



NOTICE AND AGENDA FOR REGULAR MEETING

DATE/TIME: Wednesday, December 11, 2013, 1:30 PM

PLACE: Board of Supervisors Chambers
651 Pine Street, Martinez, CA 94553

NOTICE IS HEREBY GIVEN that the Commission will hear and consider oral or written testimony presented by any affected agency or any interested person who wishes to appear. Proponents and opponents, or their representatives, are expected to attend the hearings. From time to time, the Chair may announce time limits and direct the focus of public comment for any given proposal.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by LAFCO to a majority of the members of the Commission less than 72 hours prior to that meeting will be available for public inspection in the office at 651 Pine Street, Six Floor, Martinez, CA, during normal business hours as well as at the LAFCO meeting.

All matters listed under CONSENT ITEMS are considered by the Commission to be routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a member of the Commission or a member of the public prior to the time the Commission votes on the motion to adopt.

For agenda items not requiring a formal public hearing, the Chair will ask for public comments. For formal public hearings the Chair will announce the opening and closing of the public hearing.

If you wish to speak, please complete a speaker's card and approach the podium; speak clearly into the microphone, start by stating your name and address for the record.

Campaign Contribution Disclosure

If you are an applicant or an agent of an applicant on a matter to be heard by the Commission, and if you have made campaign contributions totaling \$250 or more to any Commissioner in the past 12 months, Government Code Section 84308 requires that you disclose the fact, either orally or in writing, for the official record of the proceedings.

Notice of Intent to Waive Protest Proceedings

In the case of annexations and detachments it is the intent of the Commission to waive subsequent protest and election proceedings provided that all of the owners of land located within the proposal area have consented and those agencies whose boundaries would be changed have consented to the waiver of protest proceedings.

American Disabilities Act Compliance

LAFCO will provide reasonable accommodations for persons with disabilities planning to attend meetings who contact the LAFCO office at least 24 hours before the meeting, at 925-335-1094. An assistive listening device is available upon advance request.

As a courtesy, please silence your cell phones during the meeting.

DECEMBER 11, 2013 CONTRA COSTA LAFCO AGENDA

1. Call to Order and Pledge of Allegiance
2. Roll Call
3. Adoption of Agenda
4. Public Comment Period (please observe a three-minute time limit)

Members of the public are invited to address the Commission regarding any item that is not scheduled for discussion as part of this Agenda. No action will be taken by the Commission at this meeting as a result of items presented at this time.
5. Approval of Minutes for the November 13, 2013 regular LAFCO meeting

SPHERE OF INFLUENCE/BOUNDARY CHANGES

6. ***LAFCO 09-05 – Annexation 168C to Central Contra Costa Sanitary District*** - consider a proposal to annex 82.1± acres (eight parcels) in two separate areas located in the unincorporated Alhambra Valley area near Martinez; and consider related actions under the California Environmental Quality Act (CEQA).
Public Hearing

BUSINESS ITEMS

7. ***Northeast Antioch Update*** – receive an update regarding the proposed annexation and strategic planning efforts for Northeast Antioch, and provide comments.
8. ***Actuarial Valuation and Post-Employment Healthcare Benefits*** – receive a report on initiating an actuarial valuation and related issues, and provide comments.
9. ***Commissioner Terms*** - receive a report regarding Commissioner terms of office.

CORRESPONDENCE

10. Correspondence from Contra Costa County Employees' Retirement Association (CCCERA)

INFORMATIONAL ITEMS

11. Commissioner Comments and Announcements
12. Staff Announcements
 - CALAFCO Updates
 - Pending Projects
 - Newspaper Articles

ADJOURNMENT

Next regular LAFCO meeting – January 8, 2014 at 1:30 p.m.

LAFCO STAFF REPORTS AVAILABLE AT http://www.contracostalafco.org/meeting_archive.htm

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MINUTES OF MEETING

November 13, 2013

December 11, 2013
Agenda Item 5

Board of Supervisors Chambers
Martinez, CA

1. Chair Federal Glover called the meeting to order at 1:30 p.m.
2. The Pledge of Allegiance was recited.
3. Roll was called. A quorum was present of the following Commissioners:
City Member Rob Schroder.
County Members Federal Glover and Mary Piepho, and Alternate Candace Andersen.
Special District Members Michael McGill and Dwight Meadows, and Alternate George Schmidt.
Public Members Don Blubaugh and Alternate Sharon Burke.
Present were Executive Officer Lou Ann Texeira, Legal Counsel Sharon Anderson, and Clerk Kate Sibley.
4. Approval of the Agenda
Upon motion of McGill, second by Blubaugh, Commissioners unanimously adopted the agenda.
5. Public Comments
There were no public comments.
6. Approval of October 9, 2013 Meeting Minutes
Upon motion of McGill, second by Piepho, the minutes for the meeting of October 9, 2013 were approved, with Commissioner Blubaugh abstaining.
7. LAFCO 13-07 – Annexation 184 to Central Contra Costa Sanitary District
The Executive Officer provided an overview of a proposal filed by CCCSD to annex six properties in five separate areas located in the Town of Danville and in unincorporated Alamo. One property owner has petitioned for annexation; the others are infill. It was noted that to date no protests had been received, but the area is uninhabited with less than 100% landowner consent, and thus is subject to a protest hearing.
The public hearing was opened and, with no public comments, closed. Commissioner McGill asked approximately how many more of these “batch” proposals would be forthcoming. Russ Leavitt, representing CCCSD, responded that there are a few District initiated proposals pending, and a few landowner driven applications in the works.
Upon motion of Piepho, second by Blubaugh, the Commission unanimously closed the public hearing and certified that it reviewed and considered the information contained in the District’s Negative Declaration; approved the proposal to be known as Annexation 184 to CCCSD, with specified conditions; determined that the territory being annexed is liable for the continuation of taxes, assessments and charges; found that the subject territory is uninhabited, has less than 100% consent of the affected landowners, is subject to a protest hearing; and authorized staff to conduct the protest proceedings.

DRAFT

8. Northeast Antioch Update

The Executive Officer reported that the Board of Supervisors approved a tax sharing agreement with the City of Antioch on Tuesday, November 12.

Victor Carniglia, representing the City of Antioch, reported that it is a happy day, thanks to Supervisor Glover and County staff. The County-approved agreement will now go to the Antioch City Council on November 26.

Mr. Carniglia also reported that the City is working with PG&E to secure indemnification from that agency for the City, which will in turn indemnify LAFCO. He looks forward to the Area 1 and Area 2b applications coming forward to LAFCO at the January 8, 2014 meeting.

Chair Glover thanked City and County staff for their work. Commissioner Meadows commented on the protracted timeframe.

Upon motion of McGill, second by Piepho, Commissioners accepted the report.

9. Policies and Procedures Update

Commissioner Burke presented a brief report.

The committee has updated the *Membership* (1.2) and *Rules and Procedures* (1.4) sections. Commissioner McGill suggested that the section pertaining to ethics training be modified to *require* that all Commissioners, including Public Members, receive ethics training. Other Commissioners were in agreement.

Commissioner Andersen suggested that, in the *Membership* section, the subsection about City Members should reference the Contra Costa County Mayors' Conference as the City Selection Committee.

Commissioner Piepho commented on the availability of ethics training.

Upon motion of Blubaugh, second by Piepho, Commissioners unanimously approved the updated policies with the suggested changes to ethics training and city membership.

10. CALAFCO Regional Forums

The Executive Officer presented a letter from Ventura LAFCo suggesting that LAFCOs enhance their educational and networking opportunities through regional forums. They suggest hosting a pilot regional meeting in the Coastal region; and if there is interest, perhaps hosting a regional meeting on an annual basis.

Commissioner McGill, reporting on the discussion of this idea at the CALAFCO Board meeting on November 8, stated that there was general interest in encouraging all regions to hold such forums. The southern region already does this, but their counties are geographically closer together. The Board, however, does not want this to become a new responsibility for CALAFCO.

Commissioner McGill suggested that perhaps Alameda and Contra Costa LAFCOs could host the first such forum for the coastal region, perhaps focusing on Plan Bay Area. Commissioners agreed that they would be amenable to trying this.

11. 2014 LAFCO Meeting Schedule

The Executive Officer presented the 2014 meeting schedule, noting that there were no exceptions to the regular schedule for the coming year.

Upon motion of Blubaugh, second by Piepho, Commissioners unanimously approved the 2014 LAFCO meeting schedule as presented.

12. Response to Contra Costa County Grand Jury following up on Report No. 1105 “Ethics & Transparency Issues in Contra Costa County”

The Executive Officer reviewed the Contra Costa County Grand Jury Report No. 1105, entitled “*Ethics & Transparency Issues in Contra Costa County*” and presented a draft response to the request for an update.

Staff pointed out that the draft letter would need to be modified as a result of the changes made in the updated Rules and Procedures policy.

Upon motion of McGill, second by Blubaugh, Commissioners approved the response to the Contra Costa Grand Jury with the changes indicated, and directed LAFCO staff to send the response by November 19, 2013.

13. Authorization to Request the County Auditor-Controller to Collect Funds for Late Payment from the Rollingwood-Wilart Park Recreation & Park District (RWPRPD)

The Executive Officer reported that all agencies’ annual payments to LAFCO’s budget have been paid for Fiscal Year 2013-14 except from the RWPRPD, which owes \$16.58. The District has been unresponsive to the Auditor-Controller’s letters, and the Government Code allows LAFCO to utilize an alternative method for collecting payment from the agency’s property tax.

Commissioners discussed the amount of staff time expended on this situation, and expressed concern about the efficacy of the RWPRPD.

Commissioner Meadows encouraged the Commission to take a hard look at districts in the second round Municipal Service Reviews.

Upon motion of Piepho, second by Schroder, Commissioners unanimously authorized the Executive Officer to request the County Auditor to collect funds in the amount of \$16.58 from the RWPRPD from the District’s share of property tax pursuant to Gov. Code §56381(c).

14. CALAFCO 2013 Legislative Wrap-up

The Executive Officer presented a year-end summary of LAFCO-related legislation. Most notably, the island annexation bill passed, which deletes the Jan 1, 2014 sunset date for annexing small islands to cities using the streamlined process. In addition, the annual CALAFCO omnibus bill passed, which makes technical corrections to the CKH.

Also, the CALAFCO Legislative Committee will hold its kick-off meeting via conference call on Nov 25. Commissioner McGill and the Executive Officer were reappointed to the Legislative Committee by the CALAFCO Board.

Commissioner McGill added that he is now an at-large member of the Legislative Committee, and he is one of six board members on that committee. The next meetings will be on November 25 and December 6; if Commissioners are interested in bringing forward any issues, let him know. He suggested that committee members seek out freshmen legislators to cultivate relationships.

15. Correspondence from CCCERA

There were no comments on this correspondence.

16. Commissioner Comments and Announcements

Commissioner McGill reported that there has been a change in the 2014 CALAFCO calendar. The 2014 Annual Conference will now be held October 15-17 in Ontario. And as a point of information, the 2015 Annual Conference will be held September 1-3, 2015, most likely in Sacramento.

Commissioner McGill also asked that the CALAFCO Executive Director's report and the information about the CALAFCO 50th Anniversary class at UC Davis both be forwarded to all Commissioners.

17. Staff Announcements and Pending Projects

There were no staff announcements.

The meeting was adjourned at 2:12 p.m.

Final Minutes Approved by the Commission December 11, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

By _____
Executive Officer

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

December 11, 2013
Agenda Item 6

December 11, 2013 (Agenda)

LAFCO 09-05: Annexation 168C to Central Contra Costa Sanitary District (CCCSD)

PROPONENT: CCCSD by Resolution No. 2013-093 adopted November 15, 2012

ACREAGE & LOCATION The applicant proposes to annex 82.1± acres (eight parcels) in two separate annexation areas located in the unincorporated Alhambra Valley area near Martinez as generally described below and on the attached map (Attachment 1):

Area 1

Parcel #3 367-080-001: located at 5050 Alhambra Valley Rd (44.37± acres)

Parcel #4 367-090-016: located at 3 Millican Ct (3.88± acres)

Parcel #5 367-090-017: located behind 3 Millican Ct (5.15± acres)

Parcel #6 367-090-014: located off Gordon Way (5.00± acres)

Parcel #7 367-090-015: located off Gordon Way (11.21± acres)

Parcel #8 367-130-013: located at 295 Millthwait Dr (8.72± acres) – connected to CCCSD sewer

Area 2

Parcel #1 365-120-003: located at 1150 Briones Rd (1.75± acres) – connected to CCCSD sewer

Parcel #2 365-120-004: located at 1170 Briones Rd (2.07± acres) – connected to CCCSD sewer

SYNOPSIS

CCCSD filed an application with LAFCO to annex the properties to the District. All of the properties have petitioned CCCSD for annexation; three of the properties currently receive municipal sewer service from CCCSD via out of agency as unanimously approved by LAFCO in 2008. LAFCO conditioned its out of agency service approval on submittal of an annexation application within 12 months; CCCSD complied with this condition. The District included the remaining parcels at the request of some of the property owners, to bring in other properties that are in close proximity to the existing sanitary sewer system, to facilitate future conversion of septic systems and the extension of municipal sewer service to the properties.

Four of the properties are improved (1, 2, 4, 8) with a total of five single family dwelling units; the remaining four properties (3, 5, 6, 7) are undeveloped.

DISCUSSION

Government Code §56668 sets forth factors that the Commission is required to consider in evaluating any proposed boundary change as discussed below. In the Commission's review and evaluation, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

1. Consistency with the Sphere of Influence (SOI) of Any Local Agency:

The areas proposed for annexation are within CCCSD's SOI and outside the County Urban Limit Line (ULL). The annexation area is part of an island comprised of 19 properties that are outside the ULL, but completely surrounded by properties that are inside the ULL. The countywide ULL resulted in the creation of a number of islands, including the subject area, and in splitting approximately 590 parcels throughout the County. While we recognize the challenges in establishing the countywide ULL, creating islands and splitting parcels are contrary to LAFCO's charge. Further, neither special districts nor LAFCO are bound by the ULL.

2. Land Use, Planning and Zoning - Present and Future:

The County General Plan designation for the annexation area is Agricultural, and the zoning is General Agricultural (A-2) which allows one dwelling unit per five acres. CCCSD is not a land use agency, and no changes are proposed to County's General Plan or zoning designations as part of this proposal. There is a potential to add 8-12 single family dwelling units to the annexation area in accordance with the County general and specific plans for the Alhambra Valley.

In 1992, the County adopted the Alhambra Valley Specific Plan (AVSP), which sets forth the goals and policies designed to guide land use in the Valley. Alhambra Valley covers about 2,800 acres (4.5 square miles) and has over 650 residents. It is primarily a low-density residential area located within the Alhambra Creek watershed. A portion of the plan area is located within the SOI of the City of Martinez. In September 2012, LAFCO approved the annexation of approximately 316.4± acres (104 parcels) to the City of Martinez, including Alhambra Valley Ranch, Stonehurst, Deer Creek and Valley Orchard subdivisions located immediately west of Area 1 proposed for annexation to CCCSD. The City recently affirmed its intent to annex the Alhambra Valley as opportunities arise.

A significant amount of development has already occurred in the AVSP area. The AVSP estimated that a maximum of 231 additional new housing units could be developed. County records show that 81 dwelling units have been built since the 1992 AVSP approval. In 2004, the County approved an additional 23-lot subdivision. Annexation of this subdivision to CCCSD was approved by LAFCO in August 2007. Since 2007, the County has approved other development projects in the AVSP area that remain unconstructed. The AVSP area is not built out and can accommodate the proposed annexation.

3. The Effect on Maintaining the Physical and Economic Integrity of Agricultural Lands:

The properties proposed for annexation contain no prime farmland or land covered under Williamson Act Land Conservation agreements. There are no agricultural uses on the parcels proposed for annexation.

4. Topography, Natural Features and Drainage Basins:

The annexation area is part of the Alhambra Creek Watershed, which is generally defined by hills to the east, south and west. The valley floor varies in width, with the adjacent, mostly tree covered hillsides rising from drainages of Vaca Creek, Arroyo Del Hambre, Sindicich, Strenzel Creek and Alhambra Creek.

5. Population:

There is a potential to add 8-12 single family dwelling units to the annexation area. These additional units could result in a population increase of 22-33 persons, based on the County's general and specific planning documents for the Alhambra Valley area.

6. Fair Share of Regional Housing:

In its review of a proposal, LAFCO must consider the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. The proposed annexation will have minimal effect on regional housing needs.

7. Governmental Services and Controls - Need, Cost, Adequacy and Availability:

Whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall also submit a plan for providing services within the affected territory (Gov. Code §56653). The plan shall include all of the following information and any additional information required by the Commission or the Executive Officer:

- (1) An enumeration and description of the services to be extended to the affected territory.

- (2) The level and range of those services.
- (3) An indication of when those services can feasibly be extended to the affected territory.
- (4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- (5) Information with respect to how those services will be financed.

The District's Plan for Providing Services is on file in the LAFCO office. The properties proposed for annexation are served by various local agencies including, but not limited to, Contra Costa County, Contra Costa County Fire Protection District, Contra Costa Water District and the City of Martinez (water service).

