provide the opportunity for all affected stakeholders to participate.

#### **LAFCO Response**

The recommendation will not be implemented because it is not warranted. This aspect of the LAFCO's Agricultural Mitigation Policies is very clear and is addressed in the subsection of the Policies entitled "Purpose of the Policies", which already went through a lengthy public participation process.

### **RECOMMENDATION 3B**

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to define a satisfactory agricultural mitigation program. The amendment process should provide the opportunity for all affected stakeholders to participate.

#### **LAFCO Response**

The recommendation will not be implemented because it is not warranted. LAFCO's Agricultural Mitigation Policies already provide guidance on how to address agricultural mitigation for LAFCO proposals, which already went through a lengthy public participation process.



### **RECOMMENDATION 3C**

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to describe the relationship of a city's agricultural mitigation program to Santa Clara County's agricultural mitigation programs. The amendment process should provide the opportunity for all affected stakeholders to participate.

#### **LAFCO Response**

The recommendation will not be implemented because it is not warranted and is not reasonable. The County of Santa Clara does not have an agricultural mitigation program.

### **FINDING 4**

The Morgan Hill Agricultural Preservation Program requires more funding for the purchase of agricultural easements than is generated from the mitigation fees collected through new development.

#### **LAFCO Response**

LAFCO agrees with the finding.

### **RECOMMENDATION 4**

The County of Santa Clara, the City of Morgan Hill, and the Local Agency Formation Commission should work together to develop a funding mechanism to cover the acquisition and on-going cost of agricultural easements in the Morgan Hill area.

#### **LAFCO Response**

The recommendation will not be implemented because it is not warranted and is not reasonable. Before a funding mechanism to acquire agricultural easements is developed, there first needs to be a comprehensive agricultural lands preservation program that is consistent with LAFCO's mandate and regional plans and goals. An effective agricultural lands preservation program must include measures to steer growth away from agricultural lands and avoid premature conversion of agricultural lands. Unfortunately, such a comprehensive program does not exist at this time.

LAFCO has encouraged and supported the development of programs for preserving agricultural lands. In September 2014, LAFCO, in partnership with the American Farmland Trust and the Committee for Green Foothills, hosted a summit on the "[Importance of Local Farmland to Santa Clara Valley's Future Health and Well-being](#)" which generated a lot of interest in preserving the remaining agricultural land in this county. Attendees included elected officials and staff from state and local agencies, agricultural and open space preservation organizations, and local farmers/ranchers. They noted the lack of a shared vision for preserving agricultural land and identified the development of a comprehensive plan as a logical next step.

In March 2015, LAFCO also provided a letter of support on behalf of the County's and the Santa Clara Valley Open Space Authority's (OSA) joint application for a, Sustainable

Agricultural Land Strategy Grant. Subsequently, the County and OSA received a \$100,000 grant to prepare a program to sustain agricultural lands and the County's farming industry. The two agencies are currently in the process of developing the program. While LAFCO staff has received periodic updates in the background, LAFCO is not formally engaged in any of the discussions amongst the affected public agencies. However, LAFCO is cautiously optimistic that the program will result in an effective agricultural preservation plan this is consistent with the existing County General Plan and LAFCO policies to prevent urban sprawl; and promote orderly growth and development in the county.

#### **FINDING 5**

Erroneous information provided through reports and comments by the Local Agency Formation Commission staff cast the Catholic Diocese of San Jose as untrustworthy. Although the erroneous information was corrected through media and other sources, the report to the commissioners was not changed, resulting in the appearance of bias.

#### **LAFCO Response**

LAFCO disagrees wholly with the finding. The Grand Jury Report implies that the ownership of the property by the Diocese was deliberately or negligently misreported, in the staff report. This is not the case. All LAFCO staff reports were consistent with the information that was believed at the time and were based on the information provided to LAFCO back in 2002, when LAFCO approved the City's urban service area amendment proposal to facilitate a private high school. And LAFCO did not receive any correction on this information until 2016.

The South County Catholic High School (SCCHS) representative provided testimony at the public hearing on March 11, 2016 about the inaccuracy of the ownership information, which was heard by the Commission prior to the vote being taken, and was documented subsequently in LAFCO's minutes for the public hearing. The letters sent by the SCCHS subsequent to the public hearing containing corrections were appended to the Staff Report discussed on June 1, 2016. The so-called "erroneous statement" quoted in the first paragraph of page 7 of the Civil Grand Jury Report is, in fact, not erroneous, and makes no statement about the ownership of the land. It is factual that the original plan to build a private high school on the land was never realized. To summarize, the Commission made its final decisions in March and June of 2016 with the corrected information as presented by the SCCHS.

#### **RECOMMENDATION 5**

The Local Agency Formation Commission should investigate and take appropriate action to address the potential of bias by LAFCO staff.

#### **LAFCO Response**

The recommendation will not be implemented because it is not warranted or reasonable. As discussed under LAFCO's response to Finding #5, there is no bias by LAFCO staff.

The Civil Grand Jury Report seems to imply that the numbers of application rejections are evidence of a bias against Morgan Hill. **Attachment A5** is a listing of all the Urban Service Area amendment proposals that LAFCO has considered since 2000. This information was compiled and submitted to the Civil Grand Jury at their request on March 2, 2017. **Attachment A5** documents that over the years, staff has recommended in favor of many Morgan Hill Urban Service Area amendment proposals and LAFCO has approved many Morgan Hill Urban Service Area amendment proposals.

As discussed previously, LAFCO staff evaluates each proposal against LAFCO goals and policies and provides a recommendation and the reasons for the recommendation; as well as other possible actions for commission consideration. The commission as the ultimate decision maker, takes final action on a proposal.

For an understanding of the LAFCO staff's analysis and recommendation for a proposal and for the Commission deliberations and action / votes on a proposal, we refer the Civil Grand Jury to the complete LAFCO public records relating to each of those decisions.

#### **FINDING 6**

Individuals are concerned about retribution by Local Agency Commission staff if they complain about the treatment they receive.

#### **LAFCO Response**

LAFCO disagrees wholly with the finding. The Civil Grand Jury Report does not cite any evidence to support this finding and LAFCO has never received any information to support this finding.

#### **RECOMMENDATION 6**

The Local Agency Formation Commission should develop procedures to investigate complaints confidentially and ensure complainants do not face retaliation.

#### **LAFCO Response**

This recommendation will not be implemented because it is not warranted or reasonable. The Civil Grand Jury Report does not cite any evidence to support this finding and LAFCO has never received any information to support this finding. Members of the public may contact any of the LAFCO Commissioners if they have a complaint against staff. Commissioner contact information is available on the LAFCO website.

#### **FINDING 7**

The relationship between the staff of the Local Agency Formation Commission and the staff of the City of Morgan Hill appears to be strained.

### **LAFCO Response**

LAFCO disagrees wholly with the finding. The Civil Grand Jury Report does not cite any evidence to support this finding and LAFCO has not received any information to support this finding.

LAFCO staff has a professional working relationship with the City of Morgan Hill staff and has worked with City staff on a variety of matters during the City's preparation of the MH USA Amendment 2015 application and following LAFCO's denial of the proposal. For example, in August 2016, LAFCO authorized initiation of litigation against the City of Morgan Hill regarding their General Plan EIR and directed staff to first pursue a settlement. LAFCO staff and City staff then had many discussions, both in person and by phone, and successfully negotiated a settlement which avoided litigation between the two parties.

### **RECOMMENDATION 7**

The Local Agency Formation Commission and the City of Morgan Hill should take steps to improve the working relationships of the staff of the two agencies.

### **LAFCO Response**

This recommendation will not be implemented because it is not warranted, as we do not believe there is a strained relationship between the staff of the two agencies. LAFCO staff has a professional working relationship with the City of Morgan Hill staff and has worked with City staff on a variety of matters during the City's preparation of the MH USA Amendment 2015 application and following LAFCO's denial of the proposal. For example, in August 2016, LAFCO authorized initiation of litigation against the City of Morgan Hill regarding their General Plan EIR and directed staff to first pursue a settlement. LAFCO staff and City staff then had many discussions, both in person and by phone, and successfully negotiated a settlement which avoided litigation between the two parties.

As we have expressed often, LAFCO staff is willing to meet with the City of Morgan Hill, should they wish to discuss LAFCO related matters.

### **FINDING 8**

The same individual has held a seat on the Local Agency Formation Commission for 20 consecutive years.

### **LAFCO Response**

LAFCO agrees with the finding. Prior to expiration of the public member's 4-year term, the Commission considers whether or not to reappoint the public member to another term. Over the years, the Commission has voted unanimously to reappoint the public member to another 4-year term rather than recruit for a new member to fill the position. Due to the complexity of LAFCO and the extensive learning curve involved in LAFCO matters, serving on LAFCO for some length of time is beneficial.

## **RECOMMENDATION 8**

The Local Agency Formation Commission should establish by policy that a commissioner can serve in a specified position for a set number of years.

### **LAFCO Response**

This recommendation will not be implemented because it is not warranted. Appointments to LAFCO are made consistent with State law (Government Code §56327). Six of the seven commissioners on LAFCO are appointed by legislative bodies or selection committees, as specified under State law. These six LAFCO commissioners appoint a public member to serve on LAFCO for a 4-year term. While State law does not limit the number of terms a commissioner may serve, LAFCO and other appointing bodies have the ability to either reappoint or select a new member to serve on LAFCO at the end of a commissioner's 4-year term. Due to the complexity of LAFCO and the extensive learning curve involved in LAFCO matters, serving on LAFCO for some length of time is beneficial.

## **FINDING 9**

The Local Agency Formation Commission's goal of protecting agricultural land directly impacts only three cities – Gilroy, San Jose and Morgan Hill – which have all of the agricultural land in the urban areas of Santa Clara County. Currently only two LAFCO commissioners, the representative for San Jose and the County Supervisor for District 1, out of seven commission positions represent these cities.

### **LAFCO Response**

LAFCO disagrees wholly with the finding. Agricultural lands in Santa Clara County are for the most part located within the unincorporated area of the county, outside of city limits and city urban service areas. Protecting agricultural lands is an issue of countywide interest and significance. Five of the seven current commissioners on LAFCO reside in the three abovementioned cities. Furthermore, five of the seven current commissioners also sit on legislative bodies that represent these cities and/or areas of the county.

Importantly, State law explicitly requires all commissioners to represent the interests of the public as a whole in furthering the purposes of LAFCO and not the interests of their appointing body.

## **RECOMMENDATION 9**

The Local Agency Formation Commission should ensure that cities with agricultural land are represented fairly on the commission.

### **LAFCO Response**

The recommendation will not be implemented because it is not warranted or reasonable. LAFCO does not appoint its commissioners other than its public member.

We appreciate the Grand Jury's interest in LAFCO of Santa Clara County. Thank you for the opportunity to respond to the findings/recommendations presented in the report.

Sincerely,

Ken Yeager, Vice-Chairperson  
LAFCO of Santa Clara County

CC:

City of Morgan Hill  
County of Santa Clara

#### **ATTACHMENTS**

- Attachment A1: County, LAFCO, and Santa Clara Valley Open Space Authority Joint Letter to Morgan Hill City Council re: SEQ Land Use Plan and Citywide Agricultural Lands Preservation Program (dated November 5, 2014)
- Attachment A2: [LAFCO Staff Report for Morgan Hill Urban Service Area \(USA\) Amendment 2015 \(dated February 15, 2016\) & Meeting Materials](#)
- Attachment A3: [LAFCO Staff Report for Request for Reconsideration of March 11, 2016 LAFCO Action to Deny City of Morgan Hill Urban Service Area Amendment 2015 \(dated June 1, 2016\) & Meeting Materials](#)
- Attachment A4: LAFCO Letters to Morgan Hill Unified School District (dated February 2, 2016 and January 18, 2017)
- Attachment A5: Urban Service Area Amendment Proposals (2000 – Present)



AGENDA ITEM # 5  
Attachment A1



VIA E-MAIL

November 5, 2014

Honorable Mayor Tate and City Council Members  
City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037

**RE: SOUTHEAST QUADRANT (SEQ) LAND USE PLAN AND CITYWIDE AGRICULTURAL LANDS PRESERVATION PROGRAM**

Honorable Mayor Tate and City Council Members,

The purpose of this joint letter is to express our concerns and to request that the City not approve the proposed SEQ Project and the Agricultural Lands Preservation Program and not approve the Final EIR. Attachment 1 summarizes our concerns. We encourage the City to step back from its current plan to develop agricultural lands, and in partnership with the County of Santa Clara (County), LAFCO of Santa Clara County (LAFCO), and the Santa Clara County Open Space Authority (OSA) develop a SEQ proposal that better aligns with local and regional policies/goals.

**Collaboration Efforts To-Date**

Since July of this year, staff from the County, the OSA, and LAFCO have been meeting with City staff to develop an alternative agricultural preservation program in the SEQ. Staff explored conservation and financing strategies for a viable agricultural lands preservation program while addressing the City's growth needs in a sustainable manner in conformance with longstanding urban development policies.

Staff from the four agencies met several times over the course of the three months to discuss a range of potential strategies. In a good faith effort, the OSA arranged for a consultant to help staff prepare a Scope of Work for developing and implementing a viable plan for financing agricultural land preservation in the area. Successful models that the staff were beginning to evaluate would link economic incentives and initiatives (such as TDRs, conservation easements) with complementary growth management strategies (i.e. well-defined growth boundaries). The benefits of such approaches are accommodating growth without significantly impacting agricultural land; limiting development pressure in areas identified as important for continued agricultural production and providing reasonable certainty to landowners and developers.

Unfortunately, the work was cut short as the City indicated its intent to complete City Council action on the project by December 2014.

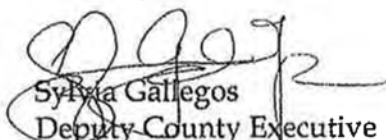
**A More Balanced Approach to Preserving Agricultural Lands in SEQ**


We urge the City Council to not approve the project as proposed, and to consider an alternate vision to achieve a successful outcome – significantly reducing the amount of agricultural land planned for conversion in the SEQ and delineating a meaningful and stable urban growth boundary. Such actions by the City Council would confirm the City’s commitment to long-term agriculture in the SEQ and enable the Group to resume developing and implementing an effective, workable agricultural preservation program in the SEQ that includes specific programs, such as easement acquisitions and TDR programs.

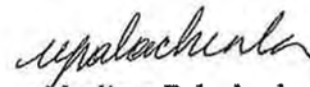
Importantly, this would be more in alignment with statewide and regional goals for building sustainable communities; specifically it would prevent urban sprawl, encourage more compact urban form, and enable the city to focus its budgetary resources on existing neighborhoods. It would allow the partner agencies to jointly support the City in applying for California Strategic Growth Council planning grants and for other potential future grants for developing conservation easement projects and for critical agricultural infrastructure needs planning.

Thank you for considering our request.

Sincerely,

  
Sylvia Gallegos  
Deputy County Executive  
County of Santa Clara

  
Andrea Mackenzie  
General Manager  
Open Space Authority

  
Neelima Palacheria  
Executive Officer  
Santa Clara LAFCO

- c: OSA Board Members
- LAFCO Members
- Mike Wasserman, Supervisor District One

**Attachment 1: Partner Agencies' Concerns with the Proposed SEQ Plan, Citywide Agricultural Lands Preservation Plan and Associated CEQA**



**Attachment 1:**

**PARTNER AGENCIES' CONCERNS WITH THE PROPOSED SOUTHEAST QUADRANT (SEQ) PLAN, CITYWIDE AGRICULTURAL LANDS PRESERVATION PLAN AND ASSOCIATED CEQA**

The following summarizes some of the key concerns identified by the County of Santa Clara, LAFCO of Santa Clara County and the Santa Clara County Open Space Authority (OSA) with regard to the City of Morgan Hill's proposed plan for the SEQ and the associated CEQA review and process. Please note that the three agencies have previously raised these and other concerns in their various separate letters to the City and in their discussion with City staff.

**A. INCONSISTENCIES BETWEEN STATED GOAL OF AGRICULTURAL PRESERVATION IN SEQ AND PROPOSED ACTIONS**

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**1. Proposed Project Involves Premature and Unnecessary Conversion of Agricultural Lands in the SEQ**

Even though the City has indicated that it is their goal to have permanent agricultural preservation in the SEQ and declared the SEQ as their Agricultural Priority area, the proposed plans depict that nearly half of the prime agricultural lands in the SEQ will be converted to urban uses. Out of a total of 597 acres of prime farmland, over 251 acres of prime farmland are slated for conversion to Sports Recreational and Leisure (SRL) and public facility uses. The purpose of the conversion is to allow four separate development proposals initiated by private property owners / developers on 106 acres of prime farmland. Since these four development proposals are not contiguous and are spread out in the SEQ, the City is proposing to re-designate the intervening 192 acres of prime farmland for urban use in order to simply establish contiguity. Thus the proposed urban growth (UGB) and urban limit line (ULL) boundaries, (which are proposed to include these lands) seem driven by the desire to facilitate private applicant initiated proposals rather than by the public benefit interest of farmland preservation.

**2. Annexation Not Necessary for Preservation of Agricultural Lands in the SEQ**

Another problematic aspect of the SEQ proposal is that it will require eventual city annexation of unincorporated lands located outside the City's urban service area (USA). First, such an annexation would directly conflict with the joint urban development policies, LAFCO policies and County General Plan which call for urban development and services within USAs; and resource conservation and rural uses outside the USA. Importantly, in keeping with the joint urban development policies, the County has established a long standing record for maintaining rural land uses and not providing public water and sewer services in the unincorporated county whereas the City has established no such record and has provided no assurances for conserving these lands. Further, it seems to be a misunderstanding amongst some people that the area would be better protected for agriculture under City jurisdiction and that annexation of the SEQ would prevent further rural residential development in the SEQ. Given that a single family home may be constructed by right on every legal lot whether it is in the County or City provided it meets the underlying building regulations, it is unclear

how the City would have the ability to somehow prohibit the construction of single family homes on recognized legal lots.

**3. Designating Unincorporated Lands “Agriculture” in City General Plan Provides No Additional Protection for Unincorporated Agricultural Lands in the SEQ**

Further, the City claims that by its proposal to designate unincorporated lands as Agriculture, the City would implement its General Plan policies related to agriculture and communicate its commitment for agricultural preservation within the SEQ. It is misleading and inaccurate to assume that the City’s designation offers any further protection from development for these lands, than their remaining in the County. These lands are currently designated Agriculture Medium Scale under the County General Plan. Since these lands are not proposed for annexation to the City at this time, they will continue to remain unincorporated and be subject to the County General Plan and its land use regulations. Therefore, the City’s General Plan designation would not apply to these lands and it would have no direct land use jurisdiction over these unincorporated lands.

**4. Proposed Funding in the City’s Agricultural Lands Preservation Program Is Insufficient to Achieve 1:1 Mitigation**

As a number of agencies have previously commented, the City’s proposed Agricultural Land Preservation Program designates the SEQ as the Agricultural Priority area within which mitigation should occur, however, it underestimates the land/easement costs and in-lieu fees necessary to preserve land in the SEQ by using lower land values more appropriate in other parts of the County. So therefore, even though the Program calls for a 1:1 mitigation, the funding generated by the proposed mitigation fees would not be sufficient to cover the 1:1 mitigation in the SEQ. It is very unlikely that the City’s program will result in any actual preservation of agriculture in the SEQ.

While the four agencies share a common goal of viable agriculture and agricultural preservation in the SEQ, the City’s project and process continue to directly conflict with these goals and with existing policies.

**5. Proposed Clustering Program within Unincorporated Area is Infeasible**

The City has indicated its interest in continuing to work with the three agencies to establish a Transfer of Development Rights (TDR) and clustering program *in the County only* for a specific landowner (Chialas) located within the SEQ.

With regard to establishing a clustering program within the unincorporated county for existing legal lots, the agencies have had extensive discussions and have identified significant concerns with such a program; these concerns range from inconsistencies of such development with the current County General Plan to potential lack of public benefit value of developing such a program in the County and include issues such as likely conflict between urban densities and rural character of unincorporated lands, environmental and service provision concerns, and the undesirable precedent setting nature of such a proposal on other parts of the unincorporated county. An effective TDR program in balance with other preservation strategies will need to address transferring development rights to receiving sites within the City.

**B. INADEQUATE ENVIRONMENTAL ANALYSIS AND SEGMENTED REVIEW / APPROVAL PROCESS UNACCEPTABLE FOR SUCH A MAJOR LAND USE DECISION**

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**1. City's Environmental Analysis is Deficient and Does Not Meet the Intent or Requirements of CEQA**

As you know, the CEQA process is designed to identify and disclose to decision makers and the public the significant impacts of a proposed project prior to its consideration and approval. LAFCO, the County of Santa Clara, and the Santa Clara County Open Space Authority have each provided previous comments to the City on the City's environmental review process and documentation. In February 2014, these agencies identified significant deficiencies in the Draft EIR, including that the project description is unclear; the Draft EIR segments the environmental analysis; improperly defers environmental analysis by conducting programmatic review of project-level proposals; fails to sufficiently mitigate significant impacts to agricultural resources, air quality, public services and utilities, and utility systems; and also fails to analyze a reasonable range of alternatives. Subsequently, the City prepared a Final EIR which attempted to address the abovementioned comments. Rather than clarifying the issues raised by LAFCO, the County of Santa Clara, the Santa Clara County Open Space Authority, and others, the City's Final EIR neglects to adequately respond to the comments, and in many cases adds to the confusion identified in the comments concerning the scope of the project and the analysis of its environmental impacts.

**2. Separation of the SEQ Land Use Plan from the City's General Plan Update Process is a Violation of Rational Planning Practices and CEQA**

The City is currently in the midst of conducting a comprehensive update of its General Plan, which among other things, is considering various land use alternatives, including further outward expansion of city boundaries to accommodate anticipated growth. However, the SEQ project which requires major amendment to the City's General Plan is not part of the Comprehensive General Plan update. This is contrary to City/ County General Plan policies which require that UGB be only amended in conjunction with a comprehensive General Plan review /update. It is our understanding that the City intends to complete decisions on the SEQ by December 2014 in order to establish the SEQ project as a pre-existing condition for the Comprehensive General Plan Update EIR analysis, in clear violation of sound planning principles and CEQA Guidelines.