The proposal before the Commission is to annex the properties to CCCSD for the provision of sanitary sewer service, including collection, treatment and disposal.

CCCSD currently serves an estimated population of 467,500 residents in a 144-square-mile service area. CCCSD's wastewater collection system consists of 1,500 miles of sewer mains with 19 pump stations. The majority of CCCSD's system operates with gravity flow with some pumping stations and force mains. All sewer connections to the subject property will be either gravity flow or individual residential pump systems. The District's wastewater treatment plant provides secondary level treatment for an average dry weather flow of approximately 33.2 million gallons per day (mgd) of wastewater. The wastewater treatment plant has a permitted discharge limit of 53.8 mgd.

As noted above, three of the properties proposed for annexation currently receive municipal sewer service through CCCSD. The annexation could potentially extend service to 8-12 additional single family dwelling units. Based on the total number of potential units, the maximum demand for service is approximately 3,315 gallons of wastewater per day. Connection to CCCSD's public sewer system following annexation is voluntary.

CCCSD has infrastructure in the area and serves a significant number of properties surrounding the areas propose for annexation. In the vicinity of annexation Area 1, a majority of the properties on Gordon Way and Millican Court are connected to CCCSD sewer, and approximately 40% of the properties on Millthwait are connected to CCCSD. Service is available to all of the properties on these streets. Sewer service is not available to properties generally located to the north and west of Area 1. In the vicinity of annexation Area 2, water and sewer are available to the north along Quail Lane; however to the east, west and south, the area is parkland (Briones Regional Park).

Regarding infrastructure and improvements, in 2006-07, CCCSD constructed a 10-12 inch diameter trunk system in Alhambra Valley. In 2008-09, a neighborhood assessment district funded construction of 8-inch diameter public main sewer extensions that can provide service to the eight parcels proposed for annexation.

CCCSD indicates that most of the subject properties can be served by 4-inch diameter private lateral connections or individual, private residential pumping system connections to the adjacent 8-inch diameter public main sewers. There may be a need for short, public main extensions to serve the larger, subdividable parcels. These main extensions would be installed by the property owner/developer.

All capital costs including any required sewer main extensions, along with connections fees, will be borne by the property owner/developer. CCCSD funds the maintenance of all sewers through its annual sewer service charge. Some of the property owners may be eligible to participate in existing neighborhood assessment districts to assist with financing the main and trunk sewer construction costs, as well as associated connection fees.

CCCSD noted in its application that while some properties in the annexation area could remain on individual septic systems, or build new septic systems, this alternative is inconsistent with the County's

Health Regulations, which consider individual septic systems to be “a temporary means of sewage disposal... it will become necessary at some point in the future to install sanitary sewers and utilize a sewage treatment plant for disposal” (Section 420-6.204). Additionally, poor soil conditions and other site considerations may limit the ability of some properties to support new or replacement septic systems.

The District also notes that per a letter dated August 27, 2004, from the Contra Costa County Director of Environmental Health, “although advanced on-site wastewater treatment systems may solve problems for properties with failing conventional systems, their cost, including engineering, permits and installation is usually above \$25,000. The homeowner must also pay for an annual operating permit from this division, submit effluent sample results, and maintain a service contract on the system. Therefore, the plan to have public sewers available to existing residents of Alhambra Valley will provide a permanent and cost effective comparative solution to conventional systems that have or are approaching the end of their lifespan.”

8. Timely Availability of Water and Related Issues:

The annexation area is within the City of Martinez's water service area and within the City's SOI. Martinez provides water treatment and distribution services for residential, commercial, industrial, public and irrigation customers, as well as for fire protection uses. The City's sole source of water supply is untreated water purchased from Contra Costa Water District (CCWD). The City takes delivery of the water from the Martinez Reservoir, a terminal reservoir for the Contra Costa Canal. The City's water treatment facilities have a total filtration capacity of 14.7 million gallons per day (mgd). Average daily water use in 2011 was 4.16 mgd. The City's water system includes eleven treated water storage reservoirs with a capacity of 9.6 million gallons (MG).

The CCWD supplies untreated water to the annexation area. CCWD provides wholesale and retail water, and serves an area of 220± square miles and over 500,000 people. Water service includes production, distribution, retail, treatment, recycling and conservation services. The CCWD's primary source of water supply is the United States Bureau of Reclamation's Central Valley Project.

As noted in the 2008 LAFCO MSR report, the City is providing water service to areas outside the corporate boundaries of Martinez but within the water service boundary affirmed by the City in October, 1987. In 1987, the City Council adopted Resolution No. 169-87, requiring properties contiguous to the City boundary to complete annexation prior to receiving water service. Those properties that are not contiguous must execute a deferred annexation agreement with annexation to occur at a time determined by the City Council. The City serves an estimated 1,499 accounts that are outside the City's corporate boundaries; the majority of these were established prior to 2001.

In accordance with LAFCO law and local LAFCO policies, LAFCO encourages local agencies to annex properties receiving out of agency service, as appropriate. The City has indicated its commitment to annexing areas that receive City water service as opportunities arise.

According to Martinez City staff, the City provides water to Parcels 4 and 8, and the vast majority of the surrounding parcels are served by City water. CCCSD staff indicates that Parcels 1 and 2 use on-site well water.

CCCSD staff indicates that the proposed annexation would have a minor effect on water usage, and would not lead to the construction of new or expansion of existing water facilities.

On November 26, LAFCO received a letter (Attachment 2) from Hal Olson, President, Alhambra Valley Improvement Association (AVIA). In his letter, Mr. Olson indicates that the AVIA is opposed

to the annexation and summarizes the reasons for the opposition, including concerns regarding water service, sewer infrastructure and proximity of the annexation area to the ULL. On December 2, LAFCO received a letter from Ted C. Radosevich (Attachment 3). Mr. Radosevich also raises concerns regarding the proximity of the annexation area to the ULL and to the John Muir National Historic site. These issues are discussed in the staff report.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate areas 76004. The assessed value for the annexation area is \$2,172,197 (2013-14 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

On November 15, 2012, CCCSD, as Lead Agency, certified an Environment Impact Report (EIR) and adopted Findings of Fact in conjunction with the proposed annexation. The LAFCO Environmental Coordinator reviewed the documents and find they are adequate for LAFCO purposes.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are fewer 12 registered voters in the area proposed for annexation. Thus, the area proposed for annexation is considered uninhabited.

CCCSD indicates that 100% of the affected landowners have provided written consent to the annexation. Thus, if the Commission approves the annexation, the Commission may waive the protest hearing (Gov. Code §56662). All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the December 11 hearing.

12. Boundaries and Lines of Assessment:

The annexation areas are within CCCSD's SOI and are contiguous to existing CCCSD boundaries. The 2008 *Central County Water/Wastewater Municipal Services Review* (MSR) provided an assessment of CCCSD services. The MSR report noted that CCCSD was serving an estimated 180 parcels outside its service boundary; and that there were a number of small islands surrounded by the District and within its SOI. The MSR suggested annexing parcels receiving out of agency service, as well as islands and areas where there were concerns due to failing septic systems and related public health issues. Since 2008, CCCSD has made significant progress to validate sewer service connections and correct island and boundary irregularities. The proposed annexation will further these efforts. Further when the Commission approved out of agency service to Parcels 1, 2 and 8 in 2008, LAFCO conditioned its out of agency service approval on submittal of an annexation application. CCCSD has complied with this condition.

13. Environmental Justice:

LAFCO is required to consider the extent to which proposals for changes of organization or reorganization will promote environmental justice. As defined by statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

14. Disadvantaged Communities:

In accordance with recent legislation (SB 244), local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services,

including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County Planning Department, the annexation areas do not meet the criteria of a DUC.

ALTERNATIVES FOR COMMISSION ACTION

After consideration of this report and any testimony or additional materials that are submitted the Commission should consider taking one of the following options:

Option 1 Approve the annexation.

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the CCCSD District Annexation 168C – Alhambra Valley EIR prepared and certified by CCCSD and the Findings of Fact adopted therewith on November 15, 2012.
- B. Adopt this report, approve LAFCO Resolution No. 09-05 (Attachment 4), and approve the proposal, to be known as CCCSD Annexation 168C subject to the following terms and conditions:
 - 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
 - 2. That CCCSD has delivered an executed indemnification agreement providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

Option 2 Adopt this report and DENY the proposal.

Option 3 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION:

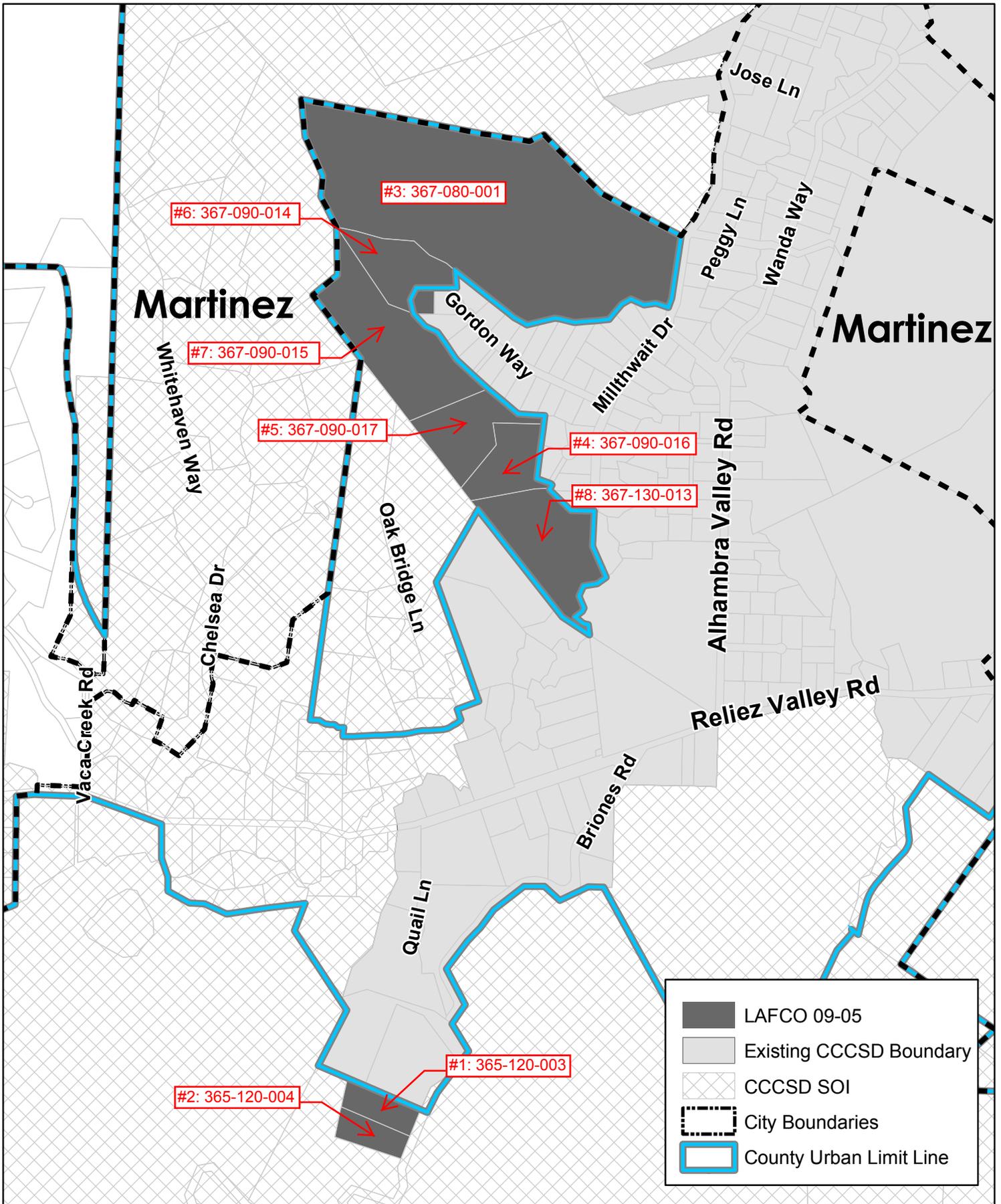
Approve Option 1.

LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments

- 1 – CCCSD 168C Annexation Map
- 2 – Letter from Hal Olson
- 3 – Letter from Ted C. Radosevich
- 4 - Draft LAFCO Resolution 09-05

LAFCO No. 09-05 Annexations 168C to Central Contra Costa Sanitary District



ALHAMBRA VALLEY IMPROVEMENT ASSOCIATION

November 26, 2013

Lou Ann Texeira, Executive Officer, LAFCO
LAFCO Commissioners
651 Pine Street, Sixth Floor
Martinez, CA 94553-1229

RE: CCCSD Annexation No. 168C

Dear Ms. Texeira and Commissioners:

AVIA is in receipt of the notice of the Public Hearing for the above project, and is opposed for the following reasons:

- #1. All eight parcels are outside the Urban Limit Line.
- #2. According to state law when LAFCO considers a boundary change, water availability must be “timely and available” (Gov. Code 56668k).
- #3. The City of Martinez cannot provide water to parcels outside the ULL because the city will lose its substantial Contra Costa County Measure J Transportation Tax funds.
- #4. With the present annexation proposal water service by the city is neither timely, nor available. This annexation never should have been allowed to continue from the beginning.
- #5. Apparently CCCSD thinks it can do whatever it wants since there is no monetary penalty to pay for going beyond the ULL Remember that the Sanitary District had to finance the original trunk line itself when it could not form an assessment district to begin with.

#6. Even the Sanitary District admits that “ a sanitary system may be growth inducing in the sense that the units allowed to be constructed under the existing zoning and land use designations **MAY BE MORE LIKELY TO BE BUILT** with an available samitary sewer than they would be if those units had to rely on a septic system” (p.2-2, Final Environmental Impact Report).

#7. CCCSD states that the proposed annexation is “adjacent” to existing CCCSD boundaries and within its “Sphere of Infludence.” However CCCSD stops there. There is no reason given to serve beyond the ULL. (p.1-1, Final EIR)

#8. Because “someone inquired” about Sanitary District service is not a valid reason to spend a vast amount of money to study the issue. The main point is that the Sanitary District does what it wants to do, and will flex its muscle to do so.

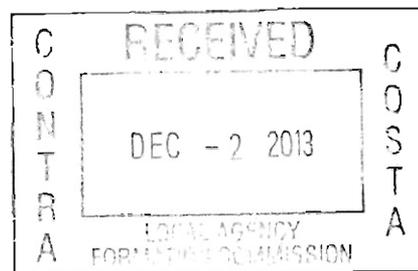
#9. Serving water to the eight parcels should be done first, however that may be done, THEN the District could move to annex.

The Board of Directors of AVIA voted unanimously against the Sanitary District’s current proposal and hopes that the LAFCO Commissions will do the same.

Sincerely,

Hal Olson, President, AVIA
22 Wanda Way
Martinez, CA 94553
925-228-7473
marieolson@earthlink.net

Ted C. Radosevich
Attorney at Law
(SBN 84692)
135 Gordon Way
Martinez, CA 94553
510-658-1150
tedratso@gmail.com



November 27, 2013

Lou Ann Texeria
 Executive Office, LAFCO
 651 Pine Street
 Martinez, CA 94553

RE: CCCSD Proposed Annexation 168C
 Alhambra Valley

Dear Ms. Texeria,

Thank you for the formal notice of the hearing before LAFCO on the above matter. I have sent several comment letters over the years setting forth the legal and policy reasons that this matter should not go forward as proposed by CCCSD. I have attached copies of two of the more relevant background letters, which I submit to inform the LAFCO members of the full background, and to make sure that the public record contains all information should further legal action be needed. I ask that you make sure LAFCO members and staff are provide copies of this material in advance of the December 11, hearing, which I plan to attend.

In its review and consideration of this matter CCCSD, continued to ignore existing County policy, public policy and the voter approved Urban Limit Line to move forward with this annexation. Most troubling and improper is CCCSD's action to annex into its jurisdiction a now vacant 44 acre parcel directly adjacent to the John Muir National Historic site. (APN 367-080-001 if I read the maps correctly).

There is no basis in law or public policy to annex this large, vacant and undeveloped parcel currently outside the voter approved Urban Limit line into CCCSD. The clear reason that the owners want such action is for them to obtain an economic windfall by increasing potential development rights for their undevelopable parcel beyond the Urban Limit Line. This is exactly the type of annexation that LAFCO, which is designed to promote and preserve the larger public interest, should deny. There is no public reason for this 44 acre property to be annexed in contravention to the established Urban Limit Line.

While CCCSD in its environmental document approved in late 2012 expressly limits its review to the alleged minor impacts of building actual sewer lines, and expressly disavows and defers CEQA review of the impacts of development to other agencies in the future, there is no reason for LAFCO to assent. LAFCO could reasonably approve the annexation with respect to other parcels, and eliminate the 44 acre parcel from consideration. There may be policy reasons to allow annexation of other small parcels, most of which have homes and all of which are much, much smaller than the 44 acre parcel – which parcel borders the Muir Historic Site.

I ask that LAFCO members step up to the public duties and obligations vested in them, look at the long term issues at stake, and support the existing Urban Limit Line by deny the annexation with respect to the 44 acre parcel.

I thank you for your consideration.

Very Truly Yours

A handwritten signature in black ink, appearing to read "Ted C. Radosevich". The signature is fluid and cursive, with the first name "Ted" being the most prominent.

Ted C. Radosevich

Enc. - two letters

cc: National Park Service
Honorable George Miller
Tamara Galanter, Esq.
(Shute, Mihaly & Weinberg, LLP)

Exh. A.

**Ted C. Radosevich
Attorney at Law
(SBN 84692)
135 Gordon Way
Martinez, CA 94553
510-658-1150**

September 27, 2012

Mr. Russell Leavitt
Environmental Coordinator
Central Contra Costa Sanitary District
5019 Imhoff Place
Martinez, CA 94553

RE: Draft EIR/IS Proposed Annexation I 68C
Alhambra Valley

Dear Mr. Leavitt:

I am writing to express my concerns with respect to the very limited focus of the Final EIR on the above mentioned project – the proposed annexation of 8 parcels into the Contra Costa County Central Sanitary District (“Central San”) service area.

What has become clear from review of the Final EIR is that staff of Central San is taking a very, very limited and narrow view of the CEQA law as it applies to this project. It is apparent that you are purposely not analyzing a range of arguably potential impacts and disclaiming any responsibility to address any potential impacts beyond those very limited impacts from the construction and installation of 4-inch diameter lateral sewer lines and 8 inch sewer mains at 8 parcels. (Master Comment No. 6).

As such, it appears that the project you are analyzing is only the very narrow and limited sewer related work, and are stating that the potential impacts that might follow from construction of new housing or other development on the subject properties is wholly, and solely, within the future jurisdiction of other public agencies. Such a narrow analysis of the potentially significant adverse environmental impacts violates both the letter and spirit of CEQA. In addition, by approving an extension to these parcels, Central San is violating Contra Costa County voter approved Measure C as well as the Contra Costa County General Plan. The comment letter filed by the County confirms this view.

Since the EIR specifically refused to consider and indeed rejected all requests, demands and efforts to have Central San to consider the potentially significant adverse environmental impacts of the development of these parcels, any future development for

any of these parcels will not be able to rely upon this truncated EIR and will need to analyze the then-current environmental impacts of development under CEQA.

As you have stated in the Master Comments (including, but not limited to) Nos. 3 and 4 the various potential impacts raised by various commenters, including myself in my letter of September 2, 2010, are the appropriate purview of, and will be reviewed by Contra Costa County or other appropriate agencies, when and if parcels that are currently undeveloped are submitted for review and full CEQA analysis. This relates as well to the letter from the National Park Service, my own letter and comments at the public hearing on December 8, 2011 that potentially significant adverse environmental impacts that would or might arise on the John Muir National Historic Site from any development on the currently uninhabited Parcel 3. Central San asserts that any and all impacts from actual future on site work will be subject to CEQA analysis when and if changes in the current status of that parcel are proposed before the appropriate local governmental body. It should be clear that any efforts to develop Parcel 3, which this and other commentators reasonably suggested Central San remove from this Project, will be subject to significant community, County, National Park and legal challenges.

From the written record, it is apparent that Central San has put very clear limitations on the scope, purpose and nature of the CEQA review of Annexation 168C, and what this CEQA document does, or does not, purport to address. In determining what future action to take with respect to the Final EIR, I will certainly act with this written record in mind.

Very Truly Yours,

Ted C. Radosevich

cc: Kent Alm, Esq.
Contra Costa County
National Park Service
Honorable George Miller

Ted C. Radosevich
Attorney at Law
(SBN 84692)
135 Gordon Way
Martinez, CA 94553
510-658-1150

September 2, 2010

Via Fax and US Mail

Contra Costa County Central Sanitary District
To Whom it Concerns:

RE: Draft EIR/IS Proposed Annexation 168C
Alhambra Valley

As set forth in detail below, the draft EIR fails to meet the legal standards required under the California Environmental Quality Act ("CEQA"). The so-called analysis in the draft EIR considers only a few, limited discrete categories in which the analysis of impact is primarily deferred, or in which "factual" statements are made without any evidence to support them. In addition, numerous areas of required statutory analysis are simply ignored based on assertions, without any substantial evidence, that there are no potential significant adverse environmental impacts based on a cursory Initial Study which ignores or "defers" analysis to other agencies or the future.

Lack of Project Description. In order for an EIR to adequately evaluate the environmental ramifications of a project, it must first provide a comprehensive description of the project itself. "An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 730 (quoting *County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 193). As a result, courts have found that even if an EIR is adequate in all other respects, the use of a "truncated project concept" violates CEQA and mandates the conclusion that the lead agency did not proceed in the manner required by law. *San Joaquin Raptor*, 27 Cal. App. 4th at 729-30.

CEQA requires that an EIR identify and analyze the "whole of the project." The CEQA Guidelines define a project "as the whole of an action, which has potential for resulting in a physical change in the environmental, directly or ultimately . . ." CEQA Guidelines Section 15378. The courts have consistently held that an EIR must examine

a project's *potential* to impact the environment, even if the development may not ultimately materialize. *Bozung v. Local Agency Formation Com.* (1975) 13 Cal. 3d 263, 279, 282. Because the extension of sewer services will, by CCCSD's own admission, facilitate ultimate development, (see e.g. Initial Study, page 26 first full paragraph) the annexation will serve as the crucial "first step" toward approval of any particular development project. Thus, the EIR must evaluate the environmental impacts of such development. *City of Carmel-By-the-Sea v. Bd. of Supervisors of Monterey County* (1986) 183 Cal. App. 3d 229, 244; *City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 4th 398, 409.

In the case of District Annexation 168C, it is clear that this is just one step in some larger project that CCCSD has in mind. Indeed, to date with Annexations 186 A and B, CCCSD seems intent on piecemealing its annexation efforts to avoid serious environmental review. The "Project" must be described as the ultimate, final project for CCCSD in this region so that the full impact can be analyzed. For example, the current proposed annexation had twice the number of initial properties involved (See, July 19, 2010 CCCSD notice letter, second full paragraph). What is next when some or all of these property owners have a different view? What about other unserved properties in this area. What is the "ultimate" build out that CCCSD has in mind? And whatever that is, that is the Project that must be fully analyzed. CCCSD has stated in numerous places (see e.g. Chapter 3 B. Annexation Objectives, pg. 3-1, and Chapter 5, Alternatives, pg. 5-4) that its goal is to end the use of septic systems "in order to prevent degradation of Alhambra Creek and its tributaries". With this as the stated goal, the proper Project to be analyzed is the entire area in this Alhambra Creek watershed with septic systems, and not the piecemeal attempt of Annexation 186C for nine parcels. If this approach is allowed without change, no doubt in the next few years we will see Annexations 186 D, E, F, G, H, etc... All without proper CEQA analysis.

Existing and Local Setting: Failure to Describe John Muir National Historic Site.

In what can only be described as a breathtaking omission, the draft EIR has no real description of the fact that the largest undeveloped parcel considered for annexation (Parcel 3, 44 acres) borders the southern boundary of the National Park Site named in honor of the founder of the American Environmental Movement – John Muir. (See Attachment A, 2 page document from NPS website). This underscores the cavalier approach to undertaking CEQA compliance in this annexation. How could one not be aware of the John Muir National Historic Site? "[A]ccurate and complete information pertaining to the setting of the project and surrounding uses" is critical to an evaluation of a project's impact on the environment. *San Joaquin Raptor/Wildlife Center v. Stanislaus County*, 27 Cal.App.4th 713, 728 (1994); see also *Friends of the Eel River v. Sonoma County Water Agency*, 108 Cal.App.4th 859, 875 (2003) ("incomplete description of the Project's environmental setting fails to set the stage for a discussion of significant effects"). This omission alone is enough to make the entire draft EIR legally indefensible. And of course there is no analysis of the potential environmental impacts because this National Park is simply ignored. Nothing more needs to be added other than to indicate that if CCCSD does not go back to the drawing board on this issue, a Court will surely Order them to do so.

District Annexation 168 C Improperly Segments the True Project. Agencies may not improperly “segment” projects in order to avoid preparing an EIR; instead, they must consider related actions in a single document. *Laurel Heights*, 47 Cal.3d. 376-395 (1988). “Not to require this would permit dividing a project into multiple ‘actions,’ each of which individually has an insignificant environmental impact, but which collectively have a substantial impact.” CEQA regulations require that an EIR describe the entirety of a project, including reasonably foreseeable future actions that are part of a project, and must analyze those reasonably foreseeable actions. 14 Cal. Code Regs § 15378(a).

As discussed above with the Project Description, CCCSD has embarked on a rolling series of annexations, the most recent of which are being done in small slices to avoid a true environmental review. The assertion of lack of potential significant impacts in the Initial Study is premised on the relatively small number of parcels in this action. But, as indicated by their own documents, CCCSD desires to expand outside the Urban Limit Line, and originally proposed an annexation with twice the number of parcels. To meet CEQA’s legal standards, CCCSD needs to fully analyze all the potential impacts of the full reach of its likely service area in the Alhambra Valley, and the Alhambra Creek Watershed. While an EIR need not include speculation about future environmental consequences of a project, an “EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effect.” *Laurel Heights*, 47 Cal.3d at 394-396. Under the *Laurel Heights* standard, “the facts of each case will determine whether and to what extent an EIR must analyze future expansion or other action.” *Id.* at p. 396. However, there must be discussion “in at least general terms” of future activity in connection with a project, even if the project is contingent on uncertain occurrences. *Laurel Heights*, 47 Cal.3d at 398. *Laurel Heights* requires a project proponent to analyze future expansion and other such action in an EIR if there is “telling evidence” that the agency has either made decisions or formulated reasonably definite proposals as to expand a project in the future. *Id.* at 396-397.

The Draft EIR Improperly Defers Analysis of Impacts. It is basic and undisputed CEQA law that an EIR cannot defer analysis to the future or to other agencies. The draft EIR and the related Initial Study consistently avoid any analysis. For example, in Aesthetics, Biological Resources, Geology and Soils, Hydrology and Water Quality, Population and Housing, and Transportation/Traffic, to name but a few, the Initial Study says the County, or others will evaluate and act in a manner to reduce the impacts to less than significant. CCCSD takes the position that “someone else will address all these likely impacts”. That is simply not good enough under CEQA.

CEQA does not allow an EIR to defer analysis and mitigation to a future time. *Sundstrom v. Mendocino County* (1988) 202 Cal. App. 3d 296. A project’s impacts must be analyzed, disclosed, and mitigated at the “earliest feasible stage in the planning

process.” *Id.* at 307; see also CEQA Guidelines § 15126.4(a) (1) (B) (“Formulation of mitigation measures should not be deferred until some future time.”). The proper time to analyze these impacts is at this stage. As the Initial Study states (Pg 26, 1st full paragraph) but the proceeds to ignore, “To the extent sanitary sewer service removes this constraint [to be able to build new homes] the project could potentially result in indirect growth in the area.” The initial study admits Annexation 186C will be growth inducing, and then proceeds in the draft EIR to not analyze any of the potential impacts as required by law.

Cumulative Impacts Argument Is Inadequate. Under the CEQA Guidelines, “a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts” CEQA Guidelines § 15130(a)(1). In order complete this analysis, the EIR must first consider and analyze the cumulative impacts associated with similar past, present and future projects. CEQA Guidelines § 15130(b). Because “[c]umulative impacts can result from individually minor but collectively significant projects” (CEQA Guidelines § 15355(b)), an impact that appears less than significant (or mitigable to such a level) when only the project is scrutinized may turn out to contribute to a significant cumulative impact. In that case, the EIR must determine whether the project’s contribution is “cumulatively considerable,” that is, whether its “incremental effects . . . are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” CEQA Guidelines § 15065(a) (3). Thus, even where a project may only contribute a minor amount to a large problem, agencies are still required to analyze whether the project’s contribution is considered significant in light of the nature of the larger problem. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718. The annexation proposed has cumulative effects, and is growth inducing. Indeed, at Page 6-4 CCCSD states “Annexation can also remove a constraint to a denser land use designation.” Then without any evidence it states there is no indication the County will change the designation. Where is that information from, who said it, and how long is it good for... until the next election, next planning director, etc? CCCSD says the annexation could be growth inducing, and then here, as elsewhere fails to undertake any analysis.

The Draft EIR is fundamentally inconsistent with the County General Plan and Urban Limit Line. The proposed annexation is inconsistent with the General Plan and the Urban Limit Line, including provisions adopted by the voters. All the parcels are outside the ULL, and the proper method to change the ULL is with the voters, which can and has been done where proper in the past. The CCCSD factual bases for the “consistency” assertions are simply false.

In Table 6 Goal 3-F, CCCSD asserts consistency by implying residential development exists in all the parcels. In fact, in only 4 of 9 parcels do homes currently exist, and the land mass covered by those homes is less than 20% of the total acreage to be annexed. By CCCSD’s logic, if one parcel of dozens had one home their action would somehow be “consistent. That is clearly false and legally inadequate. If CCCSD were to only annexing the 4 parcels with homes, its argument would have a factual basis.

As it stands it does not since development factually does not exist on either the majority of parcels or acreage.

Goal 3-1 requires effective coordination. These properties ARE outside the ULL established the voters and proper local jurisdictions. It is mere bootstrapping to argue, as CCCSD does, that the sphere of influence coverage means that the ULL does not matter. If these properties were to be INSIDE the ULL it would be done. CCCSD's attempt to bring them inside the ULL is clearly in conflict with the current law. Similarly Policy 3-10 discourages services, particularly growth inducing infrastructure [like sewers]. CCCSD in an argument worthy of a "logic free zone" nonetheless asserts, absents facts, that annexation actually supports this policy. CEQA requires substantial evidence and CCCSD presents none. If a change is warranted there is a simple means to do so that has occurred – a voter approved change.

Other Policy Goals are simply ignored by bald assertions of consistency. For example, Policy 3-28. Here CCCSD's response states that most of the land to be annexed is above 26% slopes, but that annexation is still consistent. From Figure 7, it appears that about 90% of parcel 3 has slopes above 26% and should not be buildable at all. Yet in spite of this, CCCSD asserts its annexation is consistent, and as throughout the draft EIR, indicates the County, or someone else will deal with environmental impacts or General Plan consistency later. Similarly Goal 8-B is to preserve natural resources. CCCSD admits that nearly 80% of the acreage to be annexed is in parcels without homes, and that the purpose of the annexation is to allow homes to be built. Constructions, homes, roads, yards and traffic use will surely impact these 70 acres of undeveloped land, but CCCSD just ignores the impact. Policy 8-5 relates to scatter urban development. That is exactly what this annexation will bring – new homes and development on 5 undeveloped parcels comprising some 70 undeveloped acres. Even CCCSD admits a conflict here, but simply ignores it. Goals 9-A and 9-B are obviously ignored. There is simply no analysis of the impacts, and as noted above no discussion or review of the impacts on the John Muir National Historic Site.

Other examples, exist which are too numerous to mention. In sum, CCCSD has provided no facts to support its argument of consistency. And how could it. The land at issue is outside the established, voter approved ULL. CCCSD is trying to circumvent that process in spite of the law and voter action by asserting "we think it is consistent". Such an argument simply fails.

Defects in the Initial Study and Failure to Analyze in the EIR. As noted above, the Initial Study and draft EIR essentially ignored all the potentially significant impacts. There is little, if any, factual basis asserted for this approach, and, of course, deferral to a future date is improper. A few key areas are noted.

Aesthetics. Building homes on undeveloped land will have an obvious impact, particularly with respect to Parcel 3 (and perhaps 4) on the John Muir Site. In addition if homes are built at or near now vacant ridge tops, since builder typically build as high as possible for views, there could also be scenic impacts on Briones Regional Park. The Regional Park is mentioned but ignored in the analysis. Similarly, there are no street

lights in this area, and the construction potential of nearly 20 new homes, most likely "McMansions" or "trophy homes" would have significant light and glare impacts on existing residents and nearby Regional and National Parks.

Agricultural Resources. There is no detail or current description of agricultural uses, so, of course, there is no way to analyze potential impacts. On parcel 3, dozens if not hundreds of mature, producing olive trees exist, likely planted by John Swett or perhaps even John Muir. The Initial Study states there will be a loss of agriculture, but states, without any facts or basis "additional development of these properties does not necessarily mean the loss of agricultural use". These are simply ignored because CCCSD did not look at agricultural issues in a serious manner. CEQA does not allow agencies to "hope" no impacts will occur and hence avoid analysis. It requires analysis.

Air Quality. Consistent with its inadequate approach the Initial Study states any development will have to meet Bay Area Clean Air Plan. There is no analysis of the impacts of all the construction and use of the new homes and development. The narrow discussion of pipeline construction does not evaluate the true potential impacts of the annexation.

Biological Resources. The Initial Study states there are at least 17 sensitive species in the area of the proposed annexation, and admits that residential development "could" adversely impact the species. Here, even CCCSD had to acknowledge an impact. Indeed in the 70 some acres of undeveloped land, building and housing will necessarily fracture and fragment the habitat. Household pets such as dogs, cats, horses, etc., will effectively drive out most if not all of these species. But CCCSD says someone else will look at this potentially significant adverse environmental impact someday.