**AGENDA ITEM # 5**  
**Attachment A4**

February 2, 2016

VIA EMAIL [[betandos@mhusd.org](mailto:betandos@mhusd.org)]

Steve Betando, Superintendent  
Morgan Hill Unified School District  
15600 Concord Circle  
Morgan Hill, CA 95037

**RE: FEBRUARY 2, 2016 MHUSD BOARD MEETING AGENDA - CLOSED  
SESSION ITEM A.2.E. "CONFERENCE WITH REAL PROPERTY  
NEGOTIATORS"**

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Dear Mr. Betando,

It has come to our attention that the Morgan Hill Unified School District's (MHUSD) February 2, 2016 Board Meeting Agenda includes a Closed Session Item A.2.e. "Conference with Real Property Negotiators" involving six parcels (APNS 817-18-001 & 002; and APNs 817-16-002, 003, 004, & 005) within an unincorporated area known as the Southeast Quadrant, a predominantly agricultural area. It appears that the District may be considering whether to purchase the properties as potential sites for facilities such as a future middle school and/or a high school.

As you may be aware, the Local Agency Formation Commission of Santa Clara County (LAFCO) is a state mandated independent local agency with countywide jurisdiction. Its primary goals are to discourage urban sprawl, preserve agricultural and open space lands, and encourage efficient delivery of services. LAFCO regulates the boundaries of cities and special districts; and the extension of services outside an agency's boundaries. State law and LAFCO policies encourage the development of vacant lands within existing city limits and require that urban development be steered away from existing agricultural lands. Therefore we encourage the District to explore opportunities within the Morgan Hill city limits for future school sites or other facilities.

The subject properties are also part of a major urban service area amendment application from the City of Morgan Hill that is currently under review by LAFCO staff and which will be considered by LAFCO at its March 11, 2016 Public Hearing. According to the documentation that LAFCO received from the City in support of this request, these parcels are planned for sports, recreation, and leisure type of uses and not for a public facility use. If LAFCO does not approve the City's request, these lands will remain unincorporated.

You may also be aware that Santa Clara County does not allow urban development to occur in the unincorporated area and does not provide urban services such as sewer and water service in the unincorporated area, consistent with the longstanding countywide urban development policies which state that urban development should occur only on lands annexed to cities and not within unincorporated areas; and that the cities should be responsible for planning, annexing and providing services to urban development within their urban service areas in an orderly, planned manner.

Additionally, State law does not allow a city to provide services outside of its boundaries without LAFCO's approval and LAFCO policies discourage such extension of services outside jurisdictional boundaries.

Therefore, we respectfully request that you consider these issues prior to considering siting schools or district facilities in the unincorporated area. Please distribute this letter to the District's Board of Directors for their consideration of Agenda Item A.2.e.

If you have any questions regarding the information presented in this letter, please contact me at (408) 299-5127.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

Cc:

LAFCO Members  
Steve Rymer, City Manager, City of Morgan Hill  
Kirk Girard, Director, County Planning and Development Department



January 18, 2017

VIA EMAIL [[betandos@mhusd.org](mailto:betandos@mhusd.org)]

Steve Betando, Superintendent  
Morgan Hill Unified School District  
15600 Concord Circle  
Morgan Hill, CA 95037

**RE: MHUSD'S POTENTIAL PLANS TO PURCHASE LANDS IN SOUTHEAST  
QUADRANT FOR FUTURE SCHOOL SITES AND FACILITIES**

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Dear Mr. Betando,

On February 2, 2016, LAFCO provided the Morgan Hill Unified School District with a letter raising concerns about the District's potential plans to purchase properties (i.e. APNs 817-18-001 & 002; and APNs 817-16-002, 003, 004, & 005) for future school sites and facilities within the unincorporated area known as the Southeast Quadrant, which includes some of the last remaining farmland in Santa Clara County. At the time, the subject properties were part of a major urban service area amendment application from the City of Morgan Hill that was under review by LAFCO staff and was scheduled to be considered by LAFCO in March 2016. As you may know, LAFCO at its March 11, 2016 Public Hearing denied the City's application and these lands remain unincorporated, located outside of the City's Urban Service Area and planned for non-urban, agricultural, and rural uses.

Based on the District's recent Board Meeting Agendas and our phone conversation, we understand that the District continues to have plans to purchase some of these properties and potentially others within the unincorporated area to locate future District facilities such as a middle school or high school. LAFCO would like to reiterate its continued concern about such an approach to planning for future school sites and facilities. Cities, including Morgan Hill, should plan for urban services/facilities, such as schools, to be located within their existing boundaries to serve the city's population. Locating schools within the existing urban core will help curb urban sprawl, preserve agricultural lands, and reduce greenhouse gas emissions.

As you and the District's Board are aware, LAFCO is a state mandated independent local agency with countywide jurisdiction. Its primary goals are to discourage urban sprawl, preserve agricultural and open space lands, and encourage efficient delivery of services. LAFCO regulates the boundaries of cities and special districts; and the extension of

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70 West Hedding Street ▪ 8th Floor, East Wing ▪ San Jose, CA 95110 ▪ (408) 299-5127 ▪ [www.santaclaralafco.org](http://www.santaclaralafco.org)

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

ALTERNATE COMMISSIONERS: Cindy Chavez, Yoriko Kishimoto, Raul Peralez, Rob Rennie, Terry Trumbull

EXECUTIVE OFFICER: Neelima Palacherla

services outside an agency's boundaries. State law and LAFCO policies encourage the development of vacant lands within existing city limits and require that urban development be steered away from existing agricultural lands. Therefore we encourage the District to explore opportunities within the Morgan Hill city limits for future school sites or other facilities.

As you and the District's Board are also aware, Santa Clara County does not allow urban development to occur in the unincorporated area and does not provide urban services such as sewer and water service in the unincorporated area, consistent with the longstanding countywide urban development policies which state that urban development should occur only on lands annexed to cities and not within unincorporated areas; and that the cities should be responsible for planning, annexing and providing services to urban development within their urban service areas in an orderly, planned manner. Additionally, State law does not allow a city to provide services outside of its boundaries without LAFCO's approval and LAFCO policies discourage such extension of services outside jurisdictional boundaries.

Furthermore, there is a growing concern at the State level about the use of pesticides near school sites which is very likely to result in greater restrictions on local agricultural operators in the upcoming years. Accordingly, it is prudent to plan for new schools and facilities to be sited away from agricultural areas in order to avoid adversely impacting current or future agricultural operations on surrounding lands.

Therefore, we respectfully request that the District and the City of Morgan Hill work collaboratively to proactively plan for and site schools within the existing city limits in order to prevent the conversion of valuable farmland, make use of existing services/infrastructure, and help reduce greenhouse gas emissions. Please distribute this letter to the District's Board of Directors for their consideration.

If you have any questions regarding the information presented in this letter, please contact me at (408) 993-4713.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

Cc:

LAFCO Members  
Steve Rymer, City Manager, City of Morgan Hill  
Kirk Girard, Director, County Planning and Development Department



**URBAN SERVICE AREA AMENDMENT PROPOSALS (2000 – Present)**

| Jurisdiction   | Title of Project   | Type of USA Amendment    | LAFCO Hearing / Action Date | Staff Recommendation              | LAFCO Action                       |
|----------------|--|--------------------------|-----------------------------|-----------------------------------|------------------------------------|
| 1. Morgan Hill | Morgan Hill 2000 USA Amendment                           |                          |                             |                                   |                                    |
|                | • Application Area I                                     | Expansion                | 06/28/2000                  | Deny                              | Approved                           |
|                | • Application Area II                                    | Expansion                | 06/28/2000                  | Deny                              | Approved                           |
|                | • City Area I  | Expansion                | 06/28/2000                  | Approve                           | Approved                           |
|                | • City Area III  | Expansion                | 06/28/2000                  | Approve                           | Approved                           |
|                | • City Area IV   | Expansion                | 06/28/2000                  | Approve                           | Approved                           |
|                | • City Area V  | Expansion                | 06/28/2000                  | Approve                           | Approved                           |
| 2. Los Gatos   | Los Gatos 2000 Minor USA Amendment (Novitiate No. 3)     | Expansion                | 06/28/2000                  | Approve                           | Approved                           |
| 3. Los Altos   | Los Altos 2000 USA Amendment (Vista Grande Avenue 00-01) | Expansion/<br>Retraction | 02/14/2001                  | Approve                           | Approved                           |
| 4. Los Gatos   | Los Gatos 2001 USA Amendment (17975 Foster Road)         | Expansion                | 08/03/2001                  | Approve with conditions           | Approved with conditions           |
| 5. Morgan Hill | Morgan Hill 2001 USA Amendment                           |                          |                             |                                   |                                    |
|                | • Area 1 - Sunnyside (Stoddard)                          | Expansion                | 06/13/2002                  | Deny                              | Denied                             |
|                | • Area 2 - Hale Avenue (Catholic High School)            | Expansion                | 06/13/2002                  | Approve                           | Approved                           |
|                | • Area 3 - Soccerfield                                   | Expansion                | 06/13/2002                  | Approve                           | Approved                           |
| 6. Gilroy      | Gilroy USA Expansion 2002 (Gilroy Sports Park)           | Expansion                | 10/09/2002                  | Approve a portion with conditions | Approved a portion with conditions |

### URBAN SERVICE AREA AMENDMENT PROPOSALS (2000 – Present)

| Jurisdiction    | Title of Project   | Type of USA Amendment | LAFCO Hearing / Action Date | Staff Recommendation            | LAFCO Action             |
|-----------------|--|-----------------------|-----------------------------|---------------------------------|--------------------------|
| 7. Morgan Hill  | Morgan Hill USA Amendment 2002 <ul style="list-style-type: none"> <li>Area I (Diana-Kubo / Patel)</li> </ul> | Expansion             | 04/09/2003                  | Approve a portion               | Approved a portion       |
|                 | <ul style="list-style-type: none"> <li>Area II (Aquatic Center)</li> </ul>                                   | Expansion             | 04/09/2003                  | Approve                         | Approved                 |
| 8. San Jose     | San Jose 2002 USA Amendment <ul style="list-style-type: none"> <li>Area A - Dixon Landing Road</li> </ul>    | Expansion             | 12/11/2002                  | Approve with condition          | Approved with condition  |
|                 | <ul style="list-style-type: none"> <li>Area B - Murillo Avenue</li> </ul>                                    | Expansion             | 12/11/2002                  | Approve                         | Approved                 |
|                 | <ul style="list-style-type: none"> <li>Area C - Murillo Avenue/North Quimby</li> </ul>                       | Expansion             | 12/11/2002                  | Approve                         | Approved                 |
| 9. Morgan Hill  | Morgan Hill USA Amendment 2003 <ul style="list-style-type: none"> <li>2003A (Sobrato High School)</li> </ul> | Expansion             | 02/11/2004                  | Approve                         | Approved                 |
|                 | <ul style="list-style-type: none"> <li>2003B (Boys Ranch Water Tank)</li> </ul>                              | Expansion             | 10/08/2003                  | Approve                         | Approved                 |
| 10. Saratoga    | Saratoga 2004 USA Amendment (Big Basin Way)  | Expansion             | 06/09/2004                  | Approve                         | Approved                 |
| 11. Morgan Hill | Morgan Hill USA Amendment 2005 <ul style="list-style-type: none"> <li>2005A (Holiday Lake Estate)</li> </ul> | Expansion             | 10/12/2005                  | Approve                         | Approved                 |
|                 | <ul style="list-style-type: none"> <li>2005B (Hill Road and Diana Ave)</li> </ul>                            | Expansion             | 10/12/2005                  | Approve                         | Approved                 |
| 12. San Jose    | San Jose 2005 USA Amendment (Story No. 56)   | Expansion             | 10/12/2005                  | Approve                         | Approved                 |
| 13. Gilroy      | Gilroy USA Expansion 2006 (Lands of Barberi)   | Expansion             | 04/12/2006                  | Deny or approve with conditions | Approved with conditions |
| 14. Milpitas    | Milpitas 2006 USA Amendment  | Retraction            | 08/09/2006                  | Approve                         | Approved                 |
| 15. Morgan Hill | Morgan Hill USA Amendment 2006 (Black Rock)  | Expansion             | 04/04/2007                  | Deny                            | Approved                 |

**URBAN SERVICE AREA AMENDMENT PROPOSALS (2000 – Present)**

| <b>Jurisdiction</b> | <b>Title of Project</b>  | <b>Type of USA Amendment</b> | <b>LAFCO Hearing / Action Date</b> | <b>Staff Recommendation</b> | <b>LAFCO Action</b>      |
|---------------------|--|------------------------------|------------------------------------|-----------------------------|--------------------------|
| 16. San Jose        | San Jose 2007 USA Amendment (Riverside No. 52)   | Expansion                    | 02/06/2008                         | Approve                     | Approved                 |
| 17. Campbell        | Campbell USA Amendment 2009 (West Parr Avenue)   | Expansion                    | 06/03/2009                         | Approve                     | Approved                 |
| 18. Los Gatos       | Los Gatos USA Amendment 2010 (Lands of Midpeninsula Regional Open Space District)                            | Retraction                   | 06/01/2011                         | Approve                     | Approved                 |
| 19. Saratoga        | Saratoga 2011 USA Amendment (Lands of Garrod Trust)  | Expansion                    | 02/08/2012                         | Approve with conditions     | Approved with conditions |
| 20. Campbell        | Campbell USA Expansion 2012 (Central Park Reorganization)  | Retraction/<br>Expansion     | 04/04/2012                         | Approve                     | Approved                 |
| 21. Morgan Hill     | Morgan Hill USA Amendment 2012   |                              |                                    |                             |                          |
|                     | <ul style="list-style-type: none"> <li>Area 1 – Watsonville-Royal Oaks Mushrooms</li> </ul>                  | Expansion                    | 10/02/2013                         | Deny or approve a portion   | Approved a portion       |
|                     | <ul style="list-style-type: none"> <li>Area 2 – Monterey-City of Morgan Hill</li> </ul>                      | Expansion                    | 10/02/2013                         | Deny                        | Denied                   |
|                     | <ul style="list-style-type: none"> <li>Area 3 – Monterey-Morgan Hill Bible Church</li> </ul>                 | Expansion                    | 10/02/2013                         | Deny                        | Denied                   |
| 22. Saratoga        | Saratoga 2013 USA Amendment  |                              |                                    |                             |                          |
|                     | <ul style="list-style-type: none"> <li>Congress Springs Quarry</li> </ul>                                    | Expansion                    | 02/06/2013                         | Approve with conditions     | Approved with conditions |
|                     | <ul style="list-style-type: none"> <li>Orbit Drive, Orchard Meadow Drive and West Road Properties</li> </ul> | Retraction                   | 02/06/2013                         | Approve                     | Approved                 |
| 23. Monte Sereno    | Monte Sereno USA Amendment 2013 (Lucky Road)   | Expansion                    | 12/04/2013                         | Deny                        | Approved with condition  |
| 24. San Jose        | San Jose 2014 USA Amendment (Evergreen No. 202)  | Expansion                    | 04/02/2014                         | Approve                     | Approved                 |

**URBAN SERVICE AREA AMENDMENT PROPOSALS (2000 – Present)**

| <b>Jurisdiction</b> | <b>Title of Project</b>  | <b>Type of USA Amendment</b> | <b>LAFCO Hearing / Action Date</b> | <b>Staff Recommendation</b> | <b>LAFCO Action</b> |
|---------------------|--|------------------------------|------------------------------------|-----------------------------|---------------------|
| 25. Morgan Hill     | Morgan Hill 2015 USA Amendment   |                              |                                    |                             |                     |
|                     | <ul style="list-style-type: none"> <li>• Area 1 (Tennant-Murphy, Southeast Quadrant)</li> <li>• Area 2 (Monterey-Watsonville)</li> </ul> | Expansion                    | 03/11/2016                         | Deny                        | Denied              |
|                     |  | Expansion                    | 03/11/2016                         | Deny                        | Denied              |
| 26. Los Altos       | Los Altos Hills USA Amendment 2016 (Jardin Drive Reorganization)   | Retraction/<br>Expansion     | 02/01/2017                         | Approve                     | Approved            |
| 27. Monte Sereno    | Monte Sereno USA Amendment 2016 (Lucky Road)   | Expansion                    | TBD                                | Deny                        | TBD                 |



## AGENDA ITEM # 5 Attachment B

June 5, 2017

Local Agency Formation Commission of Santa Clara County  
Ms. Neelima Palacherla, Executive Officer  
777 North First Street, Suite 410  
San Jose, California 95119

Dear Ms. Palacherla:

The 2016-2017 Santa Clara County Civil Grand Jury is transmitting to you its Final Report, **LAFCO Denials: A High School Caught in the Middle.**

California Penal Code § 933(c) requires that a governing body of the particular public agency or department which has been the subject of a Grand Jury final report shall respond within 90 days to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. California Penal Code § 933.05 contains guidelines for responses to Grand Jury findings and recommendations and is attached to this letter.

**Please note:**

1. As stated in Penal Code § 933.05(a), attached, you are required to "Agree" or "Disagree" with each *applicable* Finding(s) 1, 2, 3, 4, 5, 6, 7, 8, and 9. If you disagree, in whole or part, you must include an explanation of the reasons you disagree.
2. As stated in Penal Code § 933.05(b), attached, you are required to respond to each *applicable* Recommendation(s) 1a, 1b, 2, 3a, 3b, 3c, 4, 5, 6, 7, 8, and 9, with one of four possible actions.

Your comments are due to the office of the Honorable Patricia Lucas, Presiding Judge, Santa Clara County Superior Court, 191 North First Street, San Jose, CA 95113, no later than **Tuesday, September 5, 2017**.

Copies of all responses shall be placed on file with the Clerk of the Court.

Sincerely,



Wayne Tanda

Foreperson

2016-2017 Civil Grand Jury

Encl.: **LAFCO Denials: A High School Caught in the Middle**

CC: Sequoia Hall, Chairperson, Local Agency Formation Commission of Santa Clara County



## 2016-2017 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

### LAFCO DENIALS: A HIGH SCHOOL CAUGHT IN THE MIDDLE

#### Summary

Plans for a Catholic high school near Morgan Hill were blocked in 2016 by Santa Clara County's Local Agency Formation Commission (LAFCO). LAFCO also rejected the City of Morgan Hill's application to add the Southeast Quadrant, an area that includes the proposed school site, to its Urban Service Area (USA).

LAFCO regulates the growth boundaries of cities and special districts to preserve agricultural lands and open space, curb urban sprawl, and encourage the efficient delivery of services.

A complaint received by the Santa Clara County Civil Grand Jury (Grand Jury) charged that the high school proposal was not evaluated fairly. The Grand Jury also looked at whether Morgan Hill has received fair and reasonable treatment from LAFCO.

This investigation found that LAFCO administrative staff interpreted Commission policies in ways that appropriated the authority of the LAFCO commissioners. Overlapping lines of authority complicates correcting administrative overreach: LAFCO's executive officer reports both to the appointed commissioners and to the County Executive.

LAFCO staff made erroneous statements about the Catholic Diocese of San Jose (Catholic Diocese) in a report on the high school plan and did not correct the errors after they were pointed out, creating the appearance of bias.

On its part, Morgan Hill created the appearance of pro-growth favoritism. The city excluded the Southeast Quadrant from the normal General Plan update process.

#### Background

The California State Legislature established a Local Agency Formation Commission in each county to promote sustainable growth and good governance. In Santa Clara County (County), LAFCO is governed by seven members appointed to four-year terms:

- Two County Supervisors appointed by the Board of Supervisors
- One Council Member from the City of San Jose appointed by the City Council

- One Council Member from any of the other cities appointed by the Cities Selection Committee
- Two Board Members from independent special districts:
  - One appointed by the Santa Clara Valley Water District
  - One appointed by the Independent Special District Selection Committee
- One Public Member appointed by the other members of the Commission

Commissioners set policy, which is carried out by LAFCO staff. The staff consists of four full-time positions, including an executive officer.

LAFCO is an independent agency. However, a Memorandum of Understanding (MOU) enables staff to be treated as County employees and allows LAFCO to receive administrative support from the County.

LAFCO can approve or deny changes in a city's urban service boundary, known as a USA amendment. State law gives the cities in Santa Clara County the authority to annex land within the city's USA boundaries if the proposal is initiated by city resolution.

### **LAFCO says “no”**

Early in 2016, LAFCO considered a proposal by the city of Morgan Hill to add 229 acres of the approximately 1200 acres within the Southeast Quadrant to its USA. (See Appendix A.) The city proposal included a 38-acre site for a proposed South County Catholic High School.

LAFCO staff evaluated the Southeast Quadrant proposal, concluded it violated Commission policies, and recommended denial. At a public hearing on March 11, 2016, commissioners rejected the request on a vote of 5 to 2.

LAFCO also considered approving the USA amendment for the South County Catholic High School only. The staff report recommended denial, concluding the proposal was inconsistent with LAFCO policies. One issue was the Environmental Impact Report (EIR). It dealt with the 38-acre high school site but not with an adjacent 22-acre area needed to connect the high school to Morgan Hill's existing USA boundary. Without the connection, the high school would be an urban island in the midst of unincorporated land, contrary to LAFCO policy. The Morgan Hill General Plan has designated the 22 acres for sports, recreational and leisure activities. A commissioner's motion to approve the USA amendment for the high school failed with 3 “yes” votes and 4 voting “no.”

The Catholic Diocese asked LAFCO to reconsider the high school proposal. The chair of the LAFCO commission hoped to schedule a special meeting before the



same commissioners who had heard the original application: Two were leaving their seats on May 30, 2016. Staff said it was not possible. Therefore, at the regularly scheduled meeting of LAFCO, on June 1, 2016, a public hearing was held to reconsider the denial of the South County Catholic High School. The commission voted 6 to 1 to not reconsider the denial.

### **No place for a high school**

When it denied a site for the South County Catholic High School, LAFCO advised the Catholic Diocese to find a location within the boundaries of Morgan Hill. However, city planners identified only one possible parcel large enough for the high school. Morgan Hill is reserving that site for a major industrial user, which would fulfill a high priority in the city's General Plan.

For nearly two decades the Catholic Diocese has been trying to build a Catholic high school in Morgan Hill to serve students who are commuting long distances to private high schools.

More recently, the Morgan Hill Unified School District has been seeking a site for a possible third public high school. Building a Catholic high school might lessen the demand for a new public high school.

A County official described the Catholic high school as an opportunity for a win for the students, for the community, and for the environment.

## **Discussion**

### **Urban Service Area Policies**

LAFCO commissioners adopted a set of policies on USAs in 2002. Since then, LAFCO staff has interpreted key portions of the policies in ways that redefine their meaning. These questionable interpretations were cited as reasons for the denial of the Southeast Quadrant and high school proposals.

For example, LAFCO policy states, "When a city with a substantial supply of vacant land within its urban service area applies for an urban service area expansion, LAFCO will require an explanation of why the expansion is necessary." LAFCO staff interprets "vacant land" to be all land that is currently undeveloped, regardless of whether it's available for use. This interpretation led to the staff's conclusion that there is a 100-year supply of commercial and industrial vacant land within Morgan Hill's existing USA. According to Morgan Hill officials, this land includes properties that are restricted by land-use entitlements and environmental constraints, as well as land set aside for industrial and commercial use.