Cultural Resources. No discussion at all of the John Muir historic site. What more needs to be said. There is accordingly no factual basis for this to topic area to be left out of the draft EIR. But it was.

Hydrology and Water Quality. The initial study states that the resulting housing development would create additional impervious surfaces, with potential significant adverse impacts. Then without any factual analysis or evidence asserts "the amounts and concentrations would be less-than-significant". The whole purpose of CEQA is to require the very analysis CCCSD simply avoids.

Population and Housing. The Initial study states that the availability of sewer will remove the constraints on housing development on these currently undeveloped or underdeveloped lands. It states this could potentially result in "growth", and then defers to the County's purported future actions or other future constraints. A true analysis of these impacts needs to comply with CEQA

Public Services. The Initial Study concludes, without factual basis, that public service needs could not be potentially significant because the area is already developed. However, that assertion flies in the face of the fact that roughly 70 acres of the proposed annexation are undeveloped, and, of course, the fact that all the land is outside the ULL. Rather than analyze these potential impacts, the Initial Study, again, simply defers this to "separate environmental review" sometime in the unknown future.

Transportation. While the proposed annexation assumes nearly 20 new homes could be built, transportation issues are ignored. At the hearing held on August 18, 2010 at the CCCSD offices, neighborhood outside the annexation area, but adjacent to it objected to the lack of traffic analysis. They pointed out that announced plans by the

owner of Parcel 9 to build two 6,000 square foot homes. These homes are predicted to have 5 cars each, adding dozens of daily car trips down the narrow, unpaved Oak Bridge Road. The neighbors testified to existing traffic issues, and restricted emergency access in the current setting. An analysis of traffic impacts is needed. Similar analysis is needed with respect to Parcel 3, with the potential for 8 homes which will likely empty into the narrow Alhambra Valley road near Millthwait, where danger and warning signs already exist. The impact of all this additional traffic is required.

Alternative Analysis is incomplete. Since the draft EIR fails to provide an adequate environmental review, the alternative analysis is fundamentally flawed. Even in the areas where a reasonable alternative exists to lessen the potential impacts noted above, as in Alternative 4, it is summarily rejected without any factual basis or reasoned analysis.

Alternative 4 would exclude by far the largest parcel, Parcel 3. This parcel contains 44 acres, is now wholly undeveloped, but has the potential for 8 homes. It comprises of nearly ½ the land outside the ULL, and borders the John Muir Historic Site. Adopting Alternative 4 would be a reasonable action to remove many of the potential adverse environmental impacts. However, CCCSD rejects the Alternative, apparently because the property owner, who is and has been outside the ULL “has expressed interest in development”. It might appear to an outside observer that the CCCSD staff is more concerned about a property owner’s large economic gain rather than compliance with CEQA or good public policy. In a final ironic note (page 5-4) CCCSD states its concern about septic and the degradation of Alhambra Creek if building is approved by the County without sewers. In every other issues of environmental concern, CCCSD assumes, assures and relies on the County taking all the proper environmental actions, yet in this one situation they apparently assume that the County Health Department will not address environmental issues properly, and as a result sewer service must be extended, and Alternative 4 rejected.

In sum, the Alternative analysis is flawed, and the only Alternative that would significantly reduce potential environmental impact – Alternative 4 - is rejected out of hand because the property owner wants to build and CCCSD believes the County will not impose proper health constraints.

A review of the Initial Study and the draft EIR demonstrate that for whatever reason CCCSD was intent on pushing through the Annexation 186C without any serious and legally sufficient environmental review. Perhaps the hope was that this would sneak by without any public review. Perhaps the staff is overworked and simply did not have the time or resources to meet the legally required standard. The fact that the existence of the John Muir Historic Site was not even discussed indicates the latter.

In any event the document is defective, needs to be re-written and recirculated. However, the better course would just be to drop the effort altogether. It is not clear why tens of thousands of dollars of ratepayer money is being spent to annex land outside the ULL. Rates have already gone up for customers such as me. The better course is to use ratepayer money wisely, pull the draft EIR and stop the process.

The alternative is costly litigation, sure loss in Court, and payment of tens of thousands of dollars in legal fees.

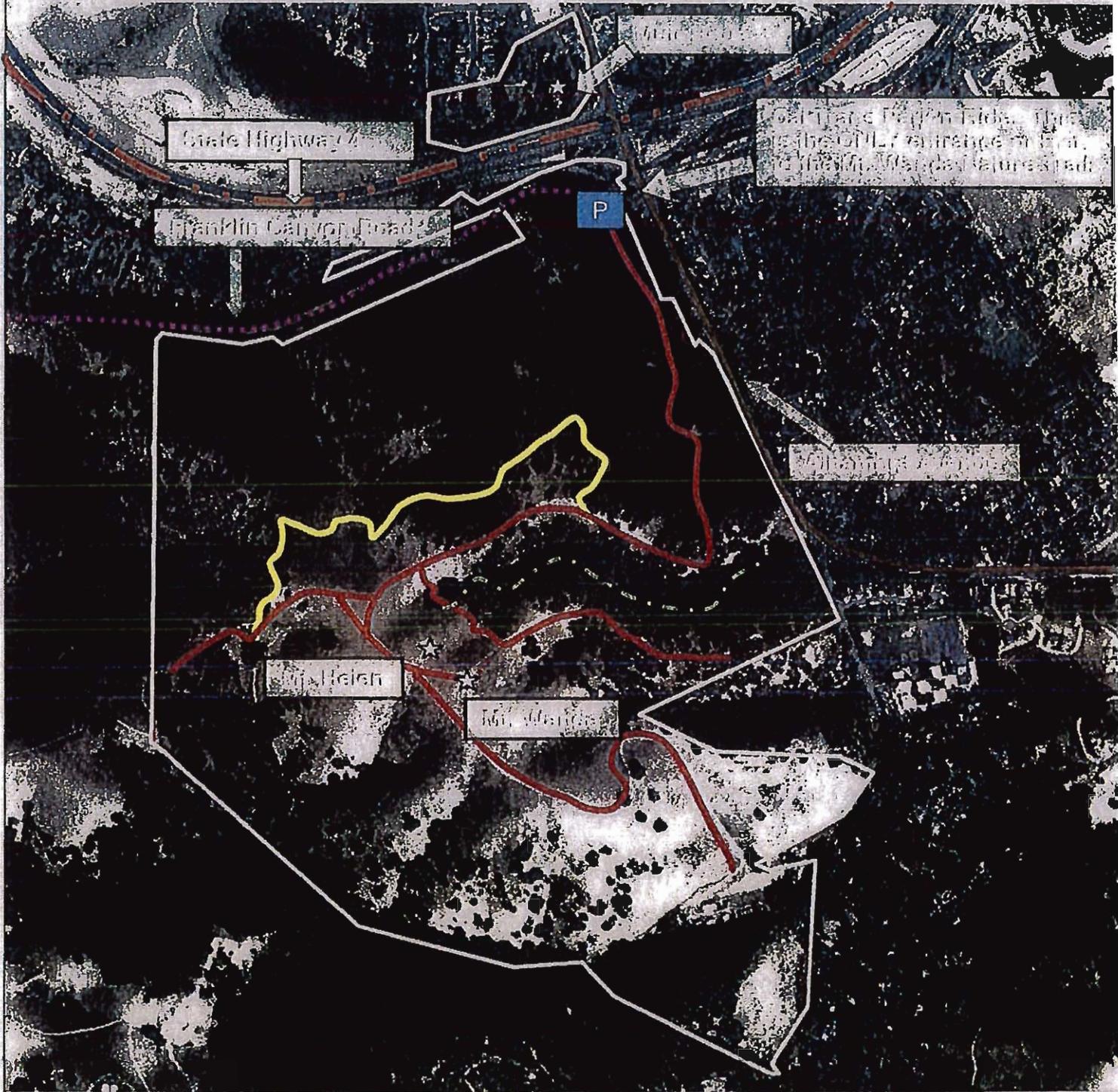
Very Truly Yours,

Ted C. Radosevich

Enc.

cc: John Muir Historic Site
Supervisor Uilkema
Congr. George Miller
All Board Members, CCCSD

Mt. Wanda



➤ CalTrans parking lot and TrailHead.
(at Franklin Canyon Road and Alhambra avenue)



➤ Points of Interest



➤ Main Fire Road



➤ Nature Trail



➤ Riparian Trail



➤ Park Boundary





Mt. Wanda Area

Area open seven days a week – Sunrise to Sunset.

"Another lovely day, mostly solid sunshine. Took a fine fragrant walk up the west hills with Wanda and Helen, who I am glad to see love walking, flowers, trees and every bird and beast and creeping thing. Buttercup, clover, gilia, Brodiaea, Allium, Dodecatheon, larkspur and portulacas are in flower. The oaks are in full leaf. A fine fragrant walk, the babies are delighted." John Muir, April 12, 1895

John Muir lived and worked in the Alhambra Valley for 32 years. He had a loving wife Louie, and two daughters, Wanda and Helen. The family had 2,600 acres, of which about 2,200 were used for growing a variety of fruit. Named after his eldest daughter, Mt. Wanda is 326 acres of oak woods and grasslands. The Muir family never used it for fruit production, but as an escape for the daughters to take nature walks with "Papa".

- The entrance gate for the Mt. Wanda Area is located by the Park & Ride lot on Franklin Canyon Road and Alhambra Ave. It is an uphill saunter of half a mile to the nature trail, and one mile to the top. The highest point in the park is the summit at 640 feet.
- Please wear good walking shoes and comfortable clothes. Bring your own drinking water. The weather in early June may reach 100 degrees.
- There is no camping or fires or fireworks allowed on Mt. Wanda.
- Dogs are permitted, but must stay on leash. Please clean up after your dog.
- All fire roads dead-end at private property, there is currently one way in and one way out. There are no connections to other trails yet. Please do not climb fences.
- Please respect all wildlife and plants. Take only memories and photos, and leave nothing but footprints.

RESOLUTION NO. 09-05

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
ANNEXATION 168C TO CENTRAL CONTRA COSTA SANITARY DISTRICT**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, information satisfactory to the Commission has been presented that no affected landowners/registered voters within the annexation area object to the proposal; and

WHEREAS, the Local Agency Formation Commission determines the proposal to be in the best interests of the affected area and the total organization of local governmental agencies within Contra Costa County;

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. The Commission certifies it reviewed and considered the information contained in Central Contra Costa Sanitary District (CCCSD) District Annexation 168C – Alhambra Valley Environmental Impact Report as prepared and certified by CCCSD.
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

ANNEXATION 168C TO CENTRAL CONTRA COSTA SANITARY DISTRICT

4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
5. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.
6. That CCCSD delivered an executed indemnification agreement between the CCCSD and Contra Costa LAFCO providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.

Contra Costa LAFCO
Resolution No. 09-05

7. The territory proposed for annexation is uninhabited.
8. The proposal has 100% landowner consent and the conducting authority (protest) proceedings are hereby waived.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

PASSED AND ADOPTED THIS 11th day of December 2013, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

FEDERAL GLOVER, CHAIR, CONTRA COSTA LAFCO

I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.

Dated: December 11, 2013

Lou Ann Texeira, Executive Officer



Lou Ann Texeira
Executive Officer

MEMBERS

Donald A. Blubaugh
Public Member
Federal Glover
County Member
Michael R. McGill
Special District Member

Dwight Meadows
Special District Member
Mary N. Piepho
County Member
Rob Schroder
City Member

Don Tatzin
City Member

ALTERNATE MEMBERS

Candace Andersen
County Member
Sharon Burke
Public Member
Tom Butt
City Member
George H. Schmidt
Special District Member

December 11, 2013
Agenda Item 7

November 13, 2013 (Agenda)

Contra Costa Local Agency Formation Commission (LAFCO)
651 Pine Street, Sixth Floor
Martinez, CA 94553

Northeast Antioch Monthly Update

Dear Commissioners:

On February 9, 2011 the Commission approved the extension of out of agency service by the City of Antioch and Delta Diablo Sanitation District to the NRG Energy property (formerly GenOn) located in unincorporated Northeast Antioch. The Commission’s approval requires that the City and County provide LAFCO with monthly updates regarding the status of the Northeast Antioch annexation and tax transfer negotiations efforts. A subcommittee was formed to address these and other issues.

LAFCO representatives participated in monthly subcommittee meetings from April to October 2011. In October 2012, the subcommittee resumed meeting, and last met on January 28, 2013. The City and County have continued to provide LAFCO with regular updates regarding community outreach, and the status of the tax exchange and infrastructure agreements.

Last month, we reported that on November 12, the County Board of Supervisors approved the property tax transfer and infrastructure agreements relating to Northeast Antioch (Areas 1, 2A and 2B). On November 26, the Antioch City Council also approved these agreements.

LAFCO staff is working to place the Area 1 and Area 2B reorganization proposals on the Commission’s January 8, 2014 agenda. The Area 2A proposal will be presented to the Commission in February or March 2014.

RECOMMENDATION - Receive the monthly update and provide comment and direction as desired.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

c: Distribution



Lou Ann Teixeira
Executive Officer

MEMBERS

Donald A. Blubaugh <i>Public Member</i>	Dwight Meadows <i>Special District Member</i>
Federal Glover <i>County Member</i>	Mary N. Piepho <i>County Member</i>
Michael R. McGill <i>Special District Member</i>	Rob Schroder <i>City Member</i>
Don Tatzin <i>City Member</i>	

ALTERNATE MEMBERS

Candace Andersen
County Member

Sharon Burke
Public Member

Tom Butt
City Member

George H. Schmidt
Special District Member

December 11, 2013 (Agenda)

December 11, 2013
 Agenda Item 8

Contra Costa Local Agency Formation Commission
 651 Pine Street, Sixth Floor
 Martinez, CA 94553

Actuarial Valuation – Post-Employment Healthcare Benefits

Dear Members of the Commission:

Contra Costa LAFCO provides post-employment healthcare benefits for its retired employees and their spouses and dependents. LAFCO currently funds the employer’s share of these benefits for three retirees; in addition, LAFCO currently employs two full-time employees.

In order to fund this benefit and minimize future fiscal impacts to LAFCO, the Commission initiated a plan to fund future costs associated with this benefit. LAFCO is not required to fund the liability, but has elected to do so. To date, the Commission has set aside a total of \$30,000 for this purpose. The funds are currently in the LAFCO fund balance account.

LAFCO staff has explored trust options for holding LAFCO’s assets to pay post-employment healthcare benefits. The preferred option is to participate with Contra Costa County in the Public Agencies Retirement Services (PARS). PARS is a direct trust administrative provider, and not a broker.

In order to participate in the PARS trust program, LAFCO must first conduct an actuarial valuation to calculate the future liability for retiree healthcare and other post-employment benefits. The calculations will project the liability for active employees during their retirement, and for any retired employees who elect to receive post-employment benefits.

Federal accounting rules - Government Accounting Standard Board Statement 45 (GASB 45) - require LAFCO to disclose any unfunded post-employment benefits in its annual audits. If the employer has less than 100 “plan members” it is eligible for an approved alternative measurement method (AMM) to comply with GASB 45.

LAFCO staff has contacted two actuarial valuation firms that offer qualified AMM services.

- California Special Districts Association (CSDA) has teamed with the California School Boards Association and the actuarial firm of Demsey, Filliger & Associates, LLC to provide an AMM service at a flat fee of \$1,500.
- Milliman, a national actuarial consulting firm, also offers an AMM service for a fee of \$2,200.

Pursuant to the Commission's policies and procedures (1.5 Budget and Financial Procedures, section G Accounting and Financial Policies and Procedures, subsection 5, Contract Approval and Execution), the Commission delegates to the Executive Officer the authority to approve and execute contracts, agreements and amendments for \$5,000 or less, provided sufficient funds are contained in the appropriate line item in the LAFCO budget.

Adequate funds are included in the FY 2013-14 budget to fund an actuarial valuation.

LAFCO Executive Officer staff will proceed with retaining Demsey, Filliger & Associates, LLC to provide an AMM actuarial valuation at the cost of \$1,500.

RECOMMENDATION: Receive report and provide comments.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER



Lou Ann Texeira
 Executive Officer

MEMBERS

Donald A. Blubaugh <i>Public Member</i>	Dwight Meadows <i>Special District Member</i>
Federal Glover <i>County Member</i>	Mary N. Piepho <i>County Member</i>
Michael R. McGill <i>Special District Member</i>	Rob Schroder <i>City Member</i>
Don Tatzin <i>City Member</i>	

ALTERNATE MEMBERS

Candace Andersen
County Member
Sharon Burke
Public Member
Tom Butt
City Member
George H. Schmidt
Special District Member

December 11, 2013 (Agenda)

December 11, 2013
 Agenda Item 9

Contra Costa Local Agency Formation Commission
 651 Pine Street, Sixth Floor
 Martinez, CA 94553

Commissioner Terms

Dear Members of the Commission:

This is an update regarding Commissioner appointments and the process for filling vacancies.

The authority and procedures for appointing members of the Commission are set forth in the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act). All terms of office on LAFCO are four years, expiring on the first Monday in May, unless otherwise specified.

In May 2014, the terms of four Commissioners will expire: County members Federal Glover and Mary Piepho, and Special District members Dwight Meadows and George Schmidt.