A second issue is the determination of what constitutes the premature conversion of agricultural lands. It is LAFCO policy to consider factors such as, "whether the

conversion of agricultural and other open space lands is premature, or if there are other areas into which to channel growth." The LAFCO staff's interpretation is that conversion of agricultural land for an urban use is premature if there is vacant land within the city's USA boundary. No adjustments are made for land that is not available for development due to entitlements, environmental constraints, or the property owner's decision.

Third, LAFCO staff has created criteria to determine if a city can provide urban services to a growth area without detracting from current levels of service. In Morgan Hill's case, LAFCO staff in 2016 concluded that the City has not adequately demonstrated the ability to provide and fund services for fire protection, police service, water supply, recreational, wastewater service and storm water drainage in the Southeast Quadrant. The criteria to make this determination are not specified in LAFCO policies. However, with the exception of storm water drainage, the 2015 LAFCO Final Report on City Service Review concluded that public facilities are adequate to handle Morgan Hill's growth:

- Morgan Hill's General Plan calls for the continuation of non-urban uses beyond the City's USA boundary.
- The need for a full range of public facilities and services is expected to grow modestly in the future.
- The present capacity of public facilities appears adequate, with the possible exception of storm water infrastructure and maintenance systems.

### **Island Annexation Policies**

In LAFCO parlance, an "island" is a pocket of unincorporated land that is "completely" or "substantially" surrounded by incorporated land. Commissioners amended the Island Annexation Policies in 2009 to state that, "In the interest of orderly growth and development, cities *should* (emphasis added) annex urban unincorporated islands existing within their current USAs before seeking to add new lands to the USAs."

LAFCO staff has interpreted this to mean that island annexations are *required* prior to an expansion of the USA without concern for special circumstances or the commission's discretionary power.

Morgan Hill has not annexed two unincorporated islands (see Appendix B) due to special circumstances. The 120-acre Holiday Lake Estates requires an assessment district to finance needed municipal infrastructure improvements; homeowners oppose the increase in property taxes. A 20-acre island south of Llagas Road cannot be annexed because some properties are located outside Morgan Hill's USA. While the LAFCO staff report prepared for the March 11, 2016 meeting stated the reasons why Morgan Hill has not annexed these islands, it also listed the failure to do so as a reason to deny approval of the Southeast Quadrant and high school proposals.

## **Agricultural Mitigation Policies**

Agricultural mitigation refers to efforts to protect farmland from the conversion to other uses and to minimize the impact of urban land uses on agricultural operations. The stated purpose of the LAFCO Agricultural Mitigation Policies adopted in 2007 is to provide guidance to cities: It is meant to be advisory only. The City of Morgan Hill is the only city to have developed an agricultural mitigation program. Appendix C compares the City's program to the LAFCO advisory policy and model programs elsewhere.

LAFCO staff created a detailed set of criteria that was used to judge the adequacy of the Morgan Hill Agricultural Preservation program. The application of staff's criteria is one of the reasons for the rejection of the Southeast Quadrant and high school proposals.

A County official described Morgan Hill's program as fundamentally sound, but inadequately funded. The program relies on fees imposed on new developments to pay for easements that ensure land will remain in agricultural use in perpetuity. LAFCO officials also expressed concern about a lack of adequate funding. Both County and LAFCO officials expressed the need to coordinate the Morgan Hill program with the results of a Countywide study, currently in progress, that will identify other sources of funding for agricultural easements. A recent example of the type of cooperation possible is the collaborative effort by the County, Morgan Hill, and the Santa Clara Valley Open Space Authority to pursue a grant from the State High Speed Rail Authority for the acquisition of a large agricultural conservation easement in the Southeast Quadrant.

## **Misreporting**

The LAFCO staff report regarding the Morgan Hill USA amendment was released to the public in February 2016 and considered at the commission's public hearing on March 11, 2016. The report erroneously described the attempt by the Catholic Diocese to build a high school 13 years earlier. It stated that:

"In 2003, the City (Morgan Hill) requested and obtained LAFCO approval for an USA expansion on behalf of the Catholic Diocese of San Jose - which *owned unincorporated property* (emphasis added) at the northwestern edge of city, in order to develop a private high school. The City's rationale for that USA expansion was that it lacked parcels of the size required for a high school along a major arterial within the city limits. However, the high school was never developed and the site has since been rezoned to allow for residential development and is currently being developed with new single-family homes. Given that State law allows a city to change the zoning designation two years following annexation, there is no guarantee that the

proposed private high school site in the SEQ will not be rezoned to allow more residential development or another type of land use in the future."

The information from the LAFCO report was repeated in an editorial in the *San Jose Mercury News* that ran before the public hearing on March 11, 2016. The editorial included the following statement:

"In 2003 Morgan Hill persuaded LAFCO to annex rural land on its northeast edge that the Diocese of San Jose had already purchased to build a school. LAFCO said, oh well, for a school, OK. The diocese then sold that land. Homes are being built there. Now the diocese has bought land for a campus in the Southeast Quadrant, and Morgan Hill again is using it as an argument to annex. LAFCO would be crazy to do it a second time."

At the public hearing on March 11, 2016, a representative of the South County Catholic High School testified that the 2003 annexation had been misreported: The Catholic Diocese had not purchased the site. A LAFCO commissioner, however, cited the information in the administration's report as one reason for voting to deny the South County Catholic High School USA amendment.

Following the meeting, representatives of the South County Catholic High School and the Catholic Diocese sent two letters to LAFCO to correct points that had been made at the public hearing.

- In 2002, a site in north Morgan Hill was identified as a *potential* location for a Catholic high school and the Catholic Diocese entered into an option to purchase the land.
- During its due diligence of the site, it was determined that a future roadway would bisect the land and that a flyover to cross the adjacent railroad tracks was required.
- These requirements made the land too small and undesirable for a high school.
- The option to purchase was terminated.
- The Catholic Diocese was not involved in the landowners' subsequent sale of the property and did not receive any financial benefit from the sale.

The *San Jose Mercury News* printed a retraction immediately after the March 11, 2016 meeting: "An earlier version of an editorial on a proposal to annex land to Morgan Hill misstated the Diocese of San Jose's dealings with another parcel of land north east of the city in 2003. The diocese had an option to buy that land and later decided to not exercise the option."

The Bishop of San Jose responded to the suggestion that the Catholic Diocese may have plans for the 38-acre site other than a high school: "The Diocese of San Jose has no plan for the land in question (Murphy/Tennant) other than to be the site of a Catholic high school."

In the June 1, 2016 LAFCO meeting on the reconsideration of the South County Catholic High School proposal, the LAFCO staff report did not mention any of the above corrections. Instead, it repeated the erroneous statement: "This summary also notes that LAFCO approved an urban service area expansion of a Catholic High School in 2003 which was later developed with single-family homes," and referred the reader to its earlier report from the public hearing on March 11, 2016. Prior to his vote to deny reconsideration of the high school proposal, a LAFCO commissioner stated that the situation that had occurred in 2003 showed that Morgan Hill does not follow its own plans.

### **Miscommunications**

Eleven cities in the County have proposed 41 amendments to their USAs between 2000 and 2016, as shown in Appendix D. LAFCO staff has recommended the denial of city proposals nine times: eight involved Morgan Hill.

Through its interviews, the Grand Jury learned that the City of Morgan Hill and LAFCO staffers do not appear to communicate effectively, and City staff fears retribution from LAFCO if they complain openly about LAFCO.

### **City of Morgan Hill Lacks Representation**

The Grand Jury also heard complaints that Morgan Hill is excluded unfairly from representation on LAFCO. The one seat for a city, other than San Jose, may rotate at the end of every four-year term. Morgan Hill City Council has been ineligible to fill this seat for 20 years because the commissioner who represents the general public, who has served for five four-year terms, is a Morgan Hill resident. By state law, a city may not fill a seat on the commission if the commissioner representing the general public lives in that city. The commissioner who represents the general public is not an elected official, is not accountable to the residents of Morgan Hill and does not represent the Morgan Hill City Council's policies.

Only three cities in the County are directly affected by LAFCO's agricultural mitigation policy: Morgan Hill, Gilroy, and San Jose. Currently, only two commissioners out of seven represent the affected cities.

### **Special-Interest Suspicions in Morgan Hill**

A General Plan, the blueprint for the growth of a city, is updated about every 15 years. In Morgan Hill, hundreds of residents participated in creating the most recent update for the city, with the exception of the land use plan for the Southeast Quadrant. Ten years earlier Morgan Hill had initiated a planning process for the Southeast Quadrant with inputs from a handful of major property owners working with other interested parties. The two separate processes culminated in 2016 with the Morgan Hill City Council's adoption of the 2016 General Plan.

When LAFCO held public hearings on Morgan Hill's proposal for the Southeast Quadrant and the proposed high school, several Morgan Hill residents testified against it, saying that the city's plan favored growth in that area and that the planning process did not allow for the participation of all city residents.

## **Conclusions**

LAFCO's denials of the proposals to expand Morgan Hill's USA and to allow a new high school are complicated issues. Adding to the complexity is the strained relationship between LAFCO and Morgan Hill.

While there is strong support for building a Catholic high school in Morgan Hill, LAFCO insists it be built within the city's USA. Morgan Hill says that's impossible: No site is large enough, except for one parcel reserved for industrial use.

LAFCO commissioners adopt policies in the public forum, not behind closed doors; stakeholders and members of the public participate in the process. However, the administrative staff, acting outside the public eye, interprets these policies in ways that blur the lines between setting policy and executing policy.

LAFCO staff provided incorrect information about the 2003 attempt to build a Catholic high school that misled commissioners when they voted in 2016.

The City of Morgan Hill utilized a bifurcated General Plan update process that created concerns about the objectivity of the plan for the Southeast Quadrant, including the South County Catholic High School.

## **Findings and Recommendations**

### **Finding 1**

The Local Agency Formation Commission staff developed criteria to evaluate the Morgan Hill 2016 Urban Service Area amendment, including the South County Catholic High School, that were not specified in the agency's adopted Urban Service Area Policies. These staff-written criteria include the definition of "vacant land," "premature conversion of agricultural lands," and "adequacy of urban services."

#### **Recommendation 1a**

The Local Agency Formation Commission should amend its Urban Service Area Policies to define "vacant land," "premature conversion of agricultural lands," and "adequacy of urban services." The amendment process should provide the opportunity for all affected stakeholders to participate.

#### **Recommendation 1b**

The Local Agency Formation Commission should consider a project's specific requirements, such as the size of the parcel needed and proximity to incompatible uses, in determining whether parcels in the Urban Service Area are "vacant land."

### **Finding 2**

The Local Agency Formation Commission staff interpreted the Commission's Island Annexation Policies to be mandatory rather than advisory in the staff's evaluation of the Morgan Hill 2016 Urban Service Area Amendment that includes the South County Catholic High School.

#### **Recommendation 2**

The Local Agency Formation Commission should amend its Island Annexation Policies to clarify whether the annexation of all unincorporated urban islands is a prerequisite for Urban Service Area amendments. The amendment process should provide the opportunity for all affected stakeholders to participate.

### **Finding 3**

The Local Agency Formation Commission staff deviated from the Commission's Agricultural Mitigation Policies in the staff's evaluation of the Morgan Hill 2016 Urban Service Area Amendment that includes the South County Catholic High

School. The staff interpreted the policies to be mandatory rather than advisory and established its own criteria for a satisfactory agriculture mitigation program.

### **Recommendation 3a**

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to clarify whether the policies are advisory or mandatory. The amendment process should provide the opportunity for all affected stakeholders to participate.

### **Recommendation 3b**

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to define a satisfactory agricultural mitigation program. The amendment process should provide the opportunity for all affected stakeholders to participate.

### **Recommendation 3c**

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to describe the relationship of a city's agricultural mitigation program to Santa Clara County's agricultural mitigation programs. The amendment process should provide the opportunity for all affected stakeholders to participate.

### **Finding 4**

The Morgan Hill Agricultural Preservation Program requires more funding for the purchase of agricultural easements than is generated from the mitigation fees collected through new development.

### **Recommendation 4**

The County of Santa Clara, the City of Morgan Hill, and the Local Agency Formation Commission should work together to develop a funding mechanism to cover the acquisition and on-going cost of agricultural easements in the Morgan Hill area.

### **Finding 5**

Erroneous information provided through reports and comments by the Local Agency Formation Commission staff cast the Catholic Diocese of San Jose as untrustworthy. Although the erroneous information was corrected through media and other sources, the report to the commissioners was not changed, resulting in the appearance of bias.



### **Recommendation 5**

The Local Agency Formation Commission should investigate and take appropriate action to address the potential of bias by LAFCO staff.

### **Finding 6**

Individuals are concerned about retribution by Local Agency Commission staff if they complain about the treatment they receive.

### **Recommendation 6**

The Local Agency Formation Commission should develop procedures to investigate complaints confidentially and ensure complainants do not face retaliation.

### **Finding 7**

The relationship between the staff of the Local Agency Formation Commission and the staff of the City of Morgan Hill appears to be strained.

### **Recommendation 7**

The Local Agency Formation Commission and the City of Morgan Hill should take steps to improve the working relationships of the staff of the two agencies.

### **Finding 8**

The same individual has held a seat on the Local Agency Formation Commission for 20 consecutive years.

### **Recommendation 8**

The Local Agency Formation Commission should establish by policy that a commissioner can serve in a specified position for a set number of years.

### **Finding 9**

The Local Agency Formation Commission's goal of protecting agricultural land directly impacts only three cities – Gilroy, San Jose and Morgan Hill – which have all of the agricultural land in the urban areas of Santa Clara County. Currently only two LAFCO commissioners, the representative for San Jose and the County Supervisor for District 1, out of seven commission positions represent these cities.

### **Recommendation 9**

The Local Agency Formation Commission should ensure that cities with agricultural land are represented fairly on the commission.

### **Finding 10**

The City of Morgan Hill's update of the 2016 General Plan, which dealt separately with the Southeast Quadrant, gave the appearance of special consideration for the property owners.

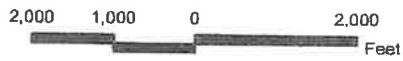
### **Recommendation 10**

The City of Morgan Hill should adopt a single, open, transparent process in future updates of its General Plan.

**Appendix A**  
**Map: South County Catholic High School and the Southeast Quadrant**



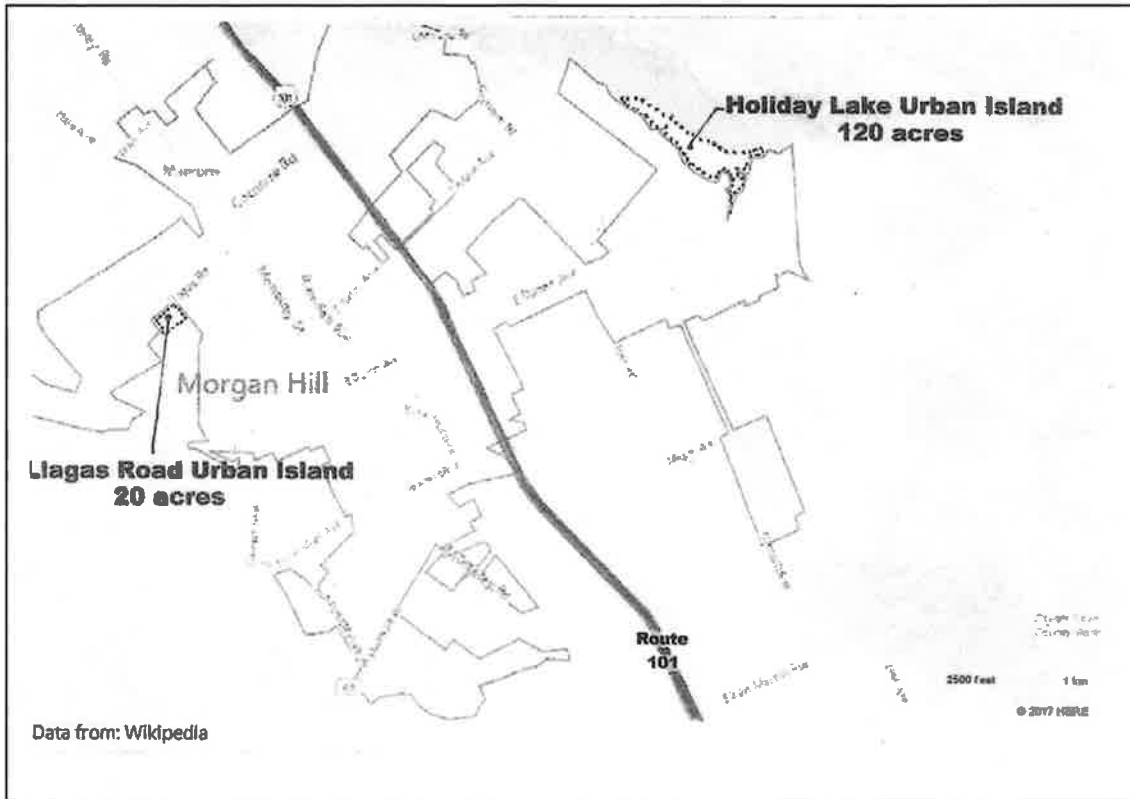
Michael Brandman Associates  
 20860001 - 11/2013 | 2-2\_local\_aerial.mxd



**Exhibit 2-2**  
**Local Vicinity Map**  
**Aerial Base**

CITY OF MORGAN HILL  
 CITYWIDE AGRICULTURE PRESERVATION PROGRAM AND SOUTHEAST QUADRANT LAND USE PLAN

**Appendix B**  
**Map: Unincorporated Urban Islands**



**Appendix C  
Comparison of Agricultural Mitigation Programs**

| <b>Policies</b>                   | <b>CA Council of Land Trusts Model Ordinance</b> | <b>Yolo County*</b> | <b>LAFCO Advisory Policy</b> | <b>Morgan Hill</b> |
|-----------------------------------|--|---------------------|------------------------------|--------------------|
| Minimum Mitigation Ratio 1:1      | ✓  | ✓                   | ✓                            | ✓                  |
| Conservation Easements w/i SOI    | ✓  | ✓                   | ✓                            | ✓                  |
| Stay Ahead Provision              | ✓  | ✓                   | ✓                            | ✓                  |
| In-Lieu fees                      | ✓  | ✓                   | ✓                            | ✓                  |
| Third Party Administrator         | ✓  | ✓                   | ✓                            | ✓                  |
| Right to Farm Ordinance           |  | ✓                   | ✓                            | ✓                  |
| Public Uses Subject to Mitigation |  |                     | ✓                            | ✓                  |
| Cortese Knox Farmland             |  |                     | ✓                            |                    |
| DOC/DOA Farmland Map              | ✓  | ✓                   |                              | ✓                  |
| Transfer of Development Rights    |  |                     |                              | ✓                  |
| Mitigation Land Bank              |  | ✓                   |                              | ✓                  |
| Local Funding (RDSCS)             |  |                     |                              | ✓                  |
| Administrative Costs Paid         | ✓  | ✓                   | ✓                            | ✓                  |
| Priority Conservation Area        |  | ✓                   |                              | ✓                  |

\*Requires up to 3:1 in locations outside its Priority Conservation Area

**Appendix D**  
**Disposition of LAFCO Urban Service Area Proposals: 2000-2016**

| Year         | # Amendment Proposals |              |           | Commission Actions |          |          |               |          |          |
|--------------|-----------------------|--------------|-----------|--------------------|----------|----------|---------------|----------|----------|
|              | Morgan Hill           | Other Cities | Total     | Morgan Hill        |          |          | Other Cities  |          |          |
|              |                       |              |           | Commissioners      |          | Admin.   | Commissioners |          | Admin.   |
|              |                       |              |           | Approved           | Denied   | Deny     | Approved      | Denied   | Deny     |
| 2000         | 6                     | 1            | 7         | 6                  | 0        | 2        | 1             | 0        | 0        |
| 2001         | 0                     | 2            | 2         | 0                  | 0        | 0        | 2             | 0        | 0        |
| 2002         | 4                     | 4            | 8         | 3                  | 1        | 1        | 4             | 0        | 0        |
| 2003         | 3                     | 0            | 3         | 3                  | 0        | 0        | 0             | 0        | 0        |
| 2004         | 0                     | 1            | 1         | 0                  | 0        | 0        | 1             | 0        | 0        |
| 2005         | 2                     | 1            | 3         | 2                  | 0        | 0        | 1             | 0        | 0        |
| 2006         | 0                     | 2            | 2         | 0                  | 0        | 0        | 2             | 0        | 0        |
| 2007         | 1                     | 0            | 1         | 1                  | 0        | 1        | 0             | 0        | 0        |
| 2008         | 0                     | 1            | 1         | 0                  | 0        | 0        | 1             | 0        | 0        |
| 2009         | 0                     | 1            | 1         | 0                  | 0        | 0        | 1             | 0        | 0        |
| 2010         | 0                     | 0            | 0         | 0                  | 0        | 0        | 0             | 0        | 0        |
| 2011         | 0                     | 1            | 1         | 0                  | 0        | 0        | 1             | 0        | 0        |
| 2012         | 0                     | 2            | 2         | 0                  | 0        | 0        | 2             | 0        | 0        |
| 2013         | 3                     | 3            | 6         | 1                  | 2        | 2        | 3             | 0        | 0        |
| 2014         | 0                     | 1            | 1         | 0                  | 0        | 0        | 1             | 0        | 1        |
| 2015         | 0                     | 0            | 0         | 0                  | 0        | 0        | 0             | 0        | 0        |
| 2016         | 2                     | 0            | 2         | 0                  | 2        | 2        | 0             | 0        | 0        |
| <b>Total</b> | <b>21</b>             | <b>20</b>    | <b>41</b> | <b>16</b>          | <b>5</b> | <b>8</b> | <b>20</b>     | <b>0</b> | <b>1</b> |

Based on information provided by LAFCO in March 2017.

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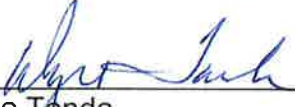
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## **Interviews**

The Grand Jury conducted seven interviews between February 22 and March 29, 2017. Four interviewees work in public agencies and three were members of the general public.

This report was **ADOPTED** by the 2016-2017 Santa Clara County Civil Grand Jury on this 31<sup>st</sup> day of May, 2017.