The selection process for the County and Special District members is summarized below:

County Members – Per the CKH Act and Commissioner policies, County members are selected by the County Board of Supervisors. LAFCO staff will coordinate with the County regarding the upcoming vacancies, and report back to the Commission following the appointments. The Board of Supervisors typically makes its appointments in January each year.

Special District Members – Per the CKH and Commission policies, Special District members are selected by the Special District Selection Committee through the local chapter of the Special Districts Association. LAFCO staff will conduct the election in conjunction with the Contra Costa Special District Association, and report back to the Commission following the election in April 2014.

RECOMMENDATION - Receive report.

Sincerely,

LOU ANN TEXEIRA
 EXECUTIVE OFFICER



December 11, 2013
Agenda Item 10

RETIREMENT BOARD MEETING
SECOND MONTHLY MEETING

9:00 a.m.
November 26, 2013

Retirement Board Conference Room
The Willows Office Park
1355 Willow Way, Suite 221
Concord, California

THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.
2. Accept comments from the public.
3. Approve minutes from the November 9, 2011, October 17 and 23, 2013 meetings.
4. Review of total portfolio performance including:
 - a. Consideration of any managers already under review or to be placed under review.
 - b. Consideration of any changes in allocations to managers
5. Consider and take possible action on follow up information received regarding retired member with on call pay.
6. Consider and take possible action on changes to Travel Policy.
7. Consider and take possible action on Board meeting schedule for 2014.

CLOSED SESSION

8. The Board will go into closed session under Govt. Code Section 54956.9(a) to confer with legal counsel regarding existing litigation :
 - a. *Contra Costa County Deputy Sheriffs Association, et al., v. CCCERA, et al.,*
Contra Costa County Superior Court, Case No. N12-1870.
9. The Board will continue in closed session under Govt. Code Section 54956.81 to consider the purchase or sale of a particular pension fund investment.

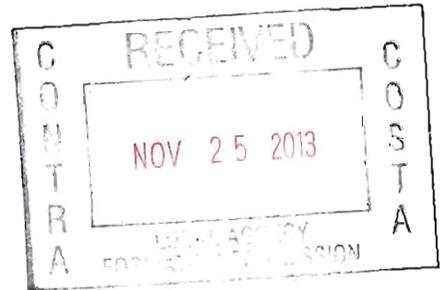
OPEN SESSION

10. Consider authorizing the attendance of Board and/or staff:
 - a. Advanced Principles of Pension Management for Trustees, CALAPRS, January 22-24, 2014, Los Angeles, CA.
11. Miscellaneous
 - a. Staff Report
 - b. Outside Professionals' Report
 - c. Trustees' comments

The Retirement Board will provide reasonable accommodations for Persons with disabilities planning to attend Board meetings who contact The Retirement Office at least 24 hours before a meeting.

MEMORANDUM

Date: November 21, 2013
To: All Participating Employers
From: Marilyn Leedom, Retirement CEO
Subject: IRS Letter of Determination



The Contra Costa County Employees' Retirement Association has received a favorable "Letter of Determination" from the Internal Revenue Service, effective September 17, 2013. A "Letter of Determination" is a favorable ruling that the terms of the retirement plan comply with applicable provisions of the Internal Revenue Code and IRS rules. It means that the retirement plan is "tax-qualified" under the Internal Revenue Code and IRS rules, and therefore plan participants are not taxed when contributions are made to the plan, but rather upon receipt of benefits at retirement.

CCCERA had previously applied for, and received, a favorable Letter of Determination from the IRS in 1987.

We have attached a copy of the new IRS Letter of Determination for your records.

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

SEP 17 2013

CONTRA COSTA COUNTY EMPLOYEES'
RETIREMENT ASSOCIATION
C/O MARY B BRAITMAN
ICE MILLER LLP
ONE AMERICAN SQUARE SUITE 2900
INDIANAPOLIS, IN 46282

Employer Identification Number:

94-2478110

DIN:

601024001

Person to Contact:

MAXINE B TERRY

ID# 50016

Contact Telephone Number:

(202) 283-9644

Plan Name:

CONTRA COSTA COUNTY EMPLOYEES'
RETIREMENT ASSOCIATION

Plan Number: 001

Dear Applicant:

We have made a favorable determination on the plan identified above based on the information you have supplied. Please keep this letter, the application forms submitted to request this letter and all correspondence with the Internal Revenue Service regarding your application for a determination letter in your permanent records. You must retain this information to preserve your reliance on this letter.

Continued qualification of the plan under its present form will depend on its effect in operation. See section 1.401-1(b)(3) of the Income Tax Regulations. We will review the status of the plan in operation periodically.

The enclosed Publication 794 explains the significance and the scope of this favorable determination letter based on the determination requests selected on your application forms. Publication 794 describes the information that must be retained to have reliance on this favorable determination letter. The publication also provides examples of the effect of a plan's operation on its qualified status and discusses the reporting requirements for qualified plans. Please read Publication 794.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other federal or local statutes.

This determination letter gives no reliance for any qualification change that becomes effective, any guidance published, or any statutes enacted, after the issuance of the Cumulative List (unless the item has been identified in the Cumulative List) for the cycle under which this application was submitted.

This letter may not be relied on after the end of the plan's first five-year remedial amendment cycle that ends more than twelve months after the application was received. This letter expires on January 31, 2014. This letter considered the 2009 Cumulative List of Plan Qualification Requirements.

This determination letter is applicable for the plan adopted on 07/01/1945.

Letter 2002 (DO/CG)

CONTRA COSTA COUNTY EMPLOYEES'

This determination letter is applicable for the amendment(s) executed on 7/19/2010 8/18/2010.

This determination letter is also applicable for the amendment(s) dated on 8/27/2010 9/30/2010.

This determination letter is also applicable for the amendment(s) dated on 7/7/2011 7/27/2011.

This determination letter is based solely on your assertion that the plan is entitled to be treated as a Governmental plan under section 414(d) of the Internal Revenue Code.

This determination letter is applicable to the plan and related documents submitted in conjunction with your application filed during the remedial amendment cycle ending 2011.

We have sent a copy of this letter to your representative as indicated in the Form 2848 Power of Attorney or appointee as indicated by the Form 8821 Tax Information Authorization.

If you have questions concerning this matter, please contact the person whose name and telephone number are shown above.

Sincerely,



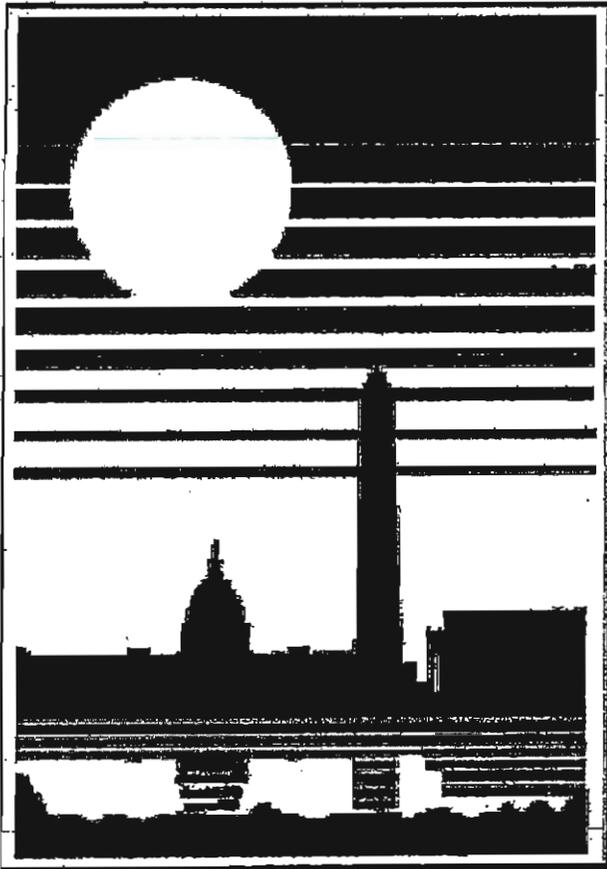
Andrew E. Zuckerman
Director, EP Rulings & Agreements

Enclosures:
Publication 794



Favorable Determination Letter

Publication 794
(January 2013)



Introduction

This publication explains the significance of a favorable determination letter, points out some features that may affect the qualified status of an employee retirement plan and nullify the determination letter without specific notice from us, and provides general information on the reporting requirements for the plan.

Significance of a Favorable Determination Letter

An employee retirement plan qualified under Internal Revenue Code (IRC) section 401(a) (qualified plan) is entitled to favorable tax treatment. For example, contributions made in accordance with the plan document are generally currently deductible. However, participants will not include these contributions in income until the time they receive a distribution from the plan. In some cases, taxation may be further deferred by rollover to another qualified plan or individual retirement arrangement. (See Publication 575, Pension and Annuity Income, for further details.) Finally, plan earnings may accumulate tax free. Employee retirement plans that fail to satisfy the requirements under IRC section 401(a) are not entitled to favorable tax treatment. Therefore, many employers desire advance assurance that the terms of their plans satisfy the qualification requirements.

The Internal Revenue Service (IRS) provides such advance assurance through the determination letter program. A favorable determination letter indicates that, in the opinion of the IRS, the terms of the plan conform to the requirements of IRC section 401(a). A favorable determination letter expresses the IRS's opinion regarding the form of the plan document. However, to be a qualified plan under IRC section 401(a) entitled to favorable tax treatment, a plan must satisfy, in both form and operation, the requirements of IRC section 401(a), including nondiscrimination and coverage

requirements. If elected, a favorable determination letter may also provide assurance that the plan satisfies certain of these nondiscrimination requirements in form. See the following topic, Limitations and Scope of a Favorable Determination Letter, for more details.

Limitations and Scope of a Favorable Determination Letter

A favorable determination letter is limited in scope. A determination letter generally applies to qualification requirements regarding the form of the plan.

Generally no reliance for nondiscrimination requirements. Generally, a favorable determination letter does not consider, and may not be relied on with regard to whether a plan satisfies the nondiscrimination requirements of IRC section 401(a)(4).

However, if elected by the applicant, a determination letter may be relied on with respect to whether the terms of the plan satisfy one of the design-based safe harbors in Regulation sections 1.401(a)(4)-2(b) and 1.401(a)(4)-3(b), pertaining to the requirement that either the contributions or the benefits under a qualified plan be nondiscriminatory in amount.

No reliance for coverage requirements. A favorable determination letter does not consider, and may not be relied on with regard to whether a plan satisfies the minimum participation requirements of IRC section 401(a)(26) and the minimum coverage requirements of IRC section 410(b).

No reliance for changes in law and guidance subsequent to publication of the applicable Cumulative List.

Every year, the IRS publishes a Cumulative List of Changes in Plan Qualification Requirements,

(Cumulative List). The Cumulative List identifies changes in the qualification requirements that the IRS will consider in reviewing determination letter applications that are filed during the 12-month "submission period" that begins on the February 1st following publication of the applicable list.

A determination letter for an on-going individually designed plan is based on the Cumulative List in effect for the submission period in which the determination letter application is filed (that is, the "applicable Cumulative List"). See sections 4, 13, and 14 of Revenue Procedure 2007-44 for further details.

Generally, a determination letter issued to an adopting employer of a pre-approved volume submitter plan with minor modifications is based on the list for which the volume submitter practitioner filed its application for an advisory letter for the volume submitter specimen plan (that is, the "applicable Cumulative List," in the case of a volume submitter plan).

For terminating plans, a determination letter is based on the law in effect at the time of the plan's proposed date of termination. See section 8 of Rev. Proc. 2007-44.

A favorable determination letter generally may not be relied on for any guidance published, or any statutes enacted, after the issuance of the "applicable Cumulative List" or for any qualification requirements that become effective in a calendar year after the calendar year in which the submission period begins, except for guidance that is included in the "applicable Cumulative List." See section 4.03 of Rev. Proc. 2007-44.

Other limitations. In addition, the following apply generally to all determination letters:

- If the employer maintain two or more retirement plans, any of which were either not submitted to the IRS

for determination or not disclosed on each application, certain limitations and requirements will not have been considered on an aggregate basis. Therefore, the employer may not rely on the determination letter regarding the plans when considered as a total package.

- A determination letter does not consider the special requirements relating to: (a) IRC section 414(m) (affiliated service groups), (b) IRC section 414(n) (leased employees), or (c) a partial termination of a plan unless the application includes requests that the letter consider such requirements.

- A determination letter does not consider whether actuarial assumptions are reasonable for funding or deduction purposes or whether a specific contribution is deductible.

- A determination letter does not express an opinion whether disability benefits or medical care benefits are accident and health plan benefits under IRC section 105 or whether contributions are contributions by an employer to accident and health plans under IRC section 106.

- A determination letter does not express an opinion on whether the plan is a governmental plan defined in IRC section 414(d).

- A determination letter does not express an opinion on whether contributions made to a plan treated as a governmental plan defined in IRC section 414(d) constitute employer contributions under IRC section 414(h)(2), nor on whether a governmental excess benefit arrangement satisfies the requirements of IRC section 415(m).

- A determination letter does not express an opinion on whether the plan is a church plan within the meaning of section 414(e).

Become familiar with the terms of the determination letter. Call the contact person listed on the determination letter if any of the terms in the determination letter are not understood.

Retention of Information.

Whether a plan meets the qualification requirements is determined from the information in the written plan document, the application form, and the supporting information submitted by the employer. **Therefore, the employer must retain a copy of the application, information submitted with the application and all other correspondence.**

Other Conditions for Reliance.

We have not verified the information submitted with the application. The determination letter will not provide reliance if:

- (1) there has been a misstatement or omission of material facts, (for example, the application indicated that the plan was a governmental plan and it was not a governmental plan);
- (2) the facts subsequently developed are materially different than the facts on which the determination was made; or
- (3) there is a change in applicable law.

Amendments to the plan for changes in law and guidance. A favorable determination letter issued for an individually designed plan provides reliance up to and including the expiration date identified on the determination letter. This reliance is conditioned upon the timely adoption of any necessary interim amendments as required by section 5.04 of Rev. Proc. 2007-44. A favorable determination letter issued to an adopting employer of a pre-approved volume submitter plan with minor modifications provides reliance up to and including the last day of

the six-year remedial amendment cycle, conditioned upon the timely adoption of any necessary interim amendments as required by section 5.04 of Rev. Proc. 2007-44. Also see Rev. Proc. 2011-49, 2011-44 I.R.B. 609 sections 5.01 and 15.05.

Plan Must Qualify in Operation

Generally, a plan qualifies in operation if it satisfies the coverage and nondiscrimination requirements and is maintained according to its terms. However, a plan generally must be operated in a manner that satisfies any change in the qualification requirements for the period beginning when the change is effective, even if the plan has not yet been amended for the change. Changes in facts on which the determination letter was issued may mean that the determination letter may no longer be relied upon.

Some examples of the effect of a plan's operation on a favorable determination are:

Contributions or benefits in excess of the limitations under IRC section 415. A retirement plan may not provide retirement benefits or, in the case of a defined contribution plan, contributions and other annual additions, that exceed the limitations specified in IRC section 415. The plan contains provisions designed to provide benefits within these limitations. The plan is disqualified if these limitations are exceeded.

Top heavy minimums under IRC section 416. If this plan is top heavy in accordance with IRC 416, the plan must provide certain minimum benefits and vesting for non-key employees. If the plan provides the minimum benefits and accelerated vesting only for years during which the plan is top heavy, failure to identify such years and to provide the accelerated vesting and benefits will disqualify the plan.

Actual deferral percentage or contribution percentage tests.

If this plan provides for cash or deferred arrangements, employer matching contributions, or employee contributions, the determination letter considers whether the terms of the plan satisfy the requirements specified in IRC section 401(k)(3) or 401(m)(2), in form. However the determination letter does not consider whether special nondiscrimination tests described in IRC section 401(k)(3) or 401(m)(2) have been satisfied in operation.

Reporting Requirements

Most plan administrators or plan sponsors/employers who maintain an employee benefit plan must file a Form 5500 series annual return/report.

A "Final" Form 5500 series annual return/report must be filed if the plan is terminated.

Form 5330 for prohibited transactions.

Transactions between a plan and someone having a relationship to the plan (disqualified person) are prohibited, unless specifically exempted from this requirement. A few examples are loans, sales and exchanges of property, leasing of property, furnishing goods or services, and use of plan assets by the disqualified person. Disqualified persons who engage in a prohibited transaction for which there is no exceptions must file Form 5330 by the last day of the seventh month after the end of the tax year of the disqualified person.

Form 5330 for tax on nondeductible employer contributions to qualified plans - If contributions are made to this plan in excess of the amount deductible, a tax may be imposed upon the excess contribution. Form 5330 must be filed by the last day of the seventh month after the end of the employer's tax year.

Form 5330 for tax on excess contributions to cash or deferred arrangements or excess employee contributions or employer matching contributions - If a plan includes a cash or deferred arrangement (IRC section 401(k)) or provides for employee contributions or employer matching contributions (IRC section 401(m)), then excess contributions that would cause the plan to fail the actual deferral percentage or the actual contribution percentage test are subject to a tax unless the excess is eliminated within 2½ months after the end of the plan year. Form 5330 must be filed by the due date of the employer's tax return for the plan year in which the tax was incurred.