  
\_\_\_\_\_  
Wayne Tanda  
Foreperson



AGENDA ITEM # 5  
Attachment C



COMMITTEE FOR  
GREEN FOOTHILLS



American Farmland Trust



Santa Clara Valley  
Audubon Society



GREENBELT ALLIANCE  
Open Spaces & Vibrant Places



San Martin  
Neighborhood  
Alliance



morgan hill



Save Open Space — Gilroy



SIERRA  
CLUB  
FOUNDED 1892

July 17, 2017

Chairperson Sequoia Hall and Commissioners  
LAFCO of Santa Clara County  
777 North First Street, Suite 410  
San Jose, CA 95110

**RE: SANTA CLARA COUNTY CIVIL GRAND JURY REPORT**

Dear Chairperson Hall and Commissioners,

We, the undersigned, would like to express our grave concerns with the Santa Clara County Civil Grand Jury Report *LAFCO Denials: A high school caught in the middle*. The report was initiated by a complaint charging that the Catholic High School, which was part of the Morgan Hill Urban Service Area (USA) Amendment 2015 request for Area 1: Tennant-Murphy, was not evaluated fairly by LAFCO. Area 1: Tennant-Murphy is more commonly referred to as the Southeast Quadrant (SEQ) and the report refers to it as such.

Our organizations have all provided comment on the City of Morgan Hill's proposal for the SEQ, which includes the Catholic High School, either to the City of Morgan Hill or LAFCO or both. In some cases, our organizations have been providing input since the City of Morgan Hill first considered planning for urban development in the SEQ over a decade ago. Some of our

organizations also commented specifically on the Catholic High School's request for Reconsideration heard before the LAFCO Commission at its June 1, 2016 meeting.

Our organizations are also familiar with LAFCO's history, mission, purpose, and the manner in which Staff and Commissioners evaluate proposals and receive input from all stakeholders.

It is with this background and perspective that we felt compelled to comment on some of the inaccuracies and erroneous findings and recommendations.

### **MAJOR CONCERNS WITH CONTENT OF REPORT**

Overall, we have 4 main areas of concern with the Civil Grand Jury report:

1. the appearance of Foreperson's conflict of interest
2. misleading statements
3. exclusion of pertinent information and factual errors
4. omission of relevant sections of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act)

While there are numerous instances for each area of concern, for the sake of brevity we will limit ourselves to an example apiece.

***Appearance of Foreperson's Conflict of Interest.*** The Foreperson of the Civil Grand Jury, Mr. Wayne Tanda, has been a Morgan Hill Planning Commissioner since April 2007. He recently served as the 2016-17 Chair of the Planning Commission.

Mr. Tanda was present for the Planning Commission hearings on the SEQ (and Catholic High School) inclusive of the June 23, 2015 hearing when the Commission voted to recommend amending the City's USA in the SEQ to allow for the annexation of properties into the city (Mr. Tanda made the motion to approve the item).

Given Mr. Tanda's status as a long-standing appointed member of the City of Morgan Hill Planning Commission, his direct input in the SEQ and Agricultural Mitigation Program proposals, and his involvement in the SEQ decision-making process throughout the years, it is difficult not to perceive an inherent bias in the content and conclusions of this report.

***Misleading statements.*** The report refers to an unidentified County official supportive of:

- the Catholic high school (at p. 3) as it was ‘an opportunity for a win for the students, for the community, and for the environment’, and
- the City’s Agricultural Mitigation Program (at p. 5) ‘as fundamentally sound, but inadequately funded.’

This would lead one to surmise that the County of Santa Clara did not have any serious concerns with the City’s SEQ (and Catholic High School) and Agricultural Mitigation Program proposals. Yet, for many years the County’s Department of Planning and Development expressed its numerous concerns with the SEQ and the Agricultural Program proposals to the City of Morgan Hill. In its letter to LAFCO dated March 8, 2016, the County stated that the SEQ project remained inconsistent with the County’s growth management and resource conservation policies and the South County Joint Area Plan. It concluded by recommending LAFCO *deny* Morgan Hill’s USA Amendment request based on the inconsistencies of the proposal with *County* policies (and not any of the LAFCO Staff report components mentioned in the Civil Grand Jury report).

Also notable is that the County Executive Office, LAFCO, and the Santa Clara Valley Open Space Authority submitted a joint letter to the Morgan Hill City Council in November 2014 urging them not to adopt the SEQ and Agricultural Mitigation Program proposals nor the accompanying Environmental Impact Report (EIR) as they had serious concerns with the proposals and EIR. The three agencies also urged the City to return to discussions with them for the purpose of creating “a SEQ proposal that better aligns with local and regional policies/goals.” Clearly, the agencies were willing to work collaboratively with the City to find a reasonable alternative to the City’s proposals.

The City Council instead chose to certify the EIR, adopt the Agricultural Mitigation Program, and amend the General Plan to establish the Agriculture and Sports/Recreation/Leisure General Plan designations at their November 4, 2014 meeting. They approved other components of the SEQ and Agricultural Mitigation Program proposals in February and July of 2015. Their actions nullified any attempt on the part of the agencies to develop a suitable alternative to the City’s SEQ proposal.

The Council’s actions would lead one to conclude that the City was unconcerned with LAFCO, County, or other agency staff’s opinions, requests, or actions. This raises the question as to the validity of the claim that City staff feared some unidentified form of retribution by LAFCO staff if they complained openly about LAFCO.

***Omission of pertinent information and factual errors.*** The section entitled *Special-Interest Suspicions in Morgan Hill* mentions that several Morgan Hill residents based their opposition to the SEQ proposal (inclusive of the High School) on the fact that the City’s planning process did not allow for the participation of all city residents. The report concludes that the decision to separate the General Plan update process from the SEQ planning process created concerns about the objectivity which “gave the appearance of special consideration for the property owners.”

In fact, in the City’s USA Amendment 2015 Letter of Request to LAFCO, the City noted that their application was ‘determined to be consistent with the desire of respective property owners to be incorporated into Morgan Hill.’ It was wholly devoid of a community effort reflecting best planning practices and the community’s needs and desires for its future. The lack of community outreach hindered the community’s ability to be informed of the City’s plans for the SEQ. From December 2007 to July 2015, no effort was made to gather community-wide input on the City’s plan. There were some exclusive stakeholder meetings on the SEQ throughout the years, and admittedly there were numerous public hearings. Unfortunately, these hearings segmented discussions and decision-making to the point that it made it extremely difficult for even the most civic-minded and tenacious resident to effectively participate and understand.

Furthermore, the public agencies and local, regional, and national organizations requested that the City include the planning for the SEQ (and thus the High School) within the General Plan update process. This advice went unheeded as did much of the expert advice it received from these agencies and organizations.

This brings into question the claim on p. 8 of the Civil Grand Jury’s report that LAFCO alone insists the High School be built within the city’s USA.

***Omission of relevant sections of CKH Act.*** The report (at p. 7) points out correctly that Morgan Hill City Council members have been ineligible for appointment to LAFCO via the Cities Association seat for 20 years due to the Public Member being a Morgan Hill resident. However, it also states that since the Public Member is not an elected official, the Commissioner ‘is not accountable to the residents of Morgan Hill and does not represent the Morgan Hill City Council’s policies.’ Here the report fails to take into consideration § 56325.1 of the CKH Act which asserts that elected officials serving as LAFCO Commissioners must ‘represent the interests of the public as a whole and not solely the interests of the appointing authority’ while ‘furthering the purposes of this division.’ In other words, a Morgan Hill City Council member would be bound by LAFCO law to represent *all constituents within LAFCO’s jurisdiction* not



solely the residents of Morgan Hill, and must do so through the lens of the *LAFCO's mission, law, and policies*, not those of the jurisdiction in which they were elected.

The report also does not recognize that per § 56327 (c) of the CKH Act, the Cities Association is 'encouraged to appoint members to fairly represent the diversity of the cities in the county, with respect to population and geography.' Thus, there is no guarantee of a Morgan Hill City Council Member's appointment to LAFCO via the Cities Association.

## **CONCLUSION**

We are deeply concerned with some of the content and findings of the Civil Grand Jury's report.

While it is for LAFCO to address the content, conclusion, and Findings and Recommendations in the report pertaining to its policies and procedures, we find the report to be overall disquieting in its apparent attempt to be selective with the facts.

The Catholic High School was part and parcel of a larger wholly inadequate proposal that failed to align with best planning practices, existing City, County, and LAFCO policies, and adequate environmental review. Time and again over the years, this message was made clear to the City of Morgan Hill by agencies and organizations. They refused to work collaboratively with the agencies, organizations, or community at large to come to a better solution.

From our perspective this is what led to the LAFCO Commission voting as it did - not any nefarious, unfair, or biased actions on the part of LAFCO or lack of representation from the City of Morgan Hill on the Commission.

Sincerely,



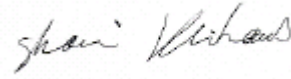
Alice Kaufman, Legislative Advocacy Director  
Committee for Green Foothills



Virginia Jameson, Deputy California Director  
American Farmland Trust



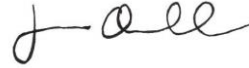
Kiyomi Yamamoto, South Bay Regional  
Representative, Greenbelt Alliance



Shani Kleinhaus, Environmental Advocate  
Santa Clara Valley Audubon Society



Trina Hineser, President  
San Martin Neighborhood Alliance



Jimmy Quenelle  
Thrive! Morgan Hill



Carolyn Tognetti  
Save Open Space – Gilroy



Mike Ferreira, Chapter Conservation Chair  
Sierra Club Loma Prieta Chapter

From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]  
Sent: Monday, July 24, 2017 10:46 AM  
To: Alice Kaufman <alice@greenfoothills.org>; Palacherla, Neelima  
<Neelima.Palacherla@ceo.sccgov.org>  
Cc: Chris Monack <mohillres@gmail.com>; Michael Moore <mmoore@morganhilltimes.com>  
Subject: fyi Muirhead rebuttal Morgan Hill City Council Meeting July 26, 2017 Item #12:  
Response to Civil Grand Jury

Greetings,

You may or may not be interested in my rebuttal to the City's response to the 2016-2017 Santa Clara County Civil Grand Jury Report.

It follows these two additional comments.

- 1) I appreciated Michael Moore's article in the MHTimes that alerted me to the joint letter to LAFCO.
- 2) I intend to also comment on the LAFCO response to the 2016-2017 Santa Clara County Civil Grand Jury Report when the item is publically noticed. I am quite angry about the CGJ claim that City staff were "afraid" to criticize LAFCO. The number of times I have heard City elected and paid leadership disparage LAFCO is the real story.

Regards, Doug Muirhead, Morgan Hill

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Comments for the Public Record submitted by Doug Muirhead, a resident of Morgan Hill, for:  
Morgan Hill City Council  
Meeting July 26, 2017  
Item #12: Response to Grand Jury Regarding LAFCO Denials

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The City of Morgan Hill's response to the 2016-2017 Santa Clara County Civil Grand Jury Report contains these key responses:

- 1) Adopt a single, open, transparent process in future updates of its General Plan
- 2) Collaborate with a variety of partners (County of Santa Clara, Open Space Authority, and others)
- 3) Staff are eager to work collaboratively and proactively with LAFCO for the benefit of our region and community
- 4) Update of the 2016 General Plan dealt separately with the Southeast Quadrant (SEQ); this gave the appearance of special consideration for the property owners.

My rebuttal: I find the City's responses self-serving and misleading.

I attended many of the General Plan Advisory Committee (GPAC) meetings, as well as City Council (CC) and Planning Commission (PC) meetings when Agricultural Preservation and/or the SEQ were discussed.

I also attended Open Space Authority (OSA) Board meetings and LAFCO Commission meetings to get their points of view.

1) While the City promises a single, open, transparent process in future updates of its General Plan, that depends entirely on the direction from the Mayor and Council at that time. This Mayor declared SEQ off-limits for this GPAC and would not change his position in spite of requests from community members to include it. GPAC meetings were not recorded, so the larger community was ignorant of what was and was not discussed.

2) The City claims that it works collaboratively with a variety of partners. Community Development Director Crabtree and City Manager Rymer presented that view to the City Council and Planning Commission.

In contrast, the City was not considered a serious partner in collaboration efforts by OSA (what the OSA General Manager said publicly to the Board) nor by LAFCO (what the LAFCO Executive Director said verbally and in writing to the Commission).

2a) As documented in Agenda Item #11 of the LAFCO meeting on February 4, 2015 [Failed Collaboration Efforts (Summer 2014)]:

In June 2014, LAFCO staff began working with staff from the County of Santa Clara, the Santa Clara County Open Space Authority (OSA) and the City of Morgan Hill on an alternative plan / program for the Southeast Quadrant (SEQ). The group discussed various alternatives and agreed that a more detailed analysis was required and accepted OSA's offer to retain a consultant to assist in the preparation of a scope of work for developing an alternative plan for the SEQ. The group met several times and discussed various alternative approaches, and reviewed case studies and a draft scope of work prepared by the consultant. While these collaboration efforts were underway, the City began to move forward on various SEQ actions in August. Expressing concern, the group requested that the City hold off on decision making and allow the group to complete its dialogue to identify an alternative approach. At a meeting in late September, the City informed the group of its intention to complete City Council actions on the SEQ by December 2014, following which, the group's/consultant's work to develop an alternative plan was discontinued.

2b) At an Open Space Authority Board meeting in late 2015, the General Manager told me why the SEQ was not in the final version of their plan for the next round of Priority Conservation Area nominations. The original plan included a PCA for the SEQ. Even though the designation would not have affected land use planning, but only allowed grant funding opportunities, the City said that, unless the SEQ was removed, the City would officially oppose all PCAs in Morgan Hill's Sphere of Influence. And so OSA removed that PCA. Later, Mr. Crabtree confirmed that the City had objected to SEQ inclusion as a PCA.

3) The City claims that staff are eager to work collaboratively and proactively with LAFCO for the benefit of our region and community.

Yet over the last several years, in meetings where I was present, City elected officials, city managers, and developers have repeatedly disparaged LAFCO as an organization that exists solely to keep Morgan Hill from growing housing and jobs. Absent from their characterization is that the rural nature of our area and the lands they want to develop would not exist had San Jose growth in the 1970s not been restrained by the formation of LAFCO.

4) The City accepts that, with the SEQ not included in the General Plan update, some would see special consideration for the property owners.

You can draw your own conclusions from these two examples:

4a) At the Council Mid-Year Goal Workshop in August 2016, Item #4 was to "Discuss City's relationship with LAFCO". The Mayor had not been opening the floor to public comment. But when this item opened, surprise!, in walked Gordon Jacoby, representing SEQ property owners. He was invited to the table to speak. After an exchange, the Mayor decided that further conversations on how to handle LAFCO would occur with Mr. Jacoby later.

4b) "A Message From Mayor Steve Tate" was sent out by the City in December 2015. In it, he stated:

"Morgan Hill's plans do not add any housing to these areas. None."

Yet the Council had directed staff to work with Mr. Jacoby and the Chialas in preparing a housing development plan that was to be introduced once the SEQ had been annexed. It was public knowledge, being presented to the CC in February 2015 and GPAC in October 2015.

In closing, our elected leaders say they want to work with LAFCO.

Mr. Carr said this at the May 24 2017 Council Workshop on Annexation and Urban Service Area Policies. A stated goal of the workshop was "preservation of agricultural land" but the Policy Considerations were

4. Should it be clarified that consolidated environmental review, per the City/LAFCo Settlement = preparation of the Annexation EIR?
5. Should the City proactively begin preparation of the Annexation EIR to facilitate USA Amendment requests.

The Mayor endorsed working with LAFCO at the end of the MH Times July 21 article. Perhaps they have had a change of heart from their earlier and lengthy view of LAFCO as the enemy. Former Council members Marilyn Librers and Gordon Siebert, who supported annexation, are gone, as is former Community Development Director Andrew Crabtree.

Perhaps this is the beginning of a new era. But as I said at the start of this rebuttal, I find the City's responses to the Civil Grand Jury report to be self-serving and misleading.

I am not hopeful.

Doug Muirhead, Morgan Hill



# Grand jury report on SEQ draws fire

## AGENDA ITEM # 5 Attachment D

Posted: Wednesday, July 19, 2017 3:09 pm

A Santa Clara County Civil Grand Jury report that investigated the failure of the Catholic Diocese to annex property to build a new high school in Morgan Hill is harshly critical of the local commission tasked with processing such approvals.

But some environmental groups who have followed the high school's annexation effort closely in recent years think the report was home-cooked with a bias in favor of the City of Morgan Hill, because the 2016-17 grand jury foreperson is a city planning commissioner. These critics also claim there are some "factual inaccuracies" in the report.

The grand jury report titled "LAFCO Denials: A high school caught in the middle," published June 5, took an in-depth look at the city's effort in 2016 to annex about 230 acres of agricultural land from the 1,200-acre Southeast Quadrant into Morgan Hill's Urban Service Area. As required by state law, the Morgan Hill City Council submitted an application requesting this annexation to the Santa Clara County Local Agency Formation Commission (LAFCO).

The seven-member LAFCO commission rejected the annexation proposal on a 5-2 vote March 11, 2016. A second motion for an alternative proposal—to annex only the 38 acres within the SEQ (at the intersection of Tennant and Murphy avenues) designated by the Diocese for a private high school—failed at the same LAFCO meeting.

The grand jury report took LAFCO to task for inconsistently and subjectively enforcing its guidelines and applying undefined terminology to their annexation criteria. It also criticized the City of Morgan Hill for not including enough public participation in the SEQ process and ineffective communication with LAFCO staff.

Both agencies are responsible for the "strained relationship" between them, the grand jury report suggests.

### **'Inherent bias'?**

A group of private, nonprofit environmental organizations that argued against the city's SEQ annexation proposal sent a letter to the LAFCO board July 17 spelling out their "grave concerns" with the June 5 grand jury report. Topping their list is the "appearance of (grand jury) foreperson's conflict of interest."

The foreman, Wayne Tanda, has been a Morgan Hill planning commissioner for several years, and was chair of the city commission in 2016. He made a motion to recommend submitting the city's SEQ plans to LAFCO at the June 23, 2015 planning commission meeting, according to the July 17 letter signed by representatives of the Committee For Green Foothills, Greenbelt Alliance, American Farmland Trust, Thrive! Morgan Hill, Sierra Club and others.



### **Southeast Quadrant**

A crew picks peppers in a field off Tennant Avenue July 21.

“Given Mr. Tanda’s status as a long-standing appointed member of the...Morgan Hill Planning Commission, his direct input in the SEQ and Agricultural Mitigation Program proposals, and his involvement in the SEQ decision-making process throughout the years, it is difficult not to perceive an inherent bias in the content and conclusions of this report,” the letter states.

The July 17 letter also lists “misleading statements” and “exclusion of pertinent information and factual errors” as other problems with the grand jury report.

For example, a vague mention of “a county official’s” support for the Catholic high school might suggest to a less informed reader that the county as an entity was supportive of the annexation plans, the letter argues. In fact, however, county staff urged the LAFCO board to reject the city’s SEQ proposal because it is inconsistent with existing land use guidelines, and it doesn’t do enough to preserve farmland.

Tanda said he couldn’t say much in response to these allegations because the grand jurors are sworn to secrecy about the body’s closed-door process. But he argued that the grand jury has built-in checks and balances that prevent excessive influence by a single juror.

“So what?” he said of the observation that he is a city planning commissioner who supported the plans to develop the new high school in the SEQ. “Everybody (on the grand jury) is a volunteer. The system is set up so that nobody—not even any officer—has any more authority than anybody else. It’s designed so that everything is collaborative, everything is double-checked.”

He added that the agencies investigated in the report—including LAFCO and Morgan Hill—got a chance to see it before it was published, in order to point out any potential inaccuracies.

The June 5 grand jury report lists 10 “findings” and associated recommendations on how to correct or address them.

### **Countywide representation**

The current chair of LAFCO said one of the report’s factual errors lies in the grand jury’s argument that Morgan Hill—as one of only three cities in Santa Clara County subject to ag mitigation policies in the works—lacks adequate representation on the LAFCO board.

The state law regulating LAFCO is exhaustively specific on the required composition of the commission’s board: two county supervisors, one council member from the City of San Jose, one council member from any of the other cities in the county appointed by a Cities Selection Committee, two board members from independent special districts and one public member appointed by the other members of the LAFCO board.

But the state law also says the public member cannot hail from the same city as the council member appointed by the Cities Selection Committee. For the last 20 years, Morgan Hill resident and attorney Susan Vicklund Wilson has sat in the public member’s seat on the LAFCO board, preventing Morgan Hill from adding a council member from the cities’ seat during that time. Besides, state law also says LAFCO board members are not supposed to hone in on any single specific interest.

“As a LAFCO commissioner, you represent the whole county,” LAFCO Chair Sequoia Hall said. “That’s the state law mandate. You put down your hat from whatever jurisdiction you come from. They were trying



to say we need more South County voices (on the LAFCO board), but LAFCO commissioners represent everybody.”

Also on the LAFCO board are County Supervisor Mike Wasserman (who represents South County on the board of supervisors), Santa Clara Valley Water District Director John Varela (a Morgan Hill resident and South County rep on the water board), County Supervisor Ken Yeager, Los Gatos Councilman Rob Rennie and San Jose Councilman Sergio Jimenez. LAFCO board members serve four-year terms.

Hall noted that LAFCO staff is preparing a formal response to the grand jury report, which will likely be presented to the public at the board’s August meeting.

LAFCO was created by the state to prevent urban sprawl and preserve agricultural lands in growing communities.

### **Council to respond**

Morgan Hill Mayor Steve Tate said the City Council is working on its response to the grand jury report. He said they will likely present it for public discussion at the July 26 council meeting.

Tate said he agrees that “in hindsight,” the council should have included the 2016 SEQ proposal in its General Plan update process, which was going on at the same time. The grand jury report noted this as one of its findings.

The report also noted the city’s ag mitigation policy doesn’t seem to have an ongoing funding source.

“I think we just need to keep working on figuring out a good relationship with LAFCO, and figure out how we’re going to fund the ag mitigation,” Tate said.



Supplemental Information No. 1  
August 2, 2017 (Item # 5)  
Provided at the Meeting

**From:** D. Muirhead <doug.muirhead@stanfordalumni.org>  
**Sent:** Monday, July 31, 2017 9:40 AM  
**To:** Abello, Emmanuel  
**Cc:** Michael Moore  
**Subject:** comments for LAFCO Meeting August 2, 2017 Item #5: Response to Civil Grand Jury

Comments for the Public Record submitted by Doug Muirhead, a resident of Morgan Hill, for:  
Local Agency Formation Commission of Santa Clara County  
Meeting August 2, 2017  
Item #5: Response to Civil Grand Jury Regarding LAFCO Denials

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While the majority of my comments are a rejection of the flawed report from the Civil Grand Jury, there is one recommendation that I strongly support. That one is to address the divide between the City and LAFCO on land inventory and evaluation.

If your time is limited, jump forward to "Addressing Finding 9".

After a few general comments, my responses address

- \* unsubstantiated claims by unidentified individuals
- \* alleged retribution
- \* strained relationship
- \* longevity of public member
- \* land inventory and evaluation
- \* protecting agricultural land

I strongly endorse the statement in LAFCO Staff Background that the Civil Grand Jury (CGJ) report contained "numerous factual errors and misinformation or lack of understanding of how LAFCO operates, the roles and responsibilities of LAFCO staff versus that of commissioners and some fundamental tenets of LAFCO law and policies".

The letter from the environmental organizations expressed a concern of a potential conflict of interest because the Civil Grand Jury Foreperson, Mr. Wayne Tanda, is a Morgan Hill Planning Commissioner.

When I saw his name and role, it did not occur to me that there might be a conflict of interest. Instead, I was extremely disappointed that, with his personal knowledge of the SEQ project, he allowed such a flawed report to be issued.

In the CGJ Report, we learn that the Grand Jury conducted seven interviews with four people who worked in public agencies and three who were members of the general public. We are not told the names of the agencies or the affiliations of the public, nor of the positions within those organizations.

I was troubled by, and endorse LAFCO's responses to, unsubstantiated claims by unidentified individuals. In the CGJ Report Background, the County official(s) quoted are not identified, so these may be personal opinions rather than County policy positions.

A County official described the Catholic high school as an opportunity for a win for the students, for the community, and for the environment.

A County official described Morgan Hill's program as fundamentally sound, but inadequately funded.

In the CGJ Report Discussion under Miscommunications, we are told:  
Through its interviews, the Grand Jury learned that the City of

Morgan Hill and LAFCO staffers do not appear to communicate effectively, and City staff fears retribution from LAFCO if they complain openly about LAFCO.

This is repeated in Finding 6

Individuals are concerned about retribution by LAFCO staff ... and Finding 7

The relationship between LAFCO staff and City staff appears to be strained.

In my letter rebutting the Morgan Hill City responses, I pointed out that [3]) over the last several years, in meetings where I was present,

City elected officials, city managers, and developers have repeatedly disparaged LAFCO as an organization that exists solely to keep Morgan Hill from growing housing and jobs.

I have never heard City staff nor LAFCO staff express concerns about retribution.

[2a)] the City was not considered a serious partner in collaboration efforts by OSA nor by LAFCO

In the CGJ Report Discussion under City of Morgan Hill Lacks Representation, we are told:

The Grand Jury also heard complaints that Morgan Hill is excluded unfairly from representation on LAFCO. ... Only three cities in the County are directly affected by LAFCO's agricultural mitigation policy: Morgan Hill, Gilroy, and San Jose. Currently, only two commissioners out of seven represent the affected cities.

Finding 8

The same individual has held a seat on LAFCO for 20 consecutive years.

Finding 9

LAFCO's goal of protecting agricultural land directly impacts only three cities - Gilroy, San Jose and Morgan Hill - which have all of the agricultural land in the urban areas of Santa Clara County.

Addressing Finding 8: Institutions need continuity. The LAFCO Staff Background notes that:

LAFCO membership has changed significantly in the last year.

Several of the current commissioners were not on the Commission during LAFCO's processing and consideration of the Morgan Hill USA Amendment 2015 application which is the subject of the Grand Jury Report.

We are fortunate to have the long service of Public Member Susan Vicklund Wilson. As noted in the LAFCO re-appointment agenda item of February 4, 2015:

she has been an involved member of the commission and has made significant contributions - has volunteered and served on the policy subcommittee for developing LAFCO's Agricultural Mitigation Policies; has participated on the technical advisory committees for the countywide fire and water service reviews, and the audit and service review of the El Camino Healthcare District; and has participated in the selection process for service review consultants and for LAFCO legal counsel.

Furthermore, Commissioner Wilson has been active in CALAFCO, serving on the CALAFCO Executive Board for nine years, holding several leadership positions, including Chairperson of CALAFCO

in 2011. She also served on the CALAFCO Legislative Committee for nine years (2004-2012) where she assisted in the review of proposed legislation and crafted provisions to further LAFCO goals.

The LAFCO Response to Recommendation 8 that "Due to the complexity of LAFCO and the extensive learning curve involved in LAFCO matters, serving on LAFCO for some length of time is beneficial" is appropriate. And too many people, especially the Civil Grand Jury, need to be reminded of the point made in the LAFCO Response to Finding 9 that "State law explicitly requires all commissioners to represent the interests of the public as a whole in furthering the purposes of LAFCO and not the interests of their appointing body."

Addressing Finding 9: The most contentious but most important issue at the core of the relationship between the City and LAFCO. In the CGJ Report Discussion under Urban Service Area Policies, we are told:

[LAFCO] staff interprets "vacant land" to be all land that is currently undeveloped, regardless of whether it's available for use. ... According to Morgan Hill officials, this land includes properties that are restricted by land-use entitlements and environmental constraints, as well as land set aside for industrial and commercial use. ... No adjustments are made for land that is not available for development due to entitlements, environmental constraints, or the property owner's decision.

The City has in the past revised their numbers at the last minute.

See the 2013 USA application for Watsonville-South of Monterey, where after two requested postponements, the City provided an update dated September 30 for a LAFCO hearing on October 2.

From the minutes of that meeting:

Ms. Palacherla informed that the City of Morgan Hill has 33 years supply of vacant residential land based on the information provided by the City in April 2013. However, the City submitted a letter on October 1, 2013 stating that there is only 6 years vacant land supply. This indicates a 530-acre reduction in vacant residential land from the inventory provided by the City in April 2013. She further informed that the City attributed the reduction in vacant land inventory to

- 1) recently allotted projects under the Residential Development Control System (RDCS);

- 2) previous inventory included streets and development projects; and
- 3) adoption of a new methodology for calculating vacant lands.

She indicated that the City's new methodology, which reduced vacant land inventory significantly, does not consider land as vacant if

- 1) it has received RDCS allotment;
- 2) it has received zoning, development agreement or subdivision approval; or
- 3) its owner has indicated no intention to sell or develop.

She expressed disagreement with the City's new methodology since RCDS allocation is an uncertain indication of development and the property owner's personal desire not to sell or develop the land is not objective criteria.

The City has no objective standard for how long a private property may be reserved by its owner, so they use infinity. They do have a reasonable concern that land within City limits can only go from undeveloped to developed once. Re-deployment of developed land is mentioned occasionally but not currently implemented. And having just allowed a large self-storage facility to be built in the industrial reserve, I question their priorities.

The challenge for LAFCO is to define how we preserve critical mass for sustainable agriculture (which likely is not large acreage row crops) but not starve the South County cities of the ability to grow housing and jobs so as to maintain their vibrancy.

I heard a LAFCO Commissioner recently repeat the claim that farmers in the SEQ no longer wanted to farm. We do have young people (see the MHTimes opinion piece last Friday on FFA and the County Fair) who need land in order to farm. Are we truly committed to sustainable agriculture and open space in South County for the benefit of the entire County?

We need to have an evaluation process where both the City and LAFCO can agree on how our land inventory is scored. But as long as the City always goes for County land [May 24 2017 Council Workshop on Annexation and Urban Service Area Policies] and LAFCO claims that infill requirements are unsatisfied, we will have a contentious relationship. The LAFCO Response to Recommendation 1A and 1B that "These recommendations require further analysis" is appropriate.

It is also timely, in that we have two former City Mayors on the Commission. Since they speak the secret language of City leaders, I hope they will help bridge the gap between Morgan Hill elected officials and their senior staff and LAFCO staff. None of us can afford to waste our time and energy on another contentious debate like the one we had on the SEQ.

Thank you for your consideration,  
Doug Muirhead, Morgan Hill

**From:** Julie Apple <julieboridriscoll@sbcglobal.net>  
**Sent:** Wednesday, August 02, 2017 12:15 AM  
**To:** Abello, Emmanuel  
**Cc:** Yeager, Ken; board@valleywater.org; Wasserman, Mike; dave.cortese@icloud.com; Steve.Tate@morganhill.ca.gov; Larry.Carr@morganhill.ca.gov; san.francisco@ic.fbi.gov; Rosen, Jeff; Boyarsky, Jay; John.Oosterman@ca.usda.gov; Chavez, Cindy; Simitian, Joe  
**Subject:** Agenda Item 5, Page 61 (approx).--Observation--Potential Conflict of Interest?

Dear Emmanuel,

Thank you very much for the LAFCO Agenda, Report and Minutes.

I have a few comments, I would like to have forwarded for appropriate level of review, please.

I was reviewing the contents of the LAFCO Report/Minutes/Agenda.

I find certain portions of the Report offensive. Unflattering characterizations about the Diocese, is one example--in the draft report. (High school project).

Approximately, page 61/62, I noticed that the 2016-2017 Grand Jury Foreman, who is also a City of Morgan Hill government official, whose views are known, signed the LAFCO Report, as the Grand Jury Foreman.

Concern is bias, toward agriculture, a potential conflict of interest, "to keep on farming," when, please anyone take a drive around, to see for yourself, exactly how much farming is really happening now in Morgan Hill, as homes are beginning to escalate in value.

What is the agricultural "reap"--

this is the barometer that should  
be used in the evaluation. Preserving  
agricultural land to sit barren,  
is not optimization.

Thank you.

Julie Borina Driscoll  
General Partner/Estate Manager/Trustee  
Borina Trust and Enterprises, LP



**LAFCO MEETING:** August 2, 2017  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** EXECUTIVE OFFICER'S REPORT

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

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#### **For Information Only.**

On June 5, 2017, Commissioner Hall, and Executive Officer Palacherla attended the quarterly meeting of the Santa Clara County Special Districts Association (SDA) and provided a report on various LAFCO activities of interest to special districts including a report on the Independent Special Districts Selection Committee meeting held on May 16 to appoint independent special district members to serve as LAFCO commissioners.

The meeting also included a legislative update by the California Special Districts Association (CSDA) representative. Special district members/staff in attendance at the meeting provided updates on current projects / issues of interest to the group. The next meeting of the SDA is scheduled for September 11.

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

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#### **For Information Only.**

On behalf of LAFCO, the County Employee Services Agency (ESA) has posted the new LAFCO Analyst job opening on the County's website for a 30-day application submittal period, which will conclude on July 31, 2017. Information on the position is also available on the LAFCO website. Additionally, the job announcement was provided to local universities and to the Northern California Chapter of the American Planning Association. Pending the outcome of the recruitment, the most qualified applicants will be interviewed and a job offer will be extended to one applicant.

### **6.3 BAY AREA GREENPRINT LAUNCH AND WORKSHOP**

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#### **For Information Only.**

On June 21, 2017, LAFCO staff participated in the launch and workshop for the Bay Area Greenprint, which is a collaborative project of the Bay Area Open Space Council, The

Nature Conservancy, Greenbelt Alliance, American Farmland Trust, and Green Info Network. The Bay Area Greenprint is a data driven toolkit that incorporates information about natural and agricultural values into land use and transportation planning so that a more complete evaluation of the associated public benefits and trade-offs can inform decisions about development and conservation. The toolkit is composed of three products including a collection of credible GIS data, a methodology that assesses conservation values across multiple open space benefits and an interactive online mapping and reporting tool that identifies lands and resources in the Bay Area that are particularly important for natural resource conservation.

EO Palacherla, as a strategic advisor for the Bay Area Greenprint, was a speaker on one of the two program panels and discussed how the Bay Area Greenprint can help bring greater awareness and understanding about the different ways to value these lands. Ms. Palacherla also discussed the role that LAFCOs play in terms of preserving agricultural and open space lands and how curbing sprawl is an often overlooked but critical factor in land conservation.

The workshop was attended by staff from various Bay Area open space districts, conservation organizations, local planning departments, and consultants.

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

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##### **For Information Only.**

On June 27, 2017, LAFCO staff met with County Parks Department staff, at their request, to discuss State law and LAFCO policies on potential service extensions (i.e. water and sewer) outside of jurisdictional boundaries (i.e. city or special district) relating to county parkland. Requests for service extensions outside of jurisdictional boundaries are rare and are usually to address a current public health and safety threat, when that threat cannot be resolved onsite and when annexation to a city or special district is not feasible.

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

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##### **For Information Only.**

On June 9, 2017, LAFCO staff attended the Midpeninsula Regional Open Space District's 5<sup>th</sup> Annual Legislative Picnic which was held at the District's Picchetti Ranch Open Space Preserve. LAFCO staff networked with District staff and staff from other open space preservation agencies and organizations concerning their outreach and education efforts. The event included presentations from the District's Chairperson and General Manager who discussed the District's future plans and how they will partner and leverage their resources. Additionally, the Chairman of the Amah Mutsun Tribal Council discussed how the District and the Tribe have partnered in the restoration of the Mount Umunhum summit area which is scheduled to be open to the public in mid-September.

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

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### **For Information Only.**

Analyst Noel attended the June 14<sup>th</sup> meeting of the Inter-Jurisdictional GIS Working Group that includes staff from various county departments that use and maintain GIS data, particularly LAFCO related data. The meeting was hosted by the County Informational Service Department (ISD) staff, who discussed how they use boundary change information from LAFCO and street address data from the County Assessor's Office to serve various county departments, including the County Communications Department. County Communications is working on a new emergency 9-1-1 system that will be GIS centric and ISD staff are developing a process for management/maintenance of address data for the new system. ISD staff also provided an overview of the results of their analysis of the city limits verses tax rate area GIS layers. The Group also received updates from County Surveyor staff and County Parks Department staff. The next meeting will be hosted by the County Parks Department.



**LAFCO MEETING:** August 2, 2017  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** CALAFCO RELATED ACTIVITIES

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

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### **Recommendation**

Authorize commissioners and staff to attend the Annual Conference and direct that associated travel expenses be funded by the LAFCO Budget for Fiscal Year 2018.

### **Discussion**

The upcoming CALAFCO Annual Conference will be held in San Diego from Wednesday, October 25<sup>th</sup> to Friday, October 27<sup>th</sup>. The conference provides an annual opportunity for commissioners and staff to gain additional knowledge about changes in LAFCO legislation, LAFCO policies and practices, and the latest issues facing LAFCOs, counties, cities and special districts across the state. Please see **Attachment A**, for further information on the session topics and mobile workshop that are planned for the conference. Commissioner Wilson and EO Palacherla have agreed to participate as panelists on two breakout sessions at the conference.

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

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### **Recommendation**

Nominate interested Commissioners and provide further direction to staff, as necessary.

### **Discussion**

Nominations for the 2017/2018 CALAFCO Board of Directors are now open. Please see **Attachment B**. LAFCO of Santa Clara County is part of the Coastal Region. Within the Coastal Region, nominations are being accepted for "City Member" and "Public Member." The deadline for LAFCO to submit nominations is Monday, September 25<sup>th</sup>. Serving on the CALAFCO Board is a unique opportunity to work with other LAFCO commissioners throughout the state on legislative, fiscal and operations issues that affect LAFCOs, counties, cities, and special districts. The Board meets four to five times each

year at alternate sites around the state. Any LAFCO commissioner or alternate commissioner is eligible to run for a CALAFCO Board seat.

### **7.3 DESIGNATE VOTING DELEGATE AND ALTERNATE**

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#### **Recommendation**

Appoint voting delegate and alternate voting delegate.

#### **Discussion**

Elections for the 2017/2018 CALAFCO Board of Directors will occur on Thursday, October 26, 2017, at CALAFCO Annual Conference in San Diego. Each LAFCO must designate a voting delegate and alternate who is authorized to vote on behalf of their LAFCO.

### **7.4 REPORT ON THE CALAFCO LEGISLATIVE COMMITTEE MEETINGS**

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#### **For Information Only.**

Executive Officer Palacherla is a member of the CALAFCO Legislative Committee and participated in the Committee's May 12<sup>th</sup> and June 23<sup>rd</sup> conference call meetings. Please see Attachment C for a list of bills that the CALAFCO Legislative Committee is tracking. This year, CALAFCO sponsored two bills: AB 464 (Gallagher), signed by the Governor on July 10; and AB 1725 (ALGC), which is amended and on the Senate Floor until season reconvenes. Santa Clara LAFCO sent position letters in support of both the bills. AB 464 makes technical changes to solidify the current practice of LAFCOs approving annexations of territory already receiving services from a local agency through an out of agency contract for service. AB 1725 is the annual omnibus bill that makes non-substantive technical corrections in the CKH Act.

CALAFCO also co-sponsored a bill with the California Special Districts Association (CSDA) – AB 979 (Lackey), which is on the Senate floor awaiting passage. This bill proposes to streamline the process to seat special districts on LAFCOs and also includes language requiring LAFCOs to assist independent special district selection committees with the consolidated countywide redevelopment agency oversight board appointment process.

CAALFCO has been working with the author of SB 448 (Wieckowski) and other interested parties to obtain amendments to the bill and has now taken a support position on the bill. SB 448 requires the State Controller to identify independent special districts separately on their website, notify LAFCO when a special district becomes inactive based on new criteria in statute; and update the list if it is deemed active or is dissolved. The bill requires LAFCO to initiate dissolution within 90 days of notification by the Controller, hold a noticed public hearing for dissolution within 90 days of initiating the process, and determine if the district meets the inactive criteria and if so, order the dissolution, otherwise notify the controller. The bill also requires a special district to file their audits with the LAFCO at the same time they file with the Controller.

CALAFCO participated in the Little Hoover Commission's (LHC) roundtable discussion on LAFCOs and special districts held on June 22, 2017 in Sacramento. The LHC discussed draft staff recommendations which focus on four main areas: governance, transparency, climate change adaptation and healthcare districts. The LHC is scheduled to adopt final recommendations at their next meeting on August 24. A copy of the draft recommendations and the CALAFCO letter to the LHC are included in Attachment D.

The next meeting of the Legislative Committee is scheduled as a conference call for August 25.

## **ATTACHMENTS**

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Attachment A: Announcement for 2017 CALAFCO Annual Conference

Attachment B: Memo from CALAFCO re: Nominations for 2017/2018 CALAFCO Board of Directors dated July 6, 2017

Attachment C: List of CALAFCO tracked bills

Attachment D: LHC draft staff recommendations and CALAFCO letter to the LHC







# Announcing The 2017 CALAFCO Annual Conference

Hosted by CALAFCO

**October 25-27, 2017**

Bahia Hotel in Mission Bay  
San Diego, CA

**AGENDA ITEM # 7  
Attachment A**



## Value-Added and Diverse General & Breakout Session Topics

- ▶ Branding and marketing your LAFCo - Your LAFCo story – don't let someone else tell it!\*
- ▶ Presentation of public statewide LAFCo survey results and what that means for LAFCos – where do we go from here?\*
- ▶ Long-term sustainability of local agencies
- ▶ Future funding of LAFCos
- ▶ Dealing with unincorporated islands
- ▶ Healthcare districts and LAFCos
- ▶ Commission decision making – making the tough choices
- ▶ What do Commissioners and Staff really want from each other?
- ▶ Making the right choices ethically\*
- ▶ Annual CALAFCO Legislative Update\*
- ▶ CALAFCO Annual Business Meeting\*

*Plus more!*

Note: The Program is subject to change.

\*Indicates General Session

## Special Highlights

### Mobile Workshop

We will tour the nation's largest desalination plant in Carlsbad at the San Diego Water Authority's Claude "Bud" Lewis Desalination Plant. This award winning plant delivers approx. 50 million gallons of water per day to area residents. We are also working on a tour of the adjacent Encina Power Station. A stop for lunch is also planned.

Details will be announced shortly – but register now to secure your seat!

**Wednesday from  
7:30 a.m. to 12:30 p.m.**  
(times approx..)

### LAFCo 101

An introduction to LAFCo and LAFCo law for Commissioners, Staff, and anyone interested in learning more about LAFCo

**Wednesday from  
10:00 a.m. to Noon**

**Thursday Luncheon  
Keynote**

**To Be Announced**

## Invaluable Networking Opportunities

- ▶ Regional Roundtable discussions on current regional LAFCo issues
- ▶ Roundtable discussions for LAFCo legal counsel
- ▶ Pre-dinner Reception with Sponsors Thursday
- ▶ Networking breakfasts and breaks
- ▶ Welcome Reception Wednesday
- ▶ Awards Banquet Thursday



### Bahia Hotel Mission Bay



Make your reservations now at the **Bahia Hotel** Mission Bay at the special CALAFCO rate of \$125. Special rates available 3 days pre and post-conference on availability. Reservation cutoff date is 9/22/17. Reserve your room at <http://bahiahotel.com/groups/CALAFCO/>

Visit [www.calafco.org](http://www.calafco.org) for Conference details or call us at 916-442-6536.

**Mark your calendar and  
plan to attend!**



**Registration is now open!  
Visit [www.calafco.org](http://www.calafco.org)**



July 6, 2017

**AGENDA ITEM # 7 CALAFCO  
Attachment B**



**To:** Local Agency Formation Commission  
Members and Alternate Members

**From:** John Leopold, Committee Chair  
CALAFCO Board Election Committee  
CALAFCO Board of Directors

**RE: Nominations for 2017/2018 CALAFCO Board of Directors**

Nominations are now open for the fall elections of the CALAFCO Board of Directors. Serving on the CALAFCO Board is a unique opportunity to work with other commissioners throughout the state on legislative, fiscal and operational issues that affect us all. The Board meets four to five times each year at alternate sites around the state. Any LAFCo commissioner or alternate commissioner is eligible to run for a Board seat.

CALAFCO's Election Committee is accepting nominations for the following seats on the CALAFCO Board of Directors:

**Northern Region**

County Member  
District Member

**Central Region**

City Member  
Public Member

**Coastal Region**

City Member  
Public Member

**Southern Region**

County Member  
District Member

The election will be conducted during Regional Caucuses at the CALAFCO Annual Conference prior to the Annual Membership Meeting on Thursday, October 26, 2017 at the Bahia Hotel Mission Bay in San Diego, CA.

**Please inform your Commission that the CALAFCO Election Committee is accepting nominations for the above-cited seats until *Monday, September 25, 2017.***

Incumbents are eligible to run for another term. Nominations received by September 25 will be included in the Election Committee's Report and will be on the ballot. The Report will be distributed to LAFCo members no later than October 11 and ballots made available to Voting Delegates at the Annual Conference. Nominations received after this date will be returned; however, nominations will be permitted from the floor during the Regional Caucuses or during at-large elections, if required, at the Annual Membership Meeting.

For those member LAFCos who cannot send a representative to the Annual Meeting an electronic ballot will be made available if requested in advance. The ballot request must be made no later than Monday, September 25, 2017. Completed absentee ballots must be returned by October 23, 2017.