Form 5330 for tax on reversions of plan assets - Under IRC section 4980, a tax is payable on the amount of almost any employer reversion of plan assets. Form 5330 must be filed by the last day of the month following the month in which the reversion occurred.

Form 5310-A for certain transactions - Under IRC section 6058(b), an actuarial statement is required at least 30 days before a merger, consolidation, or transfer (including spin-off) of assets to another plan. This statement is required for all plans. However, penalties for non-filing will not apply to defined contribution plans for which:

- (1) The sum of the account balances in each plan equals the fair market value of all plan assets,
- (2) The assets of each plan are combined to form the assets of the plan as merged,
- (3) Immediately after a merger, the account balance of each participant is equal to the sum of the account balances of the participant immediately before the merger, and

- (4) The plans must not have an unamortized waiver or unallocated suspense account.

Penalties will also not apply if the assets transferred are less than three percent of the assets of the plan involved in the transfer (spinoff), and the transaction is not one of a series of two or more transfers (spinoff transactions) that are, in substance, one transaction.

The purpose of the above discussions is to illustrate some of the principal filing requirements that apply to pension plans. This is not an exclusive listing of all returns and schedules that must be filed.

News from the Board of Directors

CALAFCO QUARTERLY

December 11, 2013
Agenda Item 12a

November 2013



CALAFCO WELCOMES TEHAMA LAFCO TO THE ASSOCIATION

We are proud to welcome Tehama LAFCo as a member of the Association. Look for a full article on Tehama LAFCo in the next edition of *The Sphere*.

2014 Annual Conference Update

At their November 8 meeting, the CALAFCO Board decided to move the conference to the new dates of October 15 – 17 so as not to conflict with the California Special Districts Association (CSDA) annual conference, which is scheduled for the same dates as the September dates. We are still at the DoubleTree by Hilton in Ontario with our host San Bernardino LAFCo. We are looking forward to a great conference with lots of things to do and see in Ontario. More information about the conference will be available soon. For now, mark your calendars for **OCTOBER 15 – 17, 2014!**

2014 Staff Workshop

The 2014 Staff Workshop is scheduled for **April 23 – 25, 2014** at the DoubleTree by Hilton in the Berkeley Marina. Our host for the workshop is Alameda and the Bay area LAFCos. The Host and Program Committees have begun their planning and details will be made available soon.

CALAFCO Board 2014 Committees

The CALAFCO Board appointed members to the 2014 standing committees are as follows:

Legislative Committee

Gay Jones
William Kirby
John Leopold
Mike McGill
Eugene Montanez
Josh Susman
Robert Bergman (a)
James Curatalo (a)
Mary Jane Griego (a)
Juliana Inman (a)
Ted Novelli (a)

Nominations Committee

Julie Allen
Mary Jane Griego
Juliana Inman
Mike Kelley
Elliot Mulberg (Chair)

Awards Committee

Larry Duncan
Mary Jane Griego (Chair)
John Leopold
Ted Novelli
Stephen Tomanelli
Josh Susman
Roger Welt

2014 Annual Conference

James Curatalo (Chair)
Stephen Tomanelli

CALAFCO U Courses for 2014

CALAFCO staff is in the process of finalizing the schedule of sessions for the first half of 2014 with topics that include the Protest Process, in January in southern California; LAFCo Best Practices (content taken from the Projects of the Year nominations) in early spring in Sacramento, and another in June on LAFCo lawsuits and how to prepare for and deal with them successfully.

LAFCo Symposium – December 9, 2013

UC Davis Extension and CALAFCO are co-sponsoring a one day symposium in Sacramento to celebrate the 50th birthday of LAFCo. Mark your calendars to join us for lively panel discussions on hot issues facing LAFCos today, and hear our special keynote

speaker the Honorable Robert Hertzberg.

Details and registration information are available on the CALAFCO website.

2013 Annual Conference in Squaw Valley a Success

328 commissioners, staff, associate members and guest speakers attended the annual conference held in Squaw Valley this past August.

There was good representation of LAFCos, with 48 of the 57 member LAFCos represented. Evaluation results showed a positive overall rating of 5.1 on a 6.0 scale. Participants mentioned the quality of the session topics, the location and venue, the banquet dinner and program, and the value of networking opportunities as some of the highlights.

Financially the conference met the goals established by the Board. Our thanks to Placer, Nevada and El Dorado LAFCos for hosting, Josh Susman (Nevada LAFCo) as Committee Chair, and Sam Martinez (San Bernardino LAFCo) as Program Chair.

CALAFCO Board Actions

During their regular meeting on November 8, the Board addressed several administrative issues including:

- ◆ The quarterly financial reports were reviewed and the budget is on track for the year. All financial reports are located on the website.
- ◆ Approved recommended LAFCo staff appointments to the 2014 Legislative Committee.
- ◆ Directed the newly formed Recruitment and Nominations Committee to review the current absentee ballot voting policy and potential use of absentee ballots in the case of a run-off election, and report to the Board in February on any recommendations.
- ◆ Approved the contract renewal for Pamela Miller as the Association's Executive Director.
- ◆ Approved the contract renewal for Jeni Tickler as the Association's Administrator.

Legislative Activities

The 2013 legislative year saw 2,264 bills introduced, of which 805 were chaptered and 96 were vetoed. CALAFCO's bills included AB 1427 (Omnibus) and AB 743 (Logue), both of which were signed into law. The other CALAFCO bill, AB 453 (Mullin) died in Senate Appropriations. A full report on the 2013 legislative year is located on the CALAFCO website.

The legislature will reconvene on January 7, 2014. CALAFCO's Legislative Committee is scheduled to meet via conference call on November 25th, and in person on December 6th. During their November 8th meeting, the Board gave consensus for the Legislative Committee to consider legislation that would change the MSR/SOI cycle from every 5 years to every 8 years, to coincide with the housing element update cycle. The Board also gave direction to the Legislative Committee to conduct outreach to freshman legislators who have been a LAFCo Commissioner as a way to build relations and partner with them on potential future LAFCo legislation.



2014 Events Calendar

JANUARY

- 15-17 California Association of Sanitation Agencies Conference (Indian Wells)
- 24 CALAFCO Legislative Committee**
(Sacramento)

FEBRUARY

- 7 CALAFCO Board of Directors Meeting**
(Irvine)

MARCH

- 5 Association of CA Water Agencies Legislative Symposium (Sacramento)
- 14-16 Local Government Commission Ahwahnee Conference (Yosemite)
- 21 CALAFCO Legislative Committee**
(Ontario)

APRIL

- 10-12 Fire District Association Annual Meeting (Napa)
- 23 League of Cities Legislative Day (Sacramento)
- 23-25 CALAFCO Staff Workshop** (Berkeley)
- 28-29 California Assn. of Sanitation Agencies Legislative Policy Forum (Sacramento)

MAY

- 2 CALAFCO Board of Directors Meeting**
(Northern Region)
- 6-9 Association of California Water Agencies Conference (Monterey)
- 9 CALAFCO Legislative Committee**
(Sacramento)
- 14-15 California State Assn. of Counties Legislative Conference (Sacramento)
- 20-21 California Special Districts Assn. Legislative Days (Sacramento)

JUNE

JULY

- 11 CALAFCO Board of Directors Meeting**
(Sacramento)
- 25 CALAFCO Legislative Committee**
(Conference call)

AUGUST

- 20-23 California Association of Sanitation Agencies Annual Conference (Monterey)

SEPTEMBER

- 3-5 League of California Cities Annual Conference (Los Angeles)
- 24-26 Regional Council of Rural Counties Annual Conference (Squaw Valley)
- 16-19 California Special Districts Assn. Annual Conference (Monterey)

OCTOBER

- 15-17 CALAFCO Annual Conference**
(Ontario)
- 17 CALAFCO Board of Directors Meeting**
(Ontario)

NOVEMBER

- 7 CALAFCO Board of Directors Meeting**
(Sacramento)
- 18-21 California State Assn. of Counties Annual Meeting (Anaheim)

DECEMBER

- 2-5 Association of California Water Agencies Conference (San Diego)

Sharing Information and Resources

CALIFORNIA ASSOCIATION OF
LOCAL AGENCY FORMATION
COMMISSIONS

1215 K Street, Suite 1650
Sacramento, CA 95814

916-442-6536

For current information and other CALAFCO resources please visit www.calafco.org



CALAFCO Daily Legislative Report as of Tuesday, December 03, 2013

1

[AB 453](#) **(Mullin D) Sustainable communities.**

Current Text: Amended: 7/3/2013 [pdf](#) [html](#)

Introduced: 2/19/2013

Last Amended: 7/3/2013

Status: 8/30/2013-Failed Deadline pursuant to Rule 61(a)(11). (Last location was APPR. SUSPENSE FILE on 8/12/2013)

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

Summary:

The Strategic Growth Council is required to manage and award grants and loans to a council of governments, metropolitan planning organization, regional transportation planning agency, city, county, or joint powers authority for the purpose of developing, adopting, and implementing a regional plan or other planning instrument to support the planning and development of sustainable communities. This bill would make a local agency formation commission eligible for the award of financial assistance for those planning purposes.

Attachments:

[CALAFCO Support Letter_03_12_13](#)

Position: Watch

Subject: Sustainable Community Plans

CALAFCO Comments: This would allow LAFCos to apply directly for grants that support the preparation of sustainable community strategies and other planning efforts. CALAFCO has removed its support of the bill given the nature of the amendment and the potential impact to LAFCos.

[AB 678](#) **(Gordon D) Health care districts: community health needs assessment.**

Current Text: Amended: 4/15/2013 [pdf](#) [html](#)

Introduced: 2/21/2013

Last Amended: 4/15/2013

Status: 8/30/2013-Failed Deadline pursuant to Rule 61(a)(11). (Last location was APPR. SUSPENSE FILE on 8/13/2013)

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

Summary:

Would require that the health care district conduct an assessment, every 5 years, of the community's health needs and provide opportunities for public input. Commencing January 1, 2019, the bill would require the annual reports to address the progress made in meeting the community's health needs in the context of the assessment. This bill contains other related provisions and other existing laws.

Attachments:

[CALAFCO Letter of support April 17, 2014](#)

Position: Support

Subject: LAFCo Administration, Service Reviews/Spheres

CALAFCO Comments: This bill requires Health Care Districts that do not operate their own hospital facilities to create every 5 years, an assessment of the community health needs with public input. The bill requires LAFCos to include in a Municipal Service Review (MSR) the Health Care District's 5-year assessment.

[AB 743](#) **(Logue R) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.**

Current Text: Chaptered: 8/26/2013 [pdf](#) [html](#)

Introduced: 2/21/2013

Last Amended: 6/11/2013

Status: 8/26/2013-Chaptered by Secretary of State - Chapter 138, Statutes of 2013.

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

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes a local agency formation commission to approve, after notice and hearing, a petition for a change of organization or reorganization of a city, if the petition was initiated on or after January 1, 2010, and before January 1, 2014, and waive protest proceedings entirely if certain requirements are met. This provision applies only to territory that does not exceed 150 acres. This bill would delete the January 1, 2014, date and make conforming changes. This bill contains other related provisions and other existing laws.

Attachments:

- [CALAFCO Letter of Support May 23, 2013](#)
- [CALAFCO Letter of support April 10, 2013](#)

Position: Support

Subject: Annexation Proceedings, CKH General Procedures

CALAFCO Comments: As amended, this bill removes the sunset date provision to waive protest proceedings for certain island annexations.

Unincorporated islands are more costly and inefficient for counties to administer as opposed to the local municipality. A sunset date was initially established on this ability to encourage the use of the provision and was extended to allow cities and LAFCOs additional time to implement island annexation programs. The unforeseen economic downturn over the past five years has significantly hampered the initial progress, and with the sunset ready to expire at the beginning of next year, cities and LAFCOs have yet to complete the work that the law intended them to do. Over the twelve year period since the law was established, hundreds of islands have been annexed, yet hundreds more remain.

Additionally, the bill was amended to reset the effective island creation date from January 1, 2000 to January 1, 2014 thus allowing smaller islands of less than 150 acres created after 2000 to be annexed under these provisions. Many of these current islands remained as remnants of larger substantially surrounded island areas that had irregular boundaries or were affected by the annexation of territory for newer development.

AB 1427 (Committee on Local Government) Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Current Text: Chaptered: 8/12/2013 [pdf](#) [html](#)

Introduced: 4/1/2013

Last Amended: 4/30/2013

Status: 8/12/2013-Chaptered by Secretary of State - Chapter 87, Statutes of 2013.

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

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (act), provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. This bill would specify that the definition excludes any independent special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms. This bill contains other related provisions and other existing laws.

Attachments:

- [CALAFCO Letter of Support April 2013](#)
- [CALAFCO Letter of support as amended May 2013](#)

Position: Sponsor

Subject: CKH General Procedures

CALAFCO Comments: Cortese-Knox-Hertzberg Omnibus bill.

SB 56 (Roth D) Local government finance: property tax revenue allocation: vehicle license fee adjustments.

Current Text: Amended: 6/11/2013 [pdf](#) [html](#)

Introduced: 1/7/2013

Last Amended: 6/11/2013

Status: 6/19/2013-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0. Page 1449.) (June 19). Re-referred to Com. on APPR.

2Year Dead	Desk	Policy	Fiscal	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 the 2013-14 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. This bill contains other related provisions and other existing laws.

Attachments:

[CALAFCO Letter of support April 10, 2013](#)

Position: Support

Subject: Financial Viability of Agencies, Tax Allocation

CALAFCO Comments: This bill reinstates revenues through ERAF (backfilled by the state general Fund) for cities incorporating after 2005 and annexations of inhabited territories.

SB 594 (Hill D) Use of public resources.

Current Text: Chaptered: 10/12/2013 [pdf](#) [html](#)

Introduced: 2/22/2013

Last Amended: 9/4/2013

Status: 10/12/2013-Chaptered by Secretary of State - Chapter 773, Statutes of 2013.

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

Summary:

Would prohibit a nonprofit organization or an officer, employee, or agent of a nonprofit organization from using, or permitting another to use public resources received from a local agency for campaign activity, as defined, and not authorized by law. This bill would define, among other terms, "public resources" to mean any property or asset owned by a local agency and funds received by a nonprofit organization which have been generated from any activities related to conduit bond financing by those entities subject to specified conduit financing and transparency and accountability provisions, and "nonprofit organization" to mean an entity incorporated under the Nonprofit Corporation Law or a nonprofit organization that qualifies for exempt status under the federal Internal Revenue Code of 1986, except as specified. This bill contains other related provisions and other existing laws.

Attachments:

[CALAFCO Removal of Opposition letter 09_05_13](#)

[CALAFCO Oppose letter 08_22_13](#)

Position: Watch

Subject: Other

CALAFCO Comments: As amended, SB 594 places new restrictions on nonprofit organizations that receive public funds and participate in certain campaign activities. While CALAFCO does not engage in advocacy of ballot measure positions or candidates, we felt the bill contained broad language that would be subject to wide interpretation by many including the Attorney General, which created the opportunity for expensive and unnecessary litigation for these nonprofit organizations. For this and a number of other reasons, CALAFCO originally took an Oppose position on the bill.

Amendments made on September 3, 2013 address a number of CALAFCO concerns including the

removal of the most harmful of actions identified in "election activities", and as such CALAFCO has removed their opposition of the bill and taken a more neutral position of watch.

SB 772 (Emmerson R) Drinking water.

Current Text: Amended: 9/6/2013 [pdf](#) [html](#)

Introduced: 2/22/2013

Last Amended: 9/6/2013

Status: 9/13/2013-Failed Deadline pursuant to Rule 61(a)(14). (Last location was G. & F. on 9/9/2013)

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

Summary:

Would exempt the Elsinore Valley Municipal Water District and the Eastern Municipal Water District from liability for injuries or damages arising out of the delivery of water to County Water Company of Riverside customers, as specified.

Attachments:

[CALAFCO Letter Removing Opposition September 9, 2013](#)

[CALAFCO Letter of Opposition April 10, 2013](#)

Position: Watch

Subject: Water

CALAFCO Comments: As amended, this bill would exempt the Elsinore Valley Municipal Water District and the Eastern Municipal Water District from liability for injuries or damages arising out of the delivery of water to County Water Company of Riverside customers, as specified. As amended this bill no longer references Local Agency Formation Commissions (LAFCo) to take on the responsibility of monitoring private water companies. As a result of removing any and all references to LAFCo, CALAFCO has removed its opposition to the bill and now has a Watch position.

AB 21 (Alejo D) Safe Drinking Water Small Community Emergency Grant Fund.

Current Text: Chaptered: 10/8/2013 [pdf](#) [html](#)

Introduced: 12/3/2012

Last Amended: 9/3/2013

Status: 10/8/2013-Chaptered by Secretary of State - Chapter 628, Statutes of 2013.

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

Summary:

Would authorize the Department of Public Health to assess a specified annual charge in lieu of interest on loans for water projects made pursuant to the Safe Drinking Water State Revolving Fund, and deposit that money into the Safe Drinking Water Small Community Emergency Grant Fund, which the bill would create in the State Treasury. The bill would limit the grant fund to a maximum of \$50,000,000. The bill would authorize the department to expend the money for grants for specified water projects that serve disadvantaged and severely disadvantaged communities, thereby making an appropriation.