*Should your Commission nominate a candidate, the Chair of your Commission must complete the attached Nomination Form and the Candidate's Resume Form, or provide the specified information in another format other than a resume. Commissions may also include a letter of recommendation or resolution in support of their nominee.*

**The nomination forms and materials must be received by the CALAFCO Executive Director no later than *Monday, September 25, 2017.***

Here is a summary of the deadlines for this year's nomination process:

- **July 6** – Nomination Announcement and packet sent to LAFCo membership and posted on the CALAFCO website.
- **September 25** – Completed Nomination packet due
- **September 25** – Request for an absentee/electronic ballot due
- **September 25** – Voting delegate name due to CALAFCO
- **October 11** – Distribution of the Election Committee Report (includes all completed/submitted nomination papers)
- **October 11** – Distribution of requested absentee/electronic ballots.
- **October 23** – Absentee ballots due to CALAFCO
- **October 26** - Elections

Returning the nomination form prior to the deadline ensures your nominee is placed on the ballot. Names will be listed in the order nominations were received should there be multiple candidates. Electronic filing of nomination forms and materials is encouraged to facilitate the recruitment process. Please send e-mails with forms and materials to [info@calafco.org](mailto:info@calafco.org). Alternatively, nomination forms and materials can be mailed or faxed to the address or fax number below. Please forward nominations to:

CALAFCO Election Committee c/o Executive Director  
California Association of Local Agency Formation Commissions  
1215 K Street, Suite 1650  
Sacramento, California 95814  
FAX: 916-442-6535  
EMAIL: [info@calafco.org](mailto:info@calafco.org)

Questions about the election process can be sent to the Chair of the Committee, John Leopold, at [jleopold@calafco.org](mailto:jleopold@calafco.org) or by calling him at 831-454-2055. You may also contact CALAFCO Executive Director Pamela Miller at [pmiller@calafco.org](mailto:pmiller@calafco.org) or by calling 916-442-6536.

Members of the 2017/2018 CALAFCO Election Committee are:

|   |   |
|---|---|
| John Leopold, Chair<br><a href="mailto:jleopold@calafco.org">jleopold@calafco.org</a> | Santa Cruz LAFCo (Coastal Region)<br>831-454-2200 |
| Cheryl Brothers<br><a href="mailto:cbrothers@calafco.org">cbrothers@calafco.org</a>   | Orange LAFCo (Southern Region)<br>714-640-5100    |
| Shiva Frentzen<br><a href="mailto:sfrentzen@calafco.org">sfrentzen@calafco.org</a>    | El Dorado LAFCo (Central Region)<br>530-295-2707  |
| Josh Susman<br><a href="mailto:jsusman@calafco.org">jsusman@calafco.org</a>           | Nevada LAFCo (Northern Region)<br>530-265-7180    |

Attached please find a copy of the CALAFCO Board of Directors Nomination and Election Procedures as well as the current listing of Board Members and corresponding terms of office.

*Please consider joining us!*

Enclosures

## **Board of Directors Nomination and Election Procedures and Forms**

The procedures for nominations and election of the CALAFCO Board of Directors [Board] are designed to assure full, fair and open consideration of all candidates, provide confidential balloting for contested positions and avoid excessive demands on the time of those participating in the CALAFCO Annual Conference.

The Board nomination and election procedures shall be:

### **1. APPOINTMENT OF A RECRUITMENT COMMITTEE**

- a. Following the Annual Membership Meeting the Board shall appoint a Committee of four members of the Board. The Recruitment Committee shall consist of one member from each region whose term is not ending.
- b. The Board shall appoint one of the members of the Recruitment Committee to serve as Chairman. The CALAFCO Executive Officer shall appoint a CALAFCO staff member to serve as staff for the Recruitment Committee in cooperation with the CALAFCO Executive Director.
- c. Each region shall designate a regional representative to serve as staff liaison to the Recruitment Committee.
- d. Goals of the Committee are to encourage and solicit candidates by region who represent member LAFCoS across the spectrum of geography, size, and urban-suburban-rural population, and to provide oversight of the elections process.

### **2. ANNOUNCEMENT TO ALL MEMBER LAFCoS**

- a. No later than three months prior to the Annual Membership Meeting, the Recruitment Committee Chair shall send an announcement to each LAFCo for distribution to each commissioner and alternate. The announcement shall include the following:
  - i. A statement clearly indicating which offices are subject to the election.
  - ii. A regional map including LAFCoS listed by region.
  - iii. The dates by which all nominations must be received by the Recruitment Committee. The deadline shall be no later than 30 days prior to the opening of the Annual Conference. Nominations received after the closing date shall be returned to the proposing LAFCo marked "Received too late for Nominations Committee action."
  - iv. The names of the Recruitment Committee members with the Committee Chair's LAFCo address and phone number, and the names and contact information for each of the regional representatives.
  - v. The address to send the nominations forms.
  - vi. A form for a Commission to use to nominate a candidate and a candidate resume form of no more than one page each to be completed for each nominee.
- b. No later than four months before the annual membership meeting, the Recruitment Committee Chair shall send an announcement to the Executive Director for distribution to each member LAFCo and for publication in the newsletter and on the website. The announcement shall include the following:

| <b>Key Timeframes for<br/>Nominations Process</b>       |                           |
|---|---------------------------|
| <u>Days*</u>  |                           |
| 90  | Nomination announcement   |
| 30  | Nomination deadline       |
| 14  | Committee report released |
| <small>*Days prior to annual membership meeting</small> |                           |

- i. A statement clearly indicating which offices are subject to the election.
  - ii. The specific date by which all nominations must be received by the Recruitment Committee. Nominations received after the closing dates shall be returned to the proposing LAFCo marked "Received too late for Recruitment Committee action."
  - iii. The names of the Recruitment Committee members with the Committee Chair's LAFCo address and phone number, and the names and contact information for each of the regional representatives.
  - iv. Requirement that nominated individual must be a commissioner or alternate commissioner from a member in good standing within the region.
- c. A copy of these procedures shall be posted on the web site.

### **3. THE RECRUITMENT COMMITTEE**

- a. The Recruitment Committee and the regional representatives have the responsibility to monitor nominations and help assure that there are adequate nominations from each region for each seat up for election. No later than two weeks prior to the Annual Conference, the Recruitment Committee Chair shall distribute to the members the Committee Report organized by regions, including copies of all nominations and resumes, which are received prior to the end of the nomination period.
- b. At the close of the nominations the Recruitment Committee shall prepare regional ballots. Each region will receive a ballot specific to that region. Each region shall conduct a caucus at the Annual Conference for the purpose of electing their designated seats. Caucus elections must be held prior to the annual membership meeting at the conference. The Executive Director or assigned staff along with a member of the Recruitment committee shall tally ballots at each caucus and provide the Recruitment Committee the names of the elected Board members and any open seats. In the event of a tie, the staff and Recruitment Committee member shall immediately conduct a run-off ballot of the tied candidates.
- c. Make available sufficient copies of the Committee Report for each Voting Member by the beginning of the Annual Conference.
- d. Make available blank copies of the nomination forms and resume forms to accommodate nominations from the floor at either the caucuses or the annual meeting (if an at-large election is required).
- e. Advise the Annual Conference Planning Committee to provide "CANDIDATE" ribbons to all candidates attending the Annual Conference.
- f. Post the candidate statements/resumes organized by region on a bulletin board near the registration desk.
- g. Regional elections shall be conducted as described in Section 4 below. The representative from the Recruitment Committee shall serve as the Presiding Officer for the purpose of the caucus election.
- h. Following the regional elections, in the event that there are open seats for any offices subject to the election, the Recruitment Committee Chair shall notify the Chair of the Board of Directors that an at-large election will be required at the annual membership meeting and to provide a list of the number and category of seats requiring an at-large election.

**4. ELECTRONIC BALLOT FOR LAFCO IN GOOD STANDING NOT ATTENDING ANNUAL MEETING**

Limited to the elections of the Board of Directors

- a. Any LAFCo in good standing shall have the option to request an electronic ballot if there will be no representative attending the annual meeting.
- b. LAFCos requesting an electronic ballot shall do so in writing no later than 30 days prior to the annual meeting.
- c. The Executive Director shall distribute the electronic ballot no later than two weeks prior to the annual meeting.
- d. LAFCo must return the ballot electronically to the executive director no later than three days prior to the annual meeting.
- e. LAFCos voting under this provision may discard their electronic ballot if a representative is able to attend the annual meeting.
- f. LAFCos voting under this provision may only vote for the candidates nominated by the Recruitment Committee.

**5. AT THE TIME FOR ELECTIONS DURING THE REGIONAL CAUCUSES OR ANNUAL MEMBERSHIP MEETING**

- a. The Recruitment Committee Chairman, another member of the Recruitment Committee, or the Chair's designee (hereafter called the Presiding Officer) shall:
  - i. Review the election procedure with the membership.
  - ii. Present the Recruitment Committee Report (previously distributed).
  - iii. Call for nominations from the floor by category for those seats subject to this election:
    1. For city member.
    2. For county member.
    3. For public member.
    4. For special district member.
- b. To make a nomination from the floor, a LAFCo, which is in good standing, shall identify itself and then name the category of vacancy and individual being nominated. The nominator may make a presentation not to exceed two minutes in support of the nomination.
- c. When there are no further nominations for a category, the Presiding Officer shall close the nominations for that category.
- d. The Presiding Officer shall conduct a "Candidates Forum". Each candidate shall be given time to make a brief statement for their candidacy.
- e. The Presiding Officer shall then conduct the election:
  - i. For categories where there are the same number of candidates as vacancies, the Presiding Officer shall:
    1. Name the nominees and offices for which they are nominated.
    2. Call for a voice vote on all nominees and thereafter declare those unopposed candidates duly elected.

- ii. For categories where there are more candidates than vacancies, the Presiding Officer shall:
  - 1. Poll the LAFCoS in good standing by written ballot.
  - 2. Each LAFCo in good standing may cast its vote for as many nominees as there are vacancies to be filled. The vote shall be recorded on a tally sheet.
  - 3. With assistance from CALAFCO staff, tally the votes cast and announce the results.
- iii. Election to the Board shall occur as follows:
  - 1. The nominee receiving the majority of votes cast is elected.
  - 2. In the case of no majority, the two nominees receiving the two highest number of votes cast shall face each other in a run-off election.
  - 3. In case of tie votes:
    - a. A second run-off election shall be held with the same two nominees.
    - b. If there remains a tie after the second run-off, the winner shall be determined by a draw of lots.
  - 4. In the case of two vacancies, any candidate receiving a majority of votes cast is elected.
    - a. In the case of no majority for either vacancy, the three nominees receiving the three highest number of votes cast shall face each other in a run-off election.
    - b. In the case of no majority for one vacancy, the two nominees receiving the second and third highest number of votes cast shall face each other in a run-off election.
    - c. In the event of a tie, a second run-off election shall be held with the tied nominees. If there remains a tie after the second run-off election the winner shall be determined by a draw of lots.

## **6. ADDITIONAL PROCEDURES**

- a. For categories where there are more candidates than vacancies, names will be listed in the order nominated.
- b. The Recruitment Committee Chair shall announce and introduce all Board Members elected at the Regional Caucuses at the annual business meeting.
- c. In the event that Board seats remain unfilled after a Regional Caucus, an election will be held immediately at the annual business meeting to fill the position at-large. Nominations will be taken from the floor and the election process will follow the procedures described in Section 4 above. Any commissioner or alternate from a member LAFCo may be nominated for at-large seats.
- d. Seats elected at-large become subject to regional election at the expiration of the term. Only representatives from the region may be nominated for the seat.
- e. As required by the Bylaws, the members of the Board shall meet as soon as possible after election of new board members for the purpose of electing officers, determining meeting places and times for the coming year, and conducting any other necessary business.



## 7. LOSS OF ELECTION IN HOME LAFCO

Board Members and candidates who lose elections in their home office shall notify the Executive Director within 15 days of the certification of the election.

## 8. FILLING BOARD VACANCIES

Vacancies on the Board of Directors may be filled by appointment by the Board for the balance of the unexpired term. Appointees must be from the same category as the vacancy, and should be from the same region.

*These policies and procedures were adopted by the CALAFCO Board of Directors on 12 January 2007 and amended on 9 November 2007, 8 February 2008, 13 February 2009, 12 February 2010, 18 February 2011, and 29 April 2011. They supersede all previous versions of the policies.*

# CALAFCO Regions

## FOUR REGIONS



The counties in each of the four regions consist of the following:

**Northern Region**

Butte  
Colusa  
Del Norte  
Glenn  
Humboldt  
Lake  
Lassen  
Mendocino  
Modoc  
Nevada  
Plumas  
Shasta  
Sierra  
Siskiyou  
Sutter  
Tehama  
Trinity  
Yuba

**CONTACT:** Steve Lucas  
Butte LAFCo  
slucas@buttecounty.net

**Southern Region**

Orange  
Los Angeles  
Imperial  
Riverside  
San Bernardino  
San Diego

**CONTACT:** Carolyn Emery  
Orange LAFCo  
cemery@oclafco.org

**Coastal Region**

Alameda  
Contra Costa  
Marin  
Monterey  
Napa  
San Benito  
San Francisco  
San Luis Obispo  
San Mateo  
Santa Barbara  
Santa Clara  
Santa Cruz  
Solano  
Sonoma  
Ventura

**CONTACT:** David Church  
San Luis Obispo LAFCo  
dchurch@slolafco.com

**Central Region**

Alpine  
Amador  
Calaveras  
El Dorado  
Fresno  
Inyo  
Kern  
Kings  
Madera  
Mariposa  
Merced  
Mono  
Placer  
Sacramento  
San Joaquin  
Stanislaus  
Tulare  
Tuolumne  
Yolo

**CONTACT:** Kris Berry, Placer LAFCo  
kberry@placer.ca.gov

## Board of Directors 2017/2018 Nominations Form

### *Nomination to the CALAFCO Board of Directors*

In accordance with the Nominations and Election Procedures of CALAFCO,

\_\_\_\_\_ LAFCo of the \_\_\_\_\_ Region

Nominates \_\_\_\_\_

for the (check one)     City     County     Special District     Public

Position on the CALAFCO Board of Directors to be filled by election at the next Annual  
Membership Meeting of the Association.

\_\_\_\_\_  
LAFCo Chair

\_\_\_\_\_  
Date

#### **NOTICE OF DEADLINE**

Nominations must be received by **September 25, 2017**  
to be considered by the Recruitment Committee. Send  
completed nominations to:  
CALAFCO Recruitment Committee  
CALAFCO  
1215 K Street, Suite 1650  
Sacramento, CA 95814

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## Board of Directors 2017/2018 Candidate Resume Form

Nominated By: \_\_\_\_\_ LAFCo Date: \_\_\_\_\_

Region (please check one):  Northern  Coastal  Central  Southern

Category (please check one):  City  County  Special District  Public

Candidate Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Office \_\_\_\_\_ Mobile \_\_\_\_\_

e-mail \_\_\_\_\_ @ \_\_\_\_\_

Personal and Professional Background:

LAFCo Experience:

CALAFCO or State-level Experience:

Availability:

Other Related Activities and Comments:

**NOTICE OF DEADLINE**

Nominations must be received by **September 25, 2017** to be considered by the Recruitment Committee. Send completed nominations to:  
CALAFCO Recruitment Committee  
CALAFCO  
1215 K Street, Suite 1650  
Sacramento, CA 95814

**CALAFCO Board Members 2016-17***(as of July 5, 2017)*

| <b>Board Member Name</b>          | <b>LAFCo - Region</b>            | <b>Type<br/>(Term Expires)</b> |
|-----------------------------------|----------------------------------|--------------------------------|
| Cheryl Brothers                   | Orange - <i>Southern</i>         | City (2018)                    |
| Bill Connelly                     | Butte - <i>Northern</i>          | County (2017)                  |
| James Curatalo – <b>Chair</b>     | San Bernardino - <i>Southern</i> | District (2017)                |
| Shiva Frentzen                    | El Dorado - <i>Central</i>       | County (2018)                  |
| Gay Jones – <b>Vice Chair</b>     | Sacramento - <i>Central</i>      | District (2018)                |
| Michael Kelley                    | Imperial - <i>Southern</i>       | County (2017)                  |
| Dr. William Kirby                 | Placer - <i>Central</i>          | City (2017)                    |
| John Leopold                      | Santa Cruz - <i>Coastal</i>      | County (2018)                  |
| Gerard McCallum                   | Los Angeles - <i>Southern</i>    | Public (2018)                  |
| Michael McGill - <b>Treasurer</b> | Contra Costa - <i>Coastal</i>    | District (2018)                |
| John Marchand                     | Alameda - <i>Coastal</i>         | City (2017)                    |
| Anita Paque                       | Calaveras - <i>Central</i>       | Public (2017)                  |
| Ricky Samayoa                     | Yuba - <i>Northern</i>           | City (2018)                    |
| Sblend Sblendorio                 | Alameda - <i>Coastal</i>         | Public (2017)                  |
| Josh Susman - <b>Secretary</b>    | Nevada - <i>Northern</i>         | Public (2018)                  |
| <i>Vacant</i>                     | <i>Northern</i>                  | District (2017)                |





## CALAFCO Daily Legislative Report as of Wednesday, July 26, 2017

## AGENDA ITEM # 7 Attachment C

1

### [AB 464](#) ([Gallagher R](#)) **Local government reorganization.**

**Current Text:** Chaptered: 7/10/2017 [Text](#)

**Introduced:** 2/13/2017

**Last Amended:** 3/14/2017

**Status:** 7/10/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 43, Statutes of 2017.

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

**Summary:**

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, current law requires that an applicant seeking a change of organization or reorganization submit a plan for providing services within the affected territory that includes, among other requirements, an enumeration and description of the services to be extended to the affected territory and an indication of when those services can feasibly be extended. This bill would specify that the plan is required to also include specific information regarding services currently provided to the affected territory, as applicable, and make related changes.

**Attachments:**

[CALAFCO Letter Requesting Governor Signature](#)

[CALAFCO Letter of Support April 2017](#)

**Position:** Sponsor

**Subject:** Annexation Proceedings

**CALAFCO Comments:** This bill makes a fix to Gov. Code Sec. 56653 based on the court finding in the case of The City of Patterson v. Turlock Irrigation District. The court found that because the services were already being provided via an out of area service agreement, the application for annexation was deemed incomplete because it was not a new service to be provided. By making the fix in statute, any pending/future annexation for a territory that is already receiving services via an out of area service agreement will not be in jeopardy.

As amended, corrections were made to: 56653(b)(3) reading "proposed" rather than "provided", and in Government Code Section 56857 an exemption added pursuant to Public Utilities Code Section 9608 for territory already receiving electrical service under a service area agreement approved by the Public Utilities Commission pursuant to Public Utilities Code Section 9608.

### [AB 979](#) ([Lackey R](#)) **Local agency formation commissions: district representation.**

**Current Text:** Amended: 5/15/2017 [Text](#)

**Introduced:** 2/16/2017

**Last Amended:** 5/15/2017

**Status:** 7/11/2017-Read second time. Ordered to third reading.

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

**Summary:**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides for the selection of representatives of independent special districts on each local agency formation commission by an independent special district selection committee pursuant to a nomination and election process. This bill would additionally require the executive officer to call and hold a meeting of the special district selection committee upon the adoption of a resolution of intention by the committee relating to proceedings for representation of independent special districts upon the commission pursuant to specified law.

**Attachments:**

[CALAFCO Sponsor/Support Letter April 2017](#)

**Position:** Sponsor

**Subject:** CKH General Procedures

**CALAFCO Comments:** This bill is co-sponsored by CALAFCO and CSDA. As amended, the bill amends code Sec. 56332.5 to streamline the process of seating special districts on LAFCo by mirroring current statute 56332 (the process for electing special district representatives into the special district seats). Keeping the process voluntary, it allows for voting by mail whether or not the district wants to have special districts represented on LAFCo. Further, it will allow for the consolidation of that question with the independent special district selection committee appointment to a countywide redevelopment agency oversight board pursuant to Health and Safety Code 34179 (j)(3).

**AB 1361 (Garcia, Eduardo D) Municipal water districts: water service: Indian tribes.**

**Current Text:** Amended: 6/28/2017 [Text](#)

**Introduced:** 2/17/2017

**Last Amended:** 6/28/2017

**Status:** 7/19/2017-VOTE: Do pass as amended

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

**Summary:**

The Municipal Water District Law of 1911 provides for the formation of municipal water districts and grants to those districts specified powers. Current law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district. Current law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe’s lands that are not within a district, as prescribed. This bill would additionally authorize a district to provide this service of water to an Indian tribe’s lands that are not within the district if the Indian tribe’s lands are owned by the tribe.

**Attachments:**

[CALAFCO Oppose letter 07 12 17](#)

**Position:** Oppose

**Subject:** Water

**CALAFCO Comments:** As amended, this bill allows water districts to provide service to an Indian tribe’s lands that are not within the district boundaries without going through the current statutory process of approval by the local agency formation commission (LAFCo). Amendments were taken by the author during the Senate Governance and Finance Committee hearing July 19 that include LAFCo’s ability to apply certain terms and conditions to the application by the water agency and limits the land to be served to lands in trust. However, CALAFCO still has a number of concerns and will continue to work with the author and sponsor.

**AB 1725 (Committee on Local Government) Local agency formation.**

**Current Text:** Amended: 7/20/2017 [Text](#)

**Introduced:** 3/20/2017

**Last Amended:** 7/20/2017

**Status:** 7/20/2017-Read third time and amended. Ordered to second reading.

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

**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, as specified. The act defines various terms for these purposes, including the term “contiguous,” which the act defines as territory adjacent to territory within the local agency. This bill would instead define “contiguous” as territory that abuts or shares a common boundary with territory within a local agency.

**Attachments:**

[CALAFCO Letter of Support April 2017](#)

**Position:** Sponsor

**Subject:** CKH General Procedures

**CALAFCO Comments:** This is the annual Omnibus bill. The bill makes only minor, non-substantive technical changes to CKH.

**SB 37 (Roth D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.**

**Current Text:** Introduced: 12/5/2016 [Text](#)

**Introduced:** 12/5/2016

**Status:** 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)

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

**Summary:**

Beginning with the 2004–05 fiscal year and for each fiscal year thereafter, existing law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a Vehicle License Fee Property Tax Compensation Fund that exists in each county treasury. Current law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to educational entities. This bill would modify these reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2017–18 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

**Attachments:**

[CALAFCO Support Letter Feb 2017](#)

**Position:** Support

**Subject:** Financial Viability of Agencies, Tax Allocation

**CALAFCO Comments:** This bill is identical to SB 817 (Roth, 2016), SB 25 (Roth, 2015) and SB 69 (Roth, 2014) with the exception of the chaptering out language included in the 2016 version (which addressed the companion bill AB 2277 (Melendez, 2016)). The bill calls for reinstatement of the VLF through ERAF for cities that incorporated between January 1, 2004 and January 1, 2012. There are no provisions for back payments for lost revenue, but the bill does reinstate future payments beginning in the 2017/18 year for cities that incorporated between 1-1-2004 and 1-1-2012.