Position: Watch

Subject: Disadvantaged Communities

AB 115 (Perea D) Safe Drinking Water State Revolving Fund.

Current Text: Chaptered: 10/8/2013 [pdf](#) [html](#)

Introduced: 1/14/2013

Last Amended: 9/6/2013

Status: 10/8/2013-Chaptered by Secretary of State - Chapter 630, Statutes of 2013.

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

Summary:

Would authorize a legal entity, as defined, to apply for grant funding on behalf of one or more

public water systems serving disadvantaged or severely disadvantaged communities if specified requirements are met, including having a signed agreement with each public water system for which it is applying for funding. By authorizing the use of a continuously appropriated fund for new purposes, this bill would make an appropriation. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: Water

AB 543 (Campos D) California Environmental Quality Act: translation.

Current Text: Amended: 5/24/2013 [pdf](#) [html](#)

Introduced: 2/20/2013

Last Amended: 5/24/2013

Status: 7/12/2013-Failed Deadline pursuant to Rule 61(a)(10)(SEN). (Last location was E.Q. on 6/13/2013)

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

Summary:

Would require a lead agency to translate, as specified, certain notices required by the California Environmental Quality Act and a summary of any negative declaration, mitigated negative declaration, or environmental impact report when a group of non-English-speaking people, as defined, comprises at least 25% of the population within the lead agency's jurisdiction and the project is proposed to be located at or near an area where the group of non-English-speaking people comprises at least 25% of the residents of that area. By requiring a lead agency to translate these notices and documents, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: CEQA

CALAFCO Comments: As amended, requires a lead agency to translate certain notices, summary of a negative declaration, mitigated negative declaration, or environmental impact report when the impacted community has 25% or more non-English speaking people affected by the project. The requirement is to translate these notices and summaries in the native language of those impacted. This is an unfunded mandate. While LAFCo is not typically the lead agency, there may be an occasion when they are, and this could have significant resource implications.

AB 1235 (Gordon D) Local agencies: financial management training.

Current Text: Vetoed: 10/7/2013 [pdf](#) [html](#)

Introduced: 2/22/2013

Last Amended: 9/6/2013

Status: 10/7/2013-Vetoed by the Governor

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

Summary:

Would require a local agency official, in local agency service as of January 1, 2014, or thereafter, except for an official whose term of office ends before January 1, 2015, to receive training in financial management if the local agency provides any type of compensation, salary, or stipend to, or reimburses the expenses of, a member of a legislative body. The bill would require the Treasurer's office and the Controller's office, in consultation with other state agencies, associations, and outside experts, to work together to develop standardized criteria that sufficiently meet specified requirements. This bill contains other related provisions and other existing laws.

Position: Watch
Subject: LAFCo Administration

CALAFCO Comments: Requires that if a local agency provides any type of compensation, salary, or stipend to, or reimburses the expenses of, a member of the legislative body, the member shall receive one-4 hour state mandated Financial Management training per term of office. Effective January 1, 2014 for those in office as of that date (whose term of office extends beyond January 1, 2015). Those elected to more than one legislative body may take the training

one time and have it apply to all legislative bodies on which they serve. This would apply to a LAFCo Commissioner who receives a stipend or is reimbursed for expenses in the performance of their Commissioner duties.

AB 1248 (Cooley D) Controller: internal control guidelines applicable to local agencies.

Current Text: Chaptered: 8/28/2013 [pdf](#) [html](#)

Introduced: 2/22/2013

Last Amended: 5/24/2013

Status: 8/28/2013-Chaptered by Secretary of State - Chapter 190, Statutes of 2013.

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

Summary:

Would require the Controller, on or before January 1, 2015, to develop internal control guidelines applicable to a local agency, as defined, to prevent and detect financial errors and fraud, based on specified standards and with input from any local agency and organizations representing the interests of local agencies. This bill would require the Controller to, by the same date, post the completed internal control guidelines on the Controller's Internet Web site and update them, as he or she deems necessary, as specified.

Position: None at this time

Subject: LAFCo Administration

SB 181 (Committee on Governance and Finance) Validations.

Current Text: Chaptered: 7/3/2013 [pdf](#) [html](#)

Introduced: 2/6/2013

Last Amended: 5/28/2013

Status: 7/3/2013-Chaptered by Secretary of State - Chapter 57, Statutes of 2013.

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

Summary:

This bill would enact the First Validating Act of 2013, 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 of Support March 7, 2013](#)

[CALAFCO Letter of Support May 23, 2013](#)

Position: Support

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

AB 240 (Rendon D) Mutual water companies.

Current Text: Chaptered: 10/8/2013 [pdf](#) [html](#)

Introduced: 2/5/2013

Last Amended: 8/13/2013

Status: 10/8/2013-Chaptered by Secretary of State - Chapter 633, Statutes of 2013.

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

Summary:

Current law requires each board member of a mutual water company that operates a public water system to complete a training course regarding the duties of board members of mutual water companies, as specified. This bill would require a board member to repeat this training course every 6 years. This bill contains other related provisions and other existing laws.

Position: Watch

Subject: Other

CALAFCO Comments: Enacts the Mutual Water Company Open Meeting Act and requires

mutual to adopt budgets in open meetings and take public comment. Also requires mutuals to provide certain records to the public upon request.

AB 642 (Rendon D) Publication: newspaper of general circulation: Internet Web site.

Current Text: Introduced: 2/20/2013 [pdf](#) [html](#)

Introduced: 2/20/2013

Status: 5/10/2013-Failed Deadline pursuant to Rule 61(a)(3). (Last location was JUD. on 3/11/2013)

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

Summary:

Current law requires that various types of notices are provided in a newspaper of general circulation. Current law requires a newspaper of general circulation to meet certain criteria, including, among others, that it be published and have a substantial distribution to paid subscribers in the city, district, or judicial district in which it is seeking adjudication. This bill would provide that a newspaper that is available on an Internet Web site may also qualify as a newspaper of general circulation, provided that newspaper meets certain criteria.

Position: Watch

Subject: LAFCo Administration

CALAFCO Comments: Allows for posting of agendas and meeting material on newspaper websites.

AB 792 (Mullin D) Utility user tax: exemption: distributed generation systems.

Current Text: Chaptered: 10/4/2013 [pdf](#) [html](#)

Introduced: 2/21/2013

Last Amended: 8/29/2013

Status: 10/4/2013-Chaptered by Secretary of State - Chapter 534, Statutes of 2013.

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

Summary:

Current law provides that the board of supervisors of any county may levy a utility user tax on the consumption of, among other things, gas and electricity in the unincorporated area of the county. This bill would, until January 1, 2020, exempt from any utility user tax imposed by a local jurisdiction, as defined, the consumption of electricity generated by a clean energy resource, as defined, for the use of a single customer or the customer's tenants.

Position: None at this time

Subject: Public Records Act

CALAFCO Comments: Relates to public agencies who post their meeting information on their website pursuant to the Ralph M. Brown Act. In the instances where they are unable to post the agenda on the website in the prescribed timeframe due to technology difficulties, the agency is required to post the meeting agenda and information on the website as soon as the technological difficulties are resolved.

SB 184 (Committee on Governance and Finance) Local government: omnibus bill.

Current Text: Chaptered: 9/6/2013 [pdf](#) [html](#)

Introduced: 2/6/2013

Last Amended: 8/8/2013

Status: 9/6/2013-Chaptered by Secretary of State - Chapter 210, Statutes of 2013.

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

Summary:

Current law requires any person who intends to offer subdivided lands within this state for sale or lease to file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire, as specified. This bill would specify that a lot, parcel, or unit satisfies the requirement that it be improved with a completed residential structure if it is improved with a completed residential structure at the time it is conveyed by the subdivider. This bill contains other related provisions and other existing laws.

Attachments:

[CALAFCO Letter of Support March 7, 2013](#)
[CALAFCO Letter of Support May 23, 2013](#)

Position: Support

[SB 633](#) (Pavley D) CEQA.

Current Text: Amended: 8/6/2013 [pdf](#) [html](#)

Introduced: 2/22/2013

Last Amended: 8/6/2013

Status: 8/30/2013-Failed Deadline pursuant to Rule 61(a)(11). (Last location was APPR. on 8/6/2013)

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

Summary:

Would, for purposes of the new information exception to the prohibition on requiring a subsequent or supplemental EIR, specify that the exception applies if new information that becomes available was not known and could not have been known by the lead agency or any responsible agency at the time the EIR was certified as complete. The bill would authorize the office, by July 1, 2015, to draft and transmit to the secretary revisions to the guidelines to include as a categorical exemption projects involving minor temporary uses of land and public gatherings that have been determined not to have a significant effect on the environment. This bill contains other related provisions and other existing laws.

Position: Watch

Subject: CEQA

[SB 731](#) (Steinberg D) Environment: California Environmental Quality Act.

Current Text: Amended: 9/9/2013 [pdf](#) [html](#)

Introduced: 2/22/2013

Last Amended: 9/9/2013

Status: 9/13/2013-Failed Deadline pursuant to Rule 61(a)(14). (Last location was L. GOV. on 9/11/2013)

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

Summary:

Would provide that aesthetic and parking impacts of a residential, mixed-use residential, or employment center project, as defined, on an infill site, as defined, within a transit priority area, as defined, shall not be considered significant impacts on the environment. The bill would require the Office of Planning and Research to prepare and submit to the Secretary of the Natural Resources Agency, and the secretary to certify and adopt, revisions to the guidelines for the implementation of CEQA establishing thresholds of significance for noise and transportation impacts of projects within transit priority areas. This bill contains other related provisions and other existing laws.

Position: Watch

Subject: CEQA

Total Measures: 19

Total Tracking Forms: 19

12/3/2013 12:15:34 PM

**CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
PENDING PROPOSALS – DECEMBER 11, 2013**

December 11, 2013
Agenda Item 12b

LAFCO APPLICATION	RECEIVED	STATUS
Northeast Antioch Reorganization: proposed annexations to City of Antioch and Delta Diablo Sanitation District (DDSD) of 481+ acres located north of Wilbur Ave; detachments from County Service Areas (CSAs) L-100 and P-6	8/17/07	Incomplete; awaiting info from applicant
West County Wastewater District Annexation Nos. 310 and 312: proposed annexation of 3.33+ acres located at 39 Kirkpatrick Drive and 5527 Sobrante Avenue in El Sobrante	11/7/08	Incomplete; awaiting info from District
UCB Russell Research Station (RRS): proposed SOI amendment to East Bay Municipal Utility District (EBMUD) of 313+ acres located on Happy Valley Road, southeast of Bear Creek Rd, and north of the Lafayette city limits (with concurrent annexation application)	11/25/08	Incomplete; awaiting info from applicant
UCB RRS: proposed annexation of 313+ acres to EBMUD	11/25/08	Incomplete
Laurel Place/Pleasant View Annexation to City of Concord: proposed annexation of 5.86+ acres located on Laurel Dr and Pleasant View Ln	5/8/09	Pending property tax exchange agreement
Highlands Ranch Phase II SOI Amendment: proposed SOI amendments to the cities of Antioch (reduction) and Pittsburg (expansion) of 194+ acres located east of Pittsburg city limits, within Antioch Somersville Road Corridor Planning Area	10/23/09	Incomplete; awaiting info from applicant
Discovery Bay Community Services District (DBCSD) SOI Amendment (Newport Pointe): proposed SOI expansion of 20+ acres bounded by Bixler Road, Newport Drive and Newport Cove (with corresponding annexation application)	7/28/10	Incomplete; awaiting info from applicant
DBCSD Annexation (Newport Pointe): proposed annexation of 20+ acres to supply water/sewer services to a 67-unit single family residential development	7/28/10	Incomplete; awaiting info from applicant
Northeast Antioch Reorganization Area 2B: Annexations to City of Antioch and DDSD; detachments from CSAs L-100 and P-6	11/30/12	Incomplete; awaiting info from applicant
Rodeo Marina Annexation to RSD – proposed annexation of 28+ acres located along the northwestern edge of the Rodeo community	2/20/13	Pending
Bayo Vista Housing Authority Annexation to RSD – proposed annexation of 33+ acres located south of San Pablo Avenue at the northeastern edge of the District's boundary	2/20/13	Pending
City of Martinez Out of Agency Service Request - – request to extend water services to a 0.82+ acre parcel located at 172 Gordon Way in Alhambra Valley	5/31/13	Pending
Northeast Antioch Reorganization Area 2A: Annexations to City of Antioch and DDSD; detachments from CSAs L-100 and P-6	7/30/13	Under review

Barnidge: Contra Costa Mosquito & Vector Control wages war on disease-carrying critters

By Tom Barnidge Contra Costa Times Columnist Contra Costa Times
Posted:

December 11, 2013
Agenda Item 12c

Monday, November 18, 2013
ContraCostaTimes.com

Did you know there are 23 types of mosquitoes in the East Bay, and a female can lay 400 eggs in two tablespoons of standing water? Did you know rats and mice are known carriers of bacterial disease? That a skunk bite can lead to rabies?

These are among the concerns of the Contra Costa Mosquito & Vector Control District, which services the county's 735 square miles but remains one of its least understood public health agencies.

The district was formed more than 86 years ago out of necessity, spokeswoman Deborah Bass said: "In 1927, the marsh mosquitoes were so bad that schools closed. There were reports of children's arms being blackened with mosquitoes."

The miserable little bloodsuckers remain the district's biggest concern, occupying 12 of its 17 technicians and most of its attention, but its duties go far beyond pesticides and smogging.

The upper floor of the Concord-based facility is dedicated to lab work, where live specimens are nurtured, tested and examined. The insectary houses pans of mosquito larvae at various stages of growth, and a screened box is filled with nasty-looking adults.

"They're our control group," said scientific program manager Steve Schutz. "One of our concerns is mosquitoes developing a tolerance for some pesticides. By comparing how long it takes to kill these and the wild ones, we can tell if the wild ones are developing a resistance."

Schutz is so committed to the program that he allows females to bite his arm once a week for the protein-rich blood they need to reproduce. Only females bite, and not out of hunger. Mosquitoes subsist on plant juices.

It's because some species can transfer diseases -- West Nile virus and canine heartworm among them -- that officials carefully identify each by its appearance and characteristics. Some bite at night, some at day; some travel great distances, some hover near home. Even their breeding water preferences differ.

The district's abatement program emphasizes educating residents -- "Clogged rain gutters can produce thousands of mosquitoes," Bass said -- and natural controls, primarily mosquitofish. The guppy-size fish happily dine on mosquito larvae -- as many as 500 a day. The district raises about 1 million of the fish per year, and offers them free to residents for use in mosquito breeding pools on their property.

The district, which is funded through property taxes and benefit assessments, also makes thousands of free service calls for residents wondering how to rid themselves of rats, mice, skunks or ground-nesting yellow jackets.

The newest concern is the discovery in Southern California of mosquitoes capable of spreading yellow fever and dengue fever. Schutz theorizes they hitchhiked their way to California in airplane

cargo holds. They possess the ability to transfer the diseases from human to human after biting anyone who is infected. General Manager Craig Downs, with the district since 1981, said that's the biggest change in the agency's evolution -- its emphasis on disease control.

"When the West Nile virus arrived, it was the new invasive thing," he said. "Now we're seeing it again. Instead of (mosquito control) just being a standard-of-living thing, it's a true public health need."

Rest assured that the district is on the case, even if no one notices.

For more information, visit contracostamosquito.com. Contact Tom Barnidge at tbarnidge@bayareanewsgroup.com.

Contra Costa: Residents' concern grows over Delta tunnels plan

By Paul Burgarino pburgarino@bayareanewsgroup.com Contra Costa Times

Posted:

Monday, November 18, 2013
ContraCostaTimes.com

KNIGHTSEN -- As the state prepares to unveil key environmental documents for Gov. Jerry Brown's proposal to build two large tunnels to move Sacramento River water south, dozens of concerned East Contra Costans were brought up to speed last week on how it could impact their Delta backyard.

The governor's \$24.7 billion plan is widely opposed around the Delta communities, as opponents say the tunnels would reduce fresh water flows, endanger local fish and other habitat and put a sizable financial dent in local agriculture.

Most, if not all, of the 60 residents at Thursday's forum hosted by the Contra Costa Farm Bureau and Contra Costa Taxpayers Association, echoed those sentiments.

According to the state, the Bay Delta Conservation Plan meets a pair of long-term goals: enhancing the Delta's long-term ecological health, and improving water supply reliability for 25 million Californians and San Joaquin Valley farms.

Barbara Barrigan-Parrilla, executive director of Stockton-based Restore the Delta, disputes the water claim, saying that while quality improves for those south of the pumps, analysis shows a 51 percent decrease for Contra Costans.

County Supervisor Mary Nejedly Piepho of Discovery Bay said the tunnels plan lacks significant scientific studies, and that smaller-scale development alternatives are not being considered.

"(The state) is reverse-engineering it," Piepho said. "They're talking about the project first and what the exporters need from a quantity perspective, and maybe they're going to shoehorn the science and ecology in to make it fit."

Also, Delta counties do not have a role in the plan's decision-making process, Piepho said.