**[SB 448](#) ([Wieckowski D](#)) **Local government: organization: districts.****

**Current Text:** Amended: 7/17/2017 [Text](#)

**Introduced:** 2/15/2017

**Last Amended:** 7/17/2017

**Status:** 7/17/2017-Read second time and amended. Re-referred to Com. on APPR. (Amended 7/17/2017)

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

**Summary:**

Current law requires a report of an audit of a special district's accounts and records made by a certified public accountant or public accountant to be filed with the Controller and the county auditor of the county in which the special district is located within 12 months of the end of the fiscal year or years under examination. This bill would instead require special districts defined by a specified provision to file those audit reports with the Controller and special districts defined by another specified provision to file those audit reports with the Controller and with the local agency formation commission of either the county in which the special district is located or, if the special district is located in 2 or more counties, with each local agency formation commission within each county in which the district is located.

**Attachments:**

[CALAFCO Support Letter July 2017](#)

[CALAFCO Oppose Unless Amended Letter](#)

**Position:** Support

**Subject:** CKH General Procedures

**CALAFCO Comments:** As amended on July 17, this bill authorizes LAFCo to dissolve inactive districts (after determining they meet the criteria set forth in the statute) by holding one hearing, without conducting a special study and with the waiver of protest proceedings. The State Controller is required to notify LAFCo when a district is inactive. LAFCo then has 90 days to initiate dissolution, and another 90 days in which to hold the hearing to dissolve. Should the LAFCo determine the district does not meet the criteria, no dissolution occurs and LAFCo notifies the Controller the district is not inactive. Should the LAFCo determine the district does meet the criteria then it is ordered to be dissolved. The bill also requires a district to provide LAFCo with their audits at the same time they provide them to the Controller.

All of our issues have been resolved with the current version and as a result our position has been changed from Oppose Unless Amended to Support.

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### 3

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#### [AB 267](#) ([Waldron R](#)) **Community services districts.**

**Current Text:** Introduced: 2/1/2017 [Text](#)

**Introduced:** 2/1/2017

**Status:** 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/1/2017)(May be acted upon Jan 2018)

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

**Summary:**

Current law provides for the organization and powers of community services districts, including the continuation of any community services district, improvement district of a community services district, or zone of a community services district, that was in existence on January 1, 2006. This bill would make nonsubstantive changes to these provisions.

**Position:** Watch

**CALAFCO Comments:** According to the author's office this is a spot bill.

#### [AB 548](#) ([Steinorth R](#)) **Omnitrans Transit District.**

**Current Text:** Amended: 4/4/2017 [Text](#)

**Introduced:** 2/14/2017

**Last Amended:** 4/4/2017

**Status:** 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was TRANS. on 3/23/2017)(May be acted upon Jan 2018)

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

**Summary:**

Would create the Omnitrans Transit District in the County of San Bernardino. The bill would provide that the jurisdiction of the district would initially include the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa, and unspecified portions of the unincorporated areas of the County of San Bernardino. The bill would authorize other cities in the County of San Bernardino to subsequently join the district.

**Position:** None at this time

**CALAFCO Comments:** This bill, as amended, appears to dissolve the Omnitrans JPA and form a new independent special district to be known as the Omnitrans Transit District. The formation process does not include LAFCo. CALAFCO is reaching out to the author's office for more details.

#### [AB 577](#) ([Caballero D](#)) **Disadvantaged communities.**

**Current Text:** Amended: 3/9/2017 [Text](#)

**Introduced:** 2/14/2017

**Last Amended:** 3/9/2017

**Status:** 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 2/27/2017)(May be acted upon Jan 2018)

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

**Summary:**

Current law defines a disadvantaged community as a community with an annual median household income that is less than 80% of the statewide annual median household income for various purposes, that include, but are not limited to, the Water Quality, Supply, and Infrastructure Improvement Act of 2014, eligibility for certain entities to apply for funds from the State Water Pollution Cleanup and Abatement Account, and authorization for a community revitalization and investment authority to carry out a community revitalization plan. This bill would expand the definition of a disadvantaged community to include a community with an annual per capita income that is less than 80% of the statewide annual per capita income.

**Position:** Watch

**Subject:** Disadvantaged Communities

**CALAFCO Comments:** Sponsored by the Environmental Justice Coalition for Water, this bill is intended to expand the definition of disadvantaged communities to include multi-family households. According to the author's office this will be a two-year bill. CALAFCO will retain a Watch position until any amendments are in print.

**AB 645 (Quirk D) Local government: organization: dissolution.**

**Current Text:** Introduced: 2/14/2017 [Text](#)

**Introduced:** 2/14/2017

**Status:** 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 3/2/2017)(May be acted upon Jan 2018)

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

**Summary:**

Under current law, if a change of organization consists of a dissolution, the commission is required to order the dissolution subject to confirmation of voters if, among other things, the proposal was not initiated by the commission and if a subject agency has not objected to the proposal, the commission has found that, for an inhabited territory protests have been signed by either 25% of the number of landowners within the affected territory who own at least 25% of the assessed value of land within the territory or 25% of the voters entitled to vote as a result of residing or owning land within the affected territory. This bill would decrease that threshold to 10% of the number of landowners within the affected territory who own at least 25% of the assessed value of land within the territory or 10% of the voters entitled to vote as a result of residing or owning land within the affected territory.

**Position:** Watch

**Subject:** CKH General Procedures, Disincorporation/dissolution, Special District Consolidations  
**CALAFCO Comments:** According to the author's office this is a spot bill pending the outcome of the Alameda LAFCo special study on Eden Healthcare District. Update: The author's office indicates they will hold off moving this bill. CALAFCO will continue to Watch.

**AB 892 (Waldron R) Municipal water districts: water service: Indian tribes.**

**Current Text:** Amended: 3/23/2017 [Text](#)

**Introduced:** 2/16/2017

**Last Amended:** 3/23/2017

**Status:** 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 3/23/2017)(May be acted upon Jan 2018)

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

**Summary:**

Current law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe's lands that are not within a district, as prescribed. This bill would authorize, rather than require, a district to provide this service of water. The bill would apply this authorization to all Indian tribes whose lands are owned by the tribe.

**Position:** Watch

**Subject:** Water

**CALAFCO Comments:** According to the author's office, this may very well become a two-year bill. The intent of the bill was to make it permissive for an Indian tribe to negotiate directly with a water provider to obtain water services. This would circumvent LAFCo. This bill expands on last year's bill by Gonzalez-Fletcher, AB 2470. The author's office has indicated the bill will not move forward in it's current version. They understand CALAFCO's concerns. CALAFCO will continue to monitor the bill for any amendments and will consider a position if/when amendments are in print.

**AB 1479 (Bonta D) Public records: custodian of records: civil penalties.**

**Current Text:** Amended: 7/18/2017 [Text](#)

**Introduced:** 2/17/2017

**Last Amended:** 7/18/2017

**Status:** 7/18/2017-Read second time and amended. Re-referred to Com. on APPR.

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

**Calendar:**

8/21/2017 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, LARA,

Chair

**Summary:**

Would, until January 1, 2023, require public agencies to designate a person or persons, or office or offices to act as the agency's custodian of records who is responsible for responding to any request made pursuant to the California Public Records Act and any inquiry from the public about a decision by the agency to deny a request for records. The bill also would make other conforming changes. Because the bill would require local agencies to perform additional duties, the bill would impose a state-mandated local program.

**Position:** Oppose

**Subject:** Public Records Act

**CALAFCO Comments:** As amended this bill requires any public agency to designate a person/office to act as the agency's custodian of records who will be responsible for responding to all public records requests and to respond to an inquiries as to why the agency denied the request for records. Further the bill adds a failure to respond for records or an improperly assessed fee can be considered a civil penalty and allows the courts to issue fines ranging from \$1000 - \$5000.

**AB 1728 (Committee on Local Government) Health care districts: board of directors.**

**Current Text:** Introduced: 3/22/2017 [Text](#)

**Introduced:** 3/22/2017

**Status:** 7/12/2017-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (July 12). Re-referred to Com. on APPR.

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

**Calendar:**

8/21/2017 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, LARA, Chair

**Summary:**

Each health care district has a board of directors with specific duties and powers respecting the creation, administration, and maintenance of the district, including purchasing, receiving, having, taking, holding, leasing, using, and enjoying property. This bill would require the board of directors to adopt an annual budget in a public meeting, on or before September 1 of each year, that conforms to generally accepted accounting and budgeting procedures for special districts, establish and maintain an Internet Web site that lists contact information for the district, and adopt annual policies for providing assistance or grant funding, if the district provides assistance or grants.

**Attachments:**

[AB 1728 CALAFCO Letter of Support](#)

**Position:** Support

**Subject:** Other

**CALAFCO Comments:** As introduced, this bill requires healthcare districts to adopt annual budgets, establish and maintain a website (and prescribes the required site content), and adopt policies for grant funding.

**SB 206 (Committee on Governance and Finance) Validations.**

**Current Text:** Chaptered: 7/10/2017 [Text](#)

**Introduced:** 2/1/2017

**Status:** 7/10/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 57, Statutes of 2017.

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

**Summary:**

This bill would enact the First Validating Act of 2017, 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 Letter Requesting Governor Signature 06 26 17](#)

[CALAFCO Support Feb 2017](#)

**Position:** Support

**Subject:** LAFCo Administration

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

**SB 207 (Committee on Governance and Finance) Validations.****Current Text:** Chaptered: 7/10/2017 [Text](#)**Introduced:** 2/1/2017**Status:** 7/10/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 58, Statutes of 2017.

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

**Summary:**

This bill would enact the Second Validating Act of 2017, 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 Letter Requesting Governor Signature 06 26 17](#)[CALAFCO Support Feb 2017](#)**Position:** Support**Subject:** LAFCo Administration**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.**SB 208 (Committee on Governance and Finance) Validations.****Current Text:** Chaptered: 7/10/2017 [Text](#)**Introduced:** 2/1/2017**Status:** 7/10/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 59, Statutes of 2017.

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

**Summary:**

This bill would enact the Third Validating Act of 2017, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Attachments:**[CALAFCO Letter Requesting Governor Signature 06 26 17](#)[CALAFCO Support Letter Feb 2017](#)**Position:** Support**Subject:** LAFCo Administration**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.**SB 365 (Dodd D) Regional park and open-space districts: County of Solano.****Current Text:** Amended: 7/13/2017 [Text](#)**Introduced:** 2/14/2017**Last Amended:** 7/13/2017**Status:** 7/18/2017-In Senate. Concurrence in Assembly amendments pending.

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

**Summary:**

Current law authorizes proceedings for the formation of a regional park and open-space or regional open-space district in specified counties in the state to be initiated by resolution of the county board of supervisors adopted after a noticed hearing, and specifies the contents of the resolution. This bill, in addition, would authorize the formation of a regional district in the County of Solano to be initiated by resolution of the county board of supervisors after a noticed hearing. The bill would specify the contents of the resolution, including the calling of an election, as prescribed.

**Attachments:**[SB 365 CALAFCO Letter of Oppose 03 28 17](#)**Position:** Oppose**Subject:** LAFCo Administration**CALAFCO Comments:** This bill calls for the formation of a regional park and open space district which will circumvent the LAFCo formation process.

**[SB 435](#) (Dodd D) Williamson Act: payments to local governments.****Current Text:** Amended: 5/2/2017 [Text](#)**Introduced:** 2/15/2017**Last Amended:** 5/2/2017**Status:** 5/25/2017-May 25 hearing: Held in committee and under submission.

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

**Summary:**

Would, under the Williamson act, reduce the amount per acre paid to a city, county, or city and county under these provisions to \$2.50 for prime agricultural land, \$0.50 for all other land devoted to open-space uses of statewide significance, and, for counties that have adopted farmland security zones, \$4 for land that is within, or within 3 miles of the sphere of influence of, each incorporated city.

**Attachments:**[CALAFCO Support Letter May 2017](#)**Position:** Support**Subject:** Ag Preservation - Williamson

**CALAFCO Comments:** This bill renews partial subvention funding for the Williamson Act as a fiscal incentive to lift contract moratoria, implements solar use easements and Farmland Security Zone Contracts, and increases subvention funding for counties that adopt conservation planning strategies for agriculturally zoned property that further our state's sustainable community goals.

**[SB 634](#) (Wilk R) Santa Clarita Valley Water District.****Current Text:** Amended: 7/12/2017 [Text](#)**Introduced:** 2/17/2017**Last Amended:** 7/12/2017**Status:** 7/12/2017-Read second time and amended. Re-referred to Com. on APPR.

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

**Summary:**

Current law, the Castaic Lake Water Agency Law, created the Castaic Lake Water Agency and authorizes the agency to acquire water and water rights, including water from the State Water Project, and to provide, sell, and deliver water at wholesale for municipal, industrial, domestic, and other purposes. This bill would repeal the Castaic Lake Water Agency Law.

**Attachments:**[CALAFCO Letter Removing Opposition 06 26 17](#)[CALAFCO Letter Oppose Unless Amended 03 27 17](#)**Position:** Neutral**Subject:** Special District Consolidations

**CALAFCO Comments:** As amended, this bill consolidates two independent water districts in Los Angeles. The bill was amended to include LAFCo in the process via an application for binding conditions. As statute does not allow the local LAFCo to deny the application when both district boards have adopted resolutions of support, the amendments of May 26 address all of CALAFCO's concerns. As a result CALAFCO has removed our opposition and now is neutral on the bill.

**[SB 693](#) (Mendoza D) Lower San Gabriel River Recreation and Park District.****Current Text:** Amended: 7/3/2017 [Text](#)**Introduced:** 2/17/2017**Last Amended:** 7/3/2017**Status:** 7/11/2017-From committee: Do pass and re-refer to Com. on APPR. (Ayes 10. Noes 4.) (July 11). Re-referred to Com. on APPR.

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

**Summary:**

Would specifically authorize the establishment of the Lower San Gabriel River Recreation and Park District, by petition or resolution submitted to the Los Angeles County Local Agency Formation Commission before January 1, 2020, subject to specified existing laws governing recreation and park districts, including their formation, except as provided. The bill would authorize specified city councils and the Los Angeles County Board of Supervisors to appoint members to, and the



executive officer of the conservancy to serve as a member on, the initial board of directors of the district.

**Position:** Watch

**Subject:** LAFCo Administration

**CALAFCO Comments:** This bill forms the Lower San Gabriel River Recreation and Park District while leaving a majority of the LAFCo process intact. CALAFCO will keep watching to ensure it stays that way.

Total Measures: 20

Total Tracking Forms: 20

7/26/2017 5:40:24 PM





## LITTLE HOOVER COMMISSION

Witnesses at Little Hoover Commission's August and October 2016 public hearings and participants at the November 2016 advisory committee proposed numerous recommendations for consideration. At various business meetings in 2017, the Commission discussed these and other potential recommendations. A summary of potential recommendations currently under consideration follows.

The June 22 roundtable discussion has been convened to consider if these recommendations are helpful, can be implemented or might have unintended consequences. The Commission also welcomes discussion on alternative suggestions. The primary focus of the roundtable meeting discussion will be on the recommendations related to governance and transparency, although potential recommendations focusing on climate change adaptation and healthcare districts also are included in this summary.

### **GOVERNANCE - POTENTIAL RECOMMENDATIONS**

- The Legislature, in committee hearings and floor votes, as well as the Governor in bill signings, should curtail a growing practice of introducing bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.
- The Legislature should provide one-time grant funding to pay for specified LAFCO activities, particularly to fund certain critical Municipal Service Reviews (MSRs) and to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. This grant process potentially could be overseen by the Governor's Office of Planning and Research. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.
- Alternatively or additionally, augment the existing LAFCO funding formula by allocating a certain percentage of local property taxes to fund LAFCOs as suggested in testimony from the California Association of Local Agency Formation Commissions (CALAFCO).
- After conducting a Municipal Service Review and finding dissolution or consolidation of special districts is warranted, provide LAFCOs the authority to initiate dissolutions or consolidations with a higher threshold for a public vote.
- Require special districts to hold a public hearing on findings and recommendations after the completion of a Municipal Service Review.
- The Legislature should provide LAFCOs the statutory authority to do reviews of inactive districts throughout California and dissolve them without the action being subject to protest and a costly election process. SB 448 (Wiekowski) would implement this recommendation. The bill was unanimously adopted by the Senate in May 2017, and currently is under consideration by the Assembly. As currently written, the bill also would require each county tax bill to list special district taxes and would require the State Controller, by 2019, to annually publish a list of all special districts in California.
- The Legislature should strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.
- The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.

## TRANSPARENCY – POTENTIAL RECOMMENDATIONS

- Every LAFCO website should provide basic information and links to all of the special districts within each county service area, including a standardized dashboard reflecting revenues from property taxes and user fees, debt service and fund balance changes.
- Every special district should have a published policy for reserve funds, including the size and purpose of reserves and how they are invested.
- Every special district should have a website that provides the following information in an easy-to-understand format:
  - ✓ Name, location, contact data
  - ✓ Services provided
  - ✓ Governing body, including election information and the process for constituents to run for board positions
  - ✓ Compensation details – total staff compensation, including salary, pensions and benefits
  - ✓ Compensation details for the five staff with highest compensation (including salary, benefits, pensions, loans, annual leave balances, annual travel expenses)
  - ✓ Budget (including revenues and expenditures, bond debt and the source of revenues, including fees, property taxes and other assessments, as well as other revenue)
  - ✓ Reserve fund policy
  - ✓ An explanation of how the revenue sources are consistent with state law and do not constitute a permissible tax
  - ✓ Geographic area served and demographic data based on available census data
  - ✓ Average and median customer fees and other customer charges
  - ✓ Description of relationship and coordination with other local government agencies
  - ✓ Copy of most recent Municipal Service Review
  - ✓ Copy of most recent annual report provided to the State Controller’s Office
  - ✓ State and local agencies providing oversight of operations, compliance with state laws and financial reporting and audits and frequency of such reviews and links to the oversight bodies websites
- The California Special Districts Association, working with experts in public outreach and engagement, should develop best practices for independent special district outreach to the public on opportunities to serve on boards and special district elections including election results and voter participation data.
- The State Controller’s Office should disaggregate information provided by independent special districts from dependent districts, nonprofits and joint powers authorities on its By the Numbers and Employee Compensation websites. (SB 448 would require the State Controller to list all special districts on its website by 2019.)
- The State Controller’s Office should standardize definitions of special district financial reserves for state reporting purposes.
- The Secretary of State, working with county, city and special district representatives and the State Controller, should streamline or consolidate its public agency reporting requirements.

## **CLIMATE CHANGE ADAPTATION – POTENTIAL RECOMMENDATIONS**

- The Legislature should place a requirement in statute that special districts formally include climate adaptation and climate mitigation as key operational considerations within their governing documents and missions.
- The California Special Districts Association (CSDA), in conjunction with its member districts, should document and share climate adaptation experiences with the Integrated Climate Adaptation and Resilience Program’s adaptation information clearinghouse being established within the Governor’s Office of Planning and Research (OPR). Similarly, CSDA and member districts should step up engagement in the state’s current Fourth Assessment of climate threats, a \$5 million state research project designed to support the implementation of local adaptation activities. The CSDA also should promote climate adaptation information sharing among its members to help districts with fewer resources plan for climate impacts and take actions.
- The Legislature should replicate statewide a program established by Oakland-based East Bay Municipal Utility District, in which real estate transactions trigger an inspection of sewer lines on the property and require repairs if broken. Or, as an alternative, it should commission a study of costs versus benefits – possibly by a university or the appropriate state department. Such a study would build long-term support, if feasible, for legislation.
- State regulatory agencies should explore the beginnings of a new regulatory framework and adaptive approach that incorporates moveable baselines when defining a status quo as climate impacts mount.
- The California Special Districts Association, and special districts, as some of the closest-to-the-ground local governments in California, should step up public engagement on climate adaptation, and inform and support people and businesses to take actions that increase their individual and community-wide defenses.
- The California Special Districts Association and special districts should lead efforts to seek and form regional partnerships to maximize climate adaptation resources and benefits.

## **HEALTHCARE DISTRICTS – POTENTIAL RECOMMENDATIONS**

- The Legislature should work with the Association of California Healthcare Districts to enact proposals the association developed in 2016 to accomplish these two objectives:
  - ✓ Update the 1945 legislative “practice acts” that enabled voters to create local hospital districts, renamed healthcare districts in the early 1990s. Experts widely agree that statutory language in the acts no longer reflects rapid changes in healthcare during the past half century, especially regarding roles of healthcare districts without hospitals.
  - ✓ Make healthcare districts directly respond to local healthcare needs by conducting needs assessments every three years and demonstrate annually how they are addressing those needs. This information will be shared with the local LAFCO that oversees the district.

- The Legislature, which has been increasingly inclined to override local LAFCO processes to press changes on healthcare districts, should defer these decisions to LAFCOs, which in statute already have that responsibility.
- The Association of California Healthcare Districts and its member districts should step up efforts to define and share best practices among themselves.

July 20, 2017

Chair Pedro Nava  
Little Hoover Commission  
925 L Street, Suite 805  
Sacramento, CA 95814

Chair Nava:

On behalf of the California Association of Local Agency Formation Commissions (CALAFCO), I want to thank you, the Commission and your staff for the work done over the past year in reviewing special districts and local agency formation commissions (LAFCo). This letter is intended to follow up on the roundtable discussion of June 22, 2017, and offer some final comments and thoughts on potential recommendations.

Our comments are intended to clarify the suggestions made by CALAFCO and provide additional comments on several potential recommendations in the areas of governance, transparency and healthcare districts. For simplicity we will only address those potential recommendations that have an effect on LAFCo.

### **Governance – Potential Recommendations**

**1. Legislature to curtail LAFCo overrides.**

CALAFCO fully supports the idea that decisions about local service providers are best made locally where they can most effectively reflect current and future community needs. Considerations of organization/reorganization, boundaries and service delivery of local providers should be kept local and local agency formation commissions (LAFCos) remain the most appropriate entities to make these decisions.

**To add to this recommendation:**

CALAFCO believes that authorizing LAFCo, under certain conditions, to create or approve variances of the composition of a legislative body currently authorized by the principal acts will assist in reducing the introduction of certain types of legislation. Further, we also believe authorizing LAFCo to approve other procedural or structural requirements that currently restrict a LAFCo from efficiently and constructively taking action to address a desired action will also serve to reduce the introduction of certain kinds of legislation.

**2. Provide one-time funding to LAFCos for specified LAFCo activities.**

While we believe that ongoing funding by the state to support LAFCo mandates is appropriate, absent that, CALAFCO fully supports the idea of a one-time infusion of \$1 to \$3 million from the General Fund for LAFCos to conduct certain activities such as the dissolution of inactive districts and more in-depth studies of service providers. These funded in-depth studies should focus on those service providers who are cause for concern (as determined by the LAFCo) or potential candidates for reorganization. CALAFCO envisions a process whereby a LAFCo would submit a request for funding upon meeting certain criteria and provide a full accounting report upon completion of the activity funded. We agree with the recommendation that the Office of Planning & Research, Strategic Growth Council or

Department of Conservation are the most appropriate partners to oversee and administer this funding.

**3. Augment existing local LAFCo funding by reinstating and allocating a portion of local agency funding.**

As we stated in our August 2016 testimony, we support the notion of reinstating the Educational Revenue Augmentation Fund (ERAF) funding that was previously taken away and allocating a fraction of the percentage of local agencies' portion to LAFCo. Since the local agencies have a statutory obligation to financially support LAFCo, this seems like a logical connection.

**4. Gain consistency in the protest thresholds.**

While noted as "increase public vote threshold" in the potential recommendation, CALAFCO would like to clarify the intent of our recommendation. LAFCo-initiated actions have a lower threshold of protest (ten percent) than non-LAFCo-initiated actions (twenty-five percent). We believe this arbitrary inconsistency is a primary factor in the lack of LAFCo-initiated actions. Further, we strongly believe the entire protest process needs a thorough review for consistency and simplification.

CALAFCO supports the idea of the Senate Governance and Finance Committee and/or the Assembly Local Government Committee taking the lead in gathering stakeholders for a full study and discussion on the protest process and how it can be streamlined and consistencies gained.

**5. Require special districts to conduct a public hearing to review the Municipal Service Review (MSR) conducted.**

Supporting the MSR process by requiring affected local agencies (not just special districts but all service providers) to hold a noticed public hearing (at a regularly scheduled meeting) to discuss the MSR or special study will certainly increase local public awareness and education on the type and level of service being provided. Additionally, requiring the service provider to provide written responses to any recommended actions made by LAFCo in preparing determinations will increase service provider accountability.

Giving LAFCo the authority to require the service provider to report back to the LAFCo on any determinations within a pre-determined timeline will also serve to increase awareness and accountability for service providers. A complete timeline can easily be created for the MSR process to allow for both of these recommendations. CALAFCO fully supports this recommendation.

**6. Authorize LAFCo to dissolve inactive districts in a streamlined process.**

CALAFCO officially supports SB 448 (Wieckowski) which allows for this to occur. It may be advantageous if the Commission would recommend passage of SB 448.

**7. Strengthen LAFCo membership by streamlining the special district seating process.**

CALAFCO and the California Special Districts Association (CSDA) are co-sponsoring AB 979 (Lackey) to accomplish this recommendation. It may be advantageous if the Commission would recommend passage of AB 979.



**8. Fixed terms for LAFCo commissioners.**

We would like to clarify the intent of our recommendation. Current statute calls for commissioners to be appointed to a four-year term. However, the statute also states the commissioner serves at the will of the appointing body and can be removed without cause. It is the “without cause” part of the statute that causes CALAFCO concern and the area we are trying to address with this recommendation. While each LAFCo can adopt local policies pertaining to terms of office, they do not control the actions of the appointing bodies. We support the idea of appointing bodies being required to also adhere to a prescribed term of appointment. This may serve to eliminate some of the political pressures felt by some commissioners.

**Transparency – Potential Recommendations**

**1. LAFCo website requirement to post specific special district information.**

CALAFCO supports the idea of each LAFCo website containing a list of each public agency service provider (not just special districts) for which they have authority, and a link to that agency’s website. As we stated during the June 22 discussion, the majority of our members currently do this.

We believe the most effective way to get at the detailed special district financial data this recommendation covers is either through the state-level entities that already collect the financial data listed in the recommendation or directly from the district’s website. A member of the public can easily gain access to the data through the link on the LAFCo website to the district’s website.

Since districts are already required to provide this kind of reporting to the state, it stands to reason that logically the state and the district would be the sites from which to obtain this data, not the LAFCo.

**2. Content requirements for special district websites.**

CALAFCO encourages the Commission to consider the resources required to fulfill the laundry list of prescribed content in this proposed recommendation. Additionally, we request the Commission consider the consistency with which such a mandate is administered. Special districts are not the only public agency service provider and as such we encourage the Commission to consider consistent application of any requirements across all public service providers. We believe there is an optimal point of efficiency and transparency to be found and suggest should the Commission decide to make this recommendation, some guidelines and best practices be studied for application.

**3. State Controller to clearly identify districts by type on their website.**

CALAFCO fully supports this recommendation. LAFCos rely on this data for certain reports and activities and having the Controller’s database streamlined will be of great help to LAFCos.

**4. State and local entities streamline or consolidate public agency reporting requirements.**

CALAFCO supports this recommendation. We suggest and support the idea of a group of stakeholders offering feedback on what improvements can be made to maximize efficiencies.

### **Healthcare districts – Potential Recommendations**

**1. Update the healthcare district (HCD) principal act.**

CALAFCO fully supports this recommendation. We have been in discussions with our colleagues at CSDA and the Association of California Healthcare Districts (ACHD) on this matter. Earlier this year CALAFCO formed an internal working group to review certain issues pertaining to HCDs and LAFCos. This working group made several recommendations to CALAFCO for statewide consideration and we have been in discussions with ACHD and CSDA on these potential changes. CALAFCO looks forward to ongoing dialogue with stakeholders on how to modernize the statutes governing HCDs. Doing so will certainly create efficiencies for LAFCos.

**2. Defer changes to HCDs to LAFCo rather than the State Legislature.**

CALAFCO fully supports this recommendation. Decisions about local service providers are best made locally where they can most effectively reflect current and future community needs.

CALAFCO continues to make ourselves available to you and your staff as a resource. We are happy to answer any questions you may have about our comments or provide you any additional information you may need.

Sincerely,



Pamela Miller  
Executive Director

CC: Carole D'Elia, Executive Director, Little Hoover Commission



### **CALAFCO Board Adopts Association's 2017-18 Strategic Plan**

During their May 5 meeting, the CALAFCO Board of Directors considered the Association's two-year strategic plan for 2017-18. The draft strategic plan was presented to the Board for consideration as a follow up to their day-long strategic planning retreat session in January. The discussion, both in January and in May focused on current and emerging LAFCo and CALAFCO issues, what puts our members and the Association at risk and current CALAFCO commitments. The Board also carefully considered available resources to fulfill objectives and deliver the highest quality support to our members.



Ultimately the Board approved three strategic areas: (1) Serve as an educational resource to member LAFCo Commissioners, LAFCo staff, Associate members and stakeholders; (2) Focus efforts on Association member development and communication; and (3) Serve as an information resource to all Association members, work as a legislative and policy advocate for LAFCo issues and provide information to the Legislature and other stakeholders. Within those three areas are objectives that address the identified needs of creating value-added educational and networking opportunities, building stronger member LAFCos and a resilient Association, generating ourselves in new ways as an information resource, and continuing our work as a legislative resource.

The 2017-18 Strategic Plan was unanimously adopted by the CALAFCO Board during their May 5 meeting. The adopted plan has been distributed to the membership and can be found on the CALAFCO website.

### **Additional CALAFCO Board Actions**

During the May 5 meeting the Board addressed several administrative issues and took a number of other actions:

- ◆ Reviewed and adopted the Association's FY 2017-18 annual budget.
- ◆ Received and filed the quarterly financial reports. The budget is on track for the year with no changes anticipated.
- ◆ Received a full legislative update.
- ◆ Received other status updates from CALAFCO staff.
- ◆ Directed staff to plan for an in-depth discussion at their August Board meeting on the long-term financial state of the Association.



### **Conferences and Workshops Update**

#### **2017 STAFF WORKSHOP**

The 2017 Staff Workshop was held *April 5-7* at the Doubletree by Hilton in downtown Fresno. Our host for this workshop was *Fresno LAFCo*. The Program Planning Committee did a great job in planning a diverse program of topics and interesting speaker line up. The Workshop received a rating of 5.3 out of 6.0 and was a financial success with all revenues and expenses meeting budget expectations. CALAFCO wishes to thank our host, *Fresno LAFCo*, and in particular Executive Officer *David Fey*. Thanks also to the Program Planning Committee Chair, *Kris Berry*, and all who worked to plan another great Workshop.

#### **2017 ANNUAL CONFERENCE**

Mark your calendars for the 2017 Annual Conference on *October 25-27*. We will be in Mission Bay, San Diego at the Bahia Hotel. Registration is open so make your hotel reservations early and be sure to send in your Conference registration and payment before August 31 to receive the early bird registration rate. A very special mobile workshop is being planned that will include a tour of the Claude "Bud" Lewis desalination plant, the largest in the nation. We will also be touring the adjacent Encina Power Station. The Program Planning Committee, under the leadership of *Carolyn Emery* (Orange), is busy putting together a fabulous program. For details, visit the CALAFCO website.

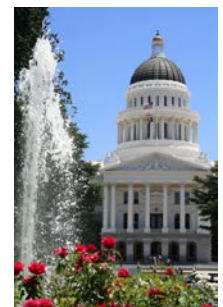
#### **CALAFCO White Papers and Other Publications**

In partnership with the American Farmland Trust (AFT), we are currently working on a White Paper on *Ag Policies*. Work on this project is anticipated to be completed by the end of summer. A huge thank you to Serena Unger of the AFT, and to Executive Officers *Christine Crawford* (Yolo), *Neelima Palacherla* (Santa Clara), *David Fey* (Fresno), and Associate Member *Elliot Mulberg* for their work on the paper.



#### **CALAFCO Legislative Update**

A busy legislative year to be sure. CALAFCO is sponsoring three bills, tracking 20 bills and has formal positions on 13 bills. A full legislative update including the bills CALAFCO is tracking can be found on the CALAFCO website. The report is updated daily via Capitol Track.





### Sponsored bills this year include:

- ◆ **AB 464** (Gallagher) which makes changes addressing the issue of annexations of areas receiving services via an out of area service agreement. The bill was signed into law by the Governor on July 10.
- ◆ **AB 979** (Lackey) (co-sponsored with CSDA) which streamlines the process of seating special districts on LAFCo. The bill passed Assembly and is now on the Senate floor for passage.
- ◆ **AB 1725** (Omnibus) contains several technical, non-substantive changes to CKH. The bill is on the Senate floor awaiting passage.

### Other bills of notice include:

- ◆ **AB 1361** (E. Garcia) CALAFCO Oppose – This bill was recently gut and amended. As amended, it allows water districts to provide service to an Indian tribe's lands that are not within the district boundaries without going through the current statutory process of approval by LAFCo. Amendments were taken by the author during the SG&FC hearing July 19 that include LAFCo's ability to apply certain terms and conditions to the application by the water agency and limits the land to be served to lands in trust. However, CALAFCO still has a number of concerns and will continue to work with the author and sponsor.
- ◆ **SB 448 (Wieckowski)** – CALAFCO Support - The bill requires the State Controller to: (1) identify independent special districts separately on their website (from the other thousands of districts); (2) notify LAFCo when a special district becomes inactive (based on the new criteria in statute); and (3) remove the district from the inactive list if it is deemed active or upon dissolution. The bill requires LAFCo to: (1) initiate dissolution within 90 days of notification by the Controller; (2) hold a noticed public hearing for dissolution within 90 days of initiating the process; and (3) determine if the district meets the inactive criteria (and if so then order the dissolution) and if not, notify the Controller. The dissolution process requires only one noticed public hearing and no protest process, special study or MSR. Finally the bill requires a special district to file their audits with the LAFCo at the same time they file with the Controller. CALAFCO has been working extensively with the author and other stakeholders over many months on obtaining a host of amendments.

### Little Hoover Commission Update

The LHC held their final roundtable discussion on LAFCos and special districts on June 22. A host of draft recommendations were discussed in detail by the Commission and stakeholders. The next hearing on this

topic, at which they are scheduled to adopt the final recommendations, is set for August 24.



## Around the State

### San Diego LAFCo

*Submitted by Escondido Mayor Sam Abed, Chairman of the San Diego LAFCo*

On May 1, 2017, long time San Diego LAFCo Executive Officer Mike Ott announced his retirement, effective August 31, 2017. Some of Mike's good friends and co-workers have also announced their retirement from the San Diego LAFCo. Joining him in retirement this summer will be Chief Local Governmental Analyst Ingrid Hansen, who has been working part-time as a retired worker for the past ten years. She originally started with the San Diego LAFCo in 1981. And Harry Ehrlich, who serves as Legislative Director, also announced that he will be retiring to spend more time with his wife and family. Harry was recently elected to the Borrego Water District and will be able to devote more of his time to this desert water agency in north eastern San Diego County, plus his consulting firm.

Over the past 25 years, Mike was at the helm of the San Diego LAFCo during a time of tremendous change. Among the more difficult projects he oversaw were seven different incorporations – not all of which were successful; one failed special reorganization proposal (La Jolla Secession); one unsuccessful disincorporation attempt (Imperial Beach); and an effort that he discouraged that would have resulted in the formation of a municipal utility district to replace the San Diego Gas and Electric Company. Perhaps, most important were his government streamlining efforts. He was responsible for streamlining government services in a diverse county of over 3.2 million people occupying 4,500 square miles through consolidating 90 special districts. Of particular note is the agency's work with fire agencies. Over one million acres of unincorporated San Diego County are now within a structural fire protection and emergency medical service provider. This has improved life safety for San Diego County residents and millions of tourists that visit the County each year.

The San Diego LAFCo has been honored with sixteen statewide awards for its professional excellence and innovation during the past 25 years that Mike Ott led LAFCo. The agency was recognized by CALAFCO in 1998, 2002 and 2004 as the "Most Effective Commission" in the



State. Mike previously served as the first Deputy Executive Officer of CALAFCO and wrote the groundbreaking 1989 report that resulted in the reorganization of CALAFCO. During his time with the San Diego LAFCo, Mike also completed the first ever LAFCo-initiated district consolidation in California. He served on the Governor's Office of Planning and Research's Incorporation Task Force and Municipal Service Review Working Group between 1999 and 2001. Mike, Ingrid, and Harry Ehrlich are all previous recipients of CALAFCO's Outstanding LAFCo Professional award.

In 2018, the San Diego LAFCo will begin a major update to its Spheres of Influence, Municipal Service Reviews, Disadvantaged Community Program, and launching an Unincorporated Island Program. These programs will affect 18 municipalities and 80 special districts. The San Diego LAFCo is accordingly seeking a talented and experienced leader to manage these programs after Mike Ott retires. The Commission will also be recruiting for several new analysts in the upcoming months.

According to Mike, "Having headed the San Diego LAFCo for twenty-five years, I can say unequivocally it is an excellent organization and this is an exceptional career opportunity for an experienced and creative leader interested in helping to shape the future of San Diego County. San Diego LAFCo is fortunate that it will continue to be staffed by brilliant LAFCo attorney, Mike Colantuono and a talented workforce consisting of Robert Barry, Joe Serrano, Tammy Luckett, Ruth Arellano, Erica Blom, and Dieu Ngu, plus an incredible group of experienced consultants."

### Los Angeles LAFCo

LA LAFCo is pleased to announce the hiring of Adriana Romo as Deputy Executive Officer, who recently assumed the office. Adriana recently served as Local Government Analyst III with Riverside LAFCo, where she worked since 2002.

### Vector Control Services in LA County:

Given the public health challenges associated with preventing the spread of diseases (chikungunya, dengue, encephalitis, West Nile virus, yellow fever, and Zika), LA LAFCo continues its proactive efforts to annex a handful of unincorporated areas and cities into existing vector control districts. The Commission annexed unincorporated La Crescenta-Montrose and the City of La Cañada Flintridge into the Greater Los Angeles Vector Control District (GLAVCD) in 2015. Tentatively scheduled for the Commission's July 12<sup>th</sup> meeting is the proposed annexation of the cities of Baldwin Park and Pasadena into the San Gabriel Valley Mosquito and Vector Control District. Within the next few months, the GLAVCD intends to file an out-of-agency service extension request to serve the City of

Vernon on an interim basis (ideally leading to a future annexation). With the exception of the City of Long Beach (which has its own robust in-house vector control program), the City of Vernon is the sole remaining city in Los Angeles County not served by a vector control district. In the face of increasing health risks, the proactive collaboration amongst several parties (LA LAFCo, vector control districts, the County of Los Angeles, and the involved cities) are yielding positive results for the benefit of the public.

### Sonoma LAFCo

Sonoma LAFCo is pleased to report the receipt of an application from the City of Santa Rosa for annexation of five unincorporated islands, including the community of Roseland in south west Santa Rosa. The Commission will adjudicate the proposal at its August meeting. Assuming approval and eventual ratification of the application, the annexation will resolve a decades-long exclusion of a large community of approximately 6,500 residents from the City.

### Solano LAFCo

Solano LAFCo announces the hiring of a new Executive Officer, Richard J. Seithel, who will begin on August 9, 2017. Richard is a resident of Antioch and currently serves as the Chief of Annexations and Economic Stimulus Programs for Contra Costa County. He has served Contra Costa County in the County Administrator's Office for the past nineteen years as a deputy county administrator. Richard will be a permanent full-time employee of the commission. Since 2013, the Solano LAFCo Executive Officer position has been filled by contractors working only part time. The move to a permanent full-time executive officer will ensure greater availability and service to the county, cities, districts and the public.



*The CALAFCO Board of Directors and Staff wish all of you a wonderful summer!*



### **CALAFCO Associate Members' Corner**

This section highlights our Associate Members. The information below is provided to CALAFCO by the Associate member upon joining the Association. All Associate member information can be found in the CALAFCO Member Directory.



CALAFCO is pleased to welcome our newest Silver Associate Member, **Peckham & McKenney**. **Peckham & McKenney, Inc.** provides executive search services to local government agencies throughout the Western United States and is headquartered in Roseville, California. The firm was established as a partnership in 2004 by Bobbi Peckham and Phil McKenney, who serve as the firm's Recruiters and bring over 50 years' combined experience in local government and executive search. To learn more about them, visit them at [www.peckhamandmckenney.com](http://www.peckhamandmckenney.com), or call them at 866-912-1919.



### **Mark Your Calendars For These Upcoming CALAFCO Events**

- ◆ CALAFCO Board of Directors meeting, August 18, San Diego
- ◆ CALAFCO Legislative Committee meeting, August 25, conference call

### **Upcoming CALAFCO Conferences and Workshops**

#### **2017 ANNUAL CONFERENCE**

October 25 – 27  
Bahia Mission Bay  
San Diego, CA  
**Hosted by CALAFCO**

#### **2018 STAFF WORKSHOP**

April 11 – 13  
Four Points Sheraton  
San Rafael, CA  
**Hosted by Marin LAFCo**

#### **2018 ANNUAL CONFERENCE**

October 3-5  
Tenaya Lodge  
Yosemite, CA  
**Hosted by CALAFCO**



## AGENDA ITEM # 11 CITY OF MOUNTAIN VIEW

Office of the Mayor and City Council • 500 Castro Street • Post Office Box 7540 • Mountain View, California 94039-7540  
650-903-6305 • FAX 650-903-6039

July 20, 2017

The Honorable Anna Eshoo  
District Office  
698 Emerson Street  
Palo Alto, CA 94301

Dear Congresswoman Eshoo:

As you may know, on June 9, 2017, the Department of the Army released a Request for Proposals (RFP) for the long-term lease of approximately 30 acres of vacant land, under the custody of the Army Reserves, located at the southwest corner of Moffett Field. A copy of the RFP is enclosed for your convenience. Proposals were initially due on July 28, 2017, but the due date has now been extended to August 18.

The leasing and potential development of 30 acres of land at the intersection of Highway 101 and Moffett Boulevard presents some opportunity, but it can also have an impact on local services and infrastructure. The City of Mountain View has a number of concerns with the RFP, which we previously expressed to the Acting Secretary of the Army in a letter dated June 28, a copy of which was sent to your office. We also took advantage of the opportunity to submit questions in response to the RFP but were disappointed in the responses from the Army. A copy of the questions and answers to the RFP is also enclosed for your convenience.

While the City understands and respects the sovereign right of the Federal government to construct Federal facilities on Federally owned land, the City feels strongly that it and its citizens, and other local stakeholders, should have a voice in approving the type and density of development being proposed when the proposed development is a private development on a long-term ground lease from the Federal government. The Army has made a decision that they will only entertain proposals for commercial office and related uses, including education or training facilities. The Army will not consider any proposal for housing. A significant commercial office development on this 30-acre property, as well as a major development planned by Google on NASA's Bay View property, will most certainly exacerbate an already overtaxed transportation network if not properly planned and executed.

This property could provide an opportunity to meet other community needs, including affordable housing, homeless support services, school campuses for a growing population, and parks and recreation facilities. Congress enacted Section 303(3) of the Real Property and Administrative Services Act of 1949 (as amended) to provide opportunities for State

The Honorable Anna Eshoo

July 20, 2017

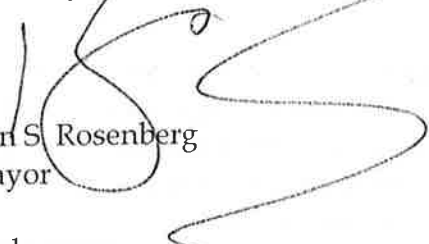
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and local agencies to acquire excess and surplus Federal property for some of these purposes. This process was codified in 41 CFR § 101-47.308, *et seq.* Congress also enacted the McKinney-Vento Homeless Assistance Act, Public Law 100-77, to make excess and surplus Federal property available for homeless services. The Army states this land is not excess or surplus to the needs of the Federal government, and they are leasing the property under the authority of 10 U.S.C. 2667.

The Army has advised prospective developers they must obtain utilities from local providers and police and fire services from the local jurisdiction. The City would be the provider of water, sewer, police, and fire services. Most of the proposed lease parcel has never been annexed into the City, though it is within our sphere of influence and urban service area. We have been advised by the County of Santa Clara that unless the entire property is annexed, the City would not receive any portion of possessory interest taxes (in-lieu property taxes) generated from the property to cover the cost of services. As you will note in the enclosed questions and answers, the City pointedly asked if the Army would consent to annexation, but the response was noncommittal.

In our view, the Army has proceeded hastily with the marketing of this strategic property for private development without the level of intergovernmental coordination and cooperation we would hope for, and without any consideration of community benefits and impacts. We would welcome your support in calling for a pause in this Army initiative so there can be a dialogue between the City of Mountain View and the Army on a plan that considers the needs of the Army and the community.

Sincerely,



Ker S. Rosenberg  
Mayor

Enclosures

cc: Congressman Ro Khanna  
District Office  
900 Lafayette Street, Suite 206  
Santa Clara, CA 95050

Commander, 63rd Regional Support Command  
Santa Clara County Local Area Formation Commission  
City Council, City Manager