"They are taking too much (water), it's in the wrong location and there's no local control over it," she said. Dr. Jeffery Michael, an economist at University of the Pacific, said the plan is bad for the state as a whole and questions who would benefit.

"It's in the interest of a couple of narrow water agencies, and not necessarily the ratepayers of those agencies. It's in the interest of those that are running them," said Michael, who has been working for years on cost analyses of the state plan.

The state's plan assumes that Los Angeles is growing faster than it is, that the tunnels will open on time and there will be no extra costs, he said. Michael urged those in the farm bureau to show the math, which he says doesn't pencil out, to other group members around the state.

Barrigan-Parrilla said there is anti-tunnel momentum growing across California and urged those in attendance to read the documents, comment and stay engaged. Voters are leery of paying for a bond for the tunnels, while more people in Southern California are becoming aware of the repercussions, she said.

"When people hear that 'I'm going to get this by destroying your community,' they shake their heads and walk away. They don't want to do that," Barrigan-Parrilla said.

Knightsen resident Cecilia Tamayo-Canzani said she's concerned about the potential for her pumped water to become saltier and that the pounding from tunnel work miles away could "take a toll on her home's foundation."

"It's making me really worried," she said.

Others raised concerns that levees could be in jeopardy since they live in a flood zone and wondered how they could afford skyrocketing water rates to help cover project costs.

Public comments will be accepted for 120 days after the Dec. 13 release of the environmental documents. The Water Resources Department is planning formal meetings throughout the state to get feedback. Officials emphasize that no decision has been made by state and federal agencies about moving forward with the project.

Contact Paul Bugarino at 925-779-7164. Follow him at [Twitter.com/paulbugarino](https://twitter.com/paulbugarino).

MORE Information

To find out more about the pros and cons of the proposed Bay Delta Conservation Plan, here are some websites worth checking out.

<http://www.baydeltaconservationplan.com>

<http://www.restorethedelta.org>

<http://deltacoalition.org>

<http://www.socalwater.org>

Contra Costa Times editorial: Moraga Orinda Fire District on unsustainable fiscal path

Contra Costa Times editorial © 2013 Bay Area News Group Contra Costa Times
Posted:

Monday, November 25, 2013
[ContraCostaTimes.com](http://www.contracostatimes.com)

Residents of Moraga and Orinda: Wake up! If your fire district directors don't take drastic action soon, the two-city agency will run short of money to operate.

The district's auditor has warned that it's on an "unsustainable" fiscal path. As new Director Alex Evans says: "We have to put everything on the table. Otherwise we're going to go out of business." Recently, appointed Chief Stephen Healy adds, "We're just trying to keep the lights on."

Worse, that doesn't begin to address the district's soaring long-term debt for employee retirement benefits, which has increased 38 percent in just two years to a staggering \$94 million.

We hate to tell you we told you so. But for years we've been warning that this day would come, that the district was spending far beyond its means while ignoring its ballooning financial liabilities.

Some directors say they are providing the service constituents want. Residents might want it, but the district cannot afford it. And if those residents understood the huge debt being dumped onto future generations of taxpayers, they would rebel.

Unfortunately, most residents seem ignorant of, or indifferent to, the crisis. And the two veteran board members -- Fred Weil and John Wyro -- have buried their heads in the sand for years.

The district has had plenty of money: Its general fund expenditures are about the same as the city governments of Moraga and Orinda combined. Yet it has consistently budgeted expenses that exceed revenues.

That's right: Directors planned to run the district in the red. To cover the difference, they dipped into reserves. Now that kitty has dried up.

This day of reckoning was inevitable but came slightly early because the district had been claiming it had access to funds actually needed to pay off bondholders. The district's new finance chief recently discovered the error.

Then there's the debt. The district's pension and retiree health programs are deeply underfunded. The \$94 million represents the difference between how much has already been set aside for benefits and how much it should have now.

It's an obligation the district must pay. Property owners will be on the hook for decades to cover the cost of retirement benefits workers have already earned. To put it in perspective, the debt works out to about \$7,800 for every household in the district. It's more than five times the district's annual revenues.

Directors have started to wake up and make changes. But, they must go much further to restore financial stability. Meanwhile, voters should wake up, too. After all, there is a board election next year.

Moraga-Orinda fire district retirement debt climbs

By Jennifer Modenessi Contra Costa Times San Jose Mercury News

Posted:

Monday, November 25, 2013
ContraCostaTimes.com

MORAGA -- The amount residents will have to pay for benefits earned by current and past Moraga-Orinda Fire District employees continues to climb in the midst of a financial crisis for the cash-strapped district.

According to a recent review of the pension plan managed by the Contra Costa County Employees' Retirement Association, Moraga and Orinda taxpayers will now have to cover a \$45 million gap between the value of pension benefits earned by MOFD employees and retirees, and the money available to fund them.

That is an 87 percent increase from last year's funding shortfall. It doesn't include the retiree health care benefits promised by the district to employees and their spouses, which has its own \$24.1 million shortfall. It also doesn't include \$24 million the district owes for bonds it issued to pay off past pension debt.

In addition to employer retirement contribution rates being higher than predicted earlier this year, the overall funding shortfall is so much greater that MOFD administrators brought in an independent consultant to review the county's revised annual projection. Based on that projection, the district will have to make a \$5.2 million employer payment to the county retirement system in fiscal year 2014-15 -- an amount equal to 80 percent of the district's projected \$7 million payroll.

"The impact of the increased rates to our budget is significant," said MOFD Administrative Services Director Gloriann Sasser. "It seems prudent and responsible to perform our own review."

But the independent analysis doesn't reveal any good news. According to the review, the county's numbers hold up.

"We believe the results of the valuation -- as painful as they are -- are accurate," actuary John Bartel told the board on Nov. 20. The increases stem from the retirement association's lowering of expectations on future investment returns, among other factors.

A drop in the number of active firefighters and a decrease in average pay is also having an impact. The district's lowered payroll means the proportion of salary costs toward employee retirement has to go up, Bartel explained. Firefighters hired before new pension laws went into effect this year can retire at age 50 with pensions equal to 3 percent of their final average salary multiplied by years of service. The benefit is 2.7 percent of final average salary at age 57 for new employees. The number of retirees is also increasing, along with their benefits. The district's 91 firefighter/safety retirees now receive an average of about \$7,800 in pension benefits each month.

Fire Chief Stephen Healy said the district is looking at all it can do to address the problem.

"Everything's on the table right now. That includes everything in our budget on the expenditure side," Healy said.

ANTIOCH DEVELOPMENT

By Paul Burgarino

pburgarino@bayareanewsgroup.com

November 27, 2013

ANTIOCH — This city is looking to create a more consistent policy for how it charges developers to serve new growth.

A major piece of Antioch's revised growth management program is establishing a specific set of one-time charges on builders to cover new facilities and services needed to handle growth, such as roads, parks and police services.

The recently released draft Development Impact Fee looks at Antioch's projected future growth, needed facilities and cost estimates and a nexus showing how much new development should be expected to pay for those costs.

The study sets a maximum fee of \$7,198 per single-family unit, \$4,692 per multifamily unit, and 77 cents per nonresidential square foot. Sewer and water, school district and regional road fees would stay the same.

Under Antioch's old growth system, a prospective developer had to score a certain number of points on a system to receive entitlements and offer certain local improvements, such as roads or parks, said Tina Wehrmeister, the city's community development director. Over time, that morphed into builders offering money, she said.

Walter Kieser, senior principal with Economic & Planning Systems Inc., the study's author, said that Antioch's system was uncommon.

"Antioch is trying to become less unusual and increase the certainty that a developer knows what they will have to pay without any undue discretion," he said.

The new fees will actually be less than before, as the old charges at the height of the economy in the early 2000s were about \$10,000 to \$14,000 per unit, Wehrmeister said. Antioch's residential development is expected to increase from 34,000 units to 44,800 as the city builds out, according to the study. That would increase its population from about 105,000 to 132,000. Future costs to accommodate that growth is \$124.8 million, with new growth being on the hook for about \$66.8 million of it.

After years of rampant growth in the 1990s, Antioch voters passed Measure U in 1998, an advisory measure aimed at phasing in new home construction to account for land-use and financial planning. It also said that growth should pay its own way through fees and other methods.

Bob Glover, executive director of the Building Industry Association of the Bay Area, said he skimmed over the study and sent the city a letter requesting a meeting with staff to further discuss the study and growth plans.

Antioch's planning commission agreed when it weighed in on study last week, requesting city staff meet with local stakeholders to discuss the study and what would be a reasonable trigger for growth metering. The City Council will consider adopting the new fees early next year.

Contact Paul Burgarino at 925-779-7164. Follow him at [Twitter.com/paulburgarino](https://twitter.com/paulburgarino).

Copyright 2013 Contra Costa Times Newspapers. All Rights Reserved Any copying, redistribution or retransmission of any of the contents of this service without the express written consent of Contra Costa Times Newspapers is expressly prohibited. 11/27/2013

Antioch council agrees to annexation plan

By Paul Burgarino Contra Costa Times Contra Costa Times

Posted:

Wednesday, November 27, 2013
ContraCostaTimes.com

ANTIOCH -- A plan to annex 678 acres to the city's northeast is now in the hands of the county's Local Agency Formation Commission.

Antioch leaders cleared the path for the annexation Tuesday night, approving a complex pair of financial agreements that spell out how future tax revenue would be split and funding for necessary area infrastructure.

The land is divided into three swaths: 481 acres of industrial waterfront that include two natural gas-fired power plants, 94 acres for marina and storage uses, and 103 acres of established rural properties off Viera Avenue.

The plans the City Council approved mirrored those approved by county supervisors earlier this month. The city and county reached that agreement after months of jockeying over the county's desire to keep entitlement authority over a piece of the industrial waterfront.

Property tax revenue in the area would be split 62 percent to the county and 38 percent to the city.

The city and county will contribute \$3 million over 10 years to add water, sewer and storm drains to Viera residential areas, with Antioch covering the rest with grants and loans. Antioch estimates it would cost about \$10.7 million, and nearly \$5 million more in other engineering and contingency costs, to add the infrastructure.

Antioch estimates the area could yield about \$970,000 to \$1 million in net tax revenue each year, starting in 2015, and provide other economic opportunities on the waterfront. Both parties will also set aside \$500,000 over the next five years to boost area economic development initiatives.

City Manager Jim Jakel said annexation could allow Antioch to capitalize on a "super underestimated location advantage" given its proximity to the power industry, water and a port.

"I put this annexation in the same category of the widening of Highway 4 or the opening of eBART. This is a really big deal for the city," Jakel said.

The council agreed, noting how long the process took.

"At the end of the day, when you end up with a document like this, that we can proudly say is going to deliver income, and jobs and leverage the waterfront, we can be proud of that," Councilman Gary Agopian said.

About a handful of concerned residents in the Viera area that are opposed to the annexation attended the meeting Tuesday but did not speak.

The formation commission, which has final say on all land boundaries, could consider the annexation in January.

For updates, check back to ContraCostaTimes.com.

Contact Paul Bugarino at 925-779-7164. Follow him at [Twitter.com/paulbugarino](https://twitter.com/paulbugarino).

Contra Costa Times editorial: Without help, death for Doctors Medical Center is only a matter of time

Contra Costa Times editorial © 2013 Bay Area News Group Contra Costa Times

Posted:

Monday, December 2, 2013
[ContraCostaTimes.com](http://www.contracostatimes.com)

The hospital providing emergency room services to West Contra Costa's neediest patients is on life support, and without outside financial help, it won't survive past the spring.

It's time for Doctors Medical Center officials to begin preparing for what seems an inevitable shutdown. It's time for Kaiser to brace for an onslaught of emergency patients at its Richmond facility.

It's time for leaders at John Muir Health, officially a nonprofit organization, to look in the mirror and ask how they can live with themselves.

John Muir's Walnut Creek facility holds the lucrative contract as the county's designated trauma center. With that should come a social responsibility to help more-needy portions of the county.

Absent a bailout, Doctors will run out of cash sometime between March and May, current projections show. No one should be surprised by this.

In 2011, the West Contra Costa Healthcare District, which operates the hospital, sought and received voter approval for a \$47-per-house tax increase.

We backed Measure J, but warned that district and hospital officials needed to move quickly to restructure the operation and find a way to keep it going. Back then, it was clear that, even with the tax money, the district would go broke in 2014.

The projection then was this summer. Declining hospital inpatient volume has shortened its life expectancy a few months. But emergency room visits have not declined. And that should be great cause for concern.

The inpatient visits will probably be absorbed by nearby hospitals in a somewhat orderly manner. But the lack of an emergency room at Doctors will create a chaotic situation. Most residents in distress will go to the next-nearest facility.

Kaiser, which is not designed to take in patients who are not enrolled in one of its plans, will have no choice but to provide care to all emergency patients showing up at its door. That's the law.

To a lesser extent, Sutter's Alta Bates Summit Medical Center in Berkeley is in the same boat. So, while John Muir has a moral obligation to assist, it's in Kaiser's and Sutter's financial interests to help out, too.

Whatever aid they do provide would probably be only stopgap. In which case Doctors Medical Center cannot continue on its own. That's clear. It must find a new permanent source of funding or a larger hospital to absorb it. Given Doctors' high level of uninsured and poorly insured patients, that will not be easy.

But without emergency resuscitation, death is certain. It's only a matter of time.

Martinez may take another shot at annexing North Pacheco

By Lisa P. White *Contra Costa Times Contra Costa Times*

Posted:

Monday, December 2, 2013
ContraCostaTimes.com

MARTINEZ -- About a year after losing its bid to annex North Pacheco, the city may try again to expand its boundaries. Last year, North Pacheco residents narrowly rejected the city's proposal to annex a 111-acre area stretching along Interstate 680 from Highway 4 north to the BNSF railroad overcrossing.

On Wednesday, the City Council will consider two options. The first is annexing the same area in North Pacheco. The second is expanding that area by about 110 acres along Blum Road, plus nearly 530 acres around Vine Hill and Arthur Road and the 185-acre Mountain View neighborhood.

The council meeting is at 7 p.m. at City Hall, 525 Henrietta St.

Acting as the Annexation Subcommittee, Councilmembers Mark Ross and AnaMarie Avila Farias came up with the two proposals.

"I think we should go ahead with the annexation piece we have in place and then seek further annexation opportunities, not only there, but also in the Mountain View area, where we have a chunk of residents that are encircled by Martinez," Ross said.

"Why isn't that area in Martinez? It doesn't make sense to me," he continued. "It's probably a couple thousand people that are basically surrounded land locked by the city of Martinez boundary."

Farias could not be reached for comment.

City leaders have had their eyes on North Pacheco since 2009 because they believe the area is ripe for commercial development. A short distance east off of Highway 4, thousands of housing units and 6 million square feet of commercial space are planned for the former Concord Naval Weapons Station land. They also relish the opportunity to clean up an entrance to Martinez.

But a group of North Pacheco residents who believed annexation would lead to poorly maintained roads, longer police response times and higher property taxes forced the city to hold an election. Other critics said the annexation would be a bad deal for Martinez, as costs to provide police protection and other services to North Pacheco were initially projected to exceed the property tax and sales tax revenue the area generates.

In August 2012, the Contra Costa County elections division mailed 150 ballots to registered voters and landowners in the proposed annexation area. The vote was 40-39 against becoming part of Martinez.

The city spent nearly \$105,000 on consultant fees and other costs associated with the North Pacheco annexation effort. While some of that work would still be useful if an application for annexation is resubmitted to the Contra Costa County Local Agency Formation Commission, city staffers estimate it could cost \$25,000 to update some of the studies.

LAFCO commissioners could approve the North Pacheco annexation a year from now if residents don't force another vote. If they do, the election likely would happen in spring or summer 2015,

according to city staff.

Pursuing the second option of annexing all three areas would mean starting over from scratch. Staffers estimate it would cost \$155,000 to \$180,000 and take at least three years to put together.

Lisa P. White covers Martinez and Pleasant Hill. Contact her at 925-943-8011. Follow her at [Twitter.com/lisa_p_white](https://twitter.com/lisa_p_white).

Hercules City Manager Steve Duran picked for Antioch job

By Paul Burgarino and Tom Lochner Contra Costa Times Contra Costa Times

Posted:

Tuesday, December 3, 2013
ContraCostaTimes.com

Antioch has found a new administrator to lead City Hall, leaving Hercules scrambling for a replacement.

The East Contra Costa city announced Monday it has hired Steve Duran, the current city manager in Hercules, to replace retiring Jim Jakel.

All contract terms have been agreed upon, and the Antioch City Council is expected to formally approve the hire Dec. 10.

While the announcement signals a smooth transition in Antioch's day-to-day leadership, it leaves beleaguered Hercules with more uncertainty only two years after it hired Duran to help lead it out of crisis.

Antioch Mayor Wade Harper said Monday that Duran's experience with financial challenges, economic development and budget skills, particularly as Antioch looks to implement a recently passed half-cent sales tax for public safety, made him the best fit for city manager.

"He's going to be able to hit the ground running," said Harper, noting that Duran already has extensive county contacts and familiarity with issues important to Antioch such as proposed ferry expansion and the county's waterfront plan.

"There were so many positives, it let me know in my gut that this is the right person to lead us into the future," Harper said.

Duran, 58, added that his nine years in Richmond from 2002 to 2011 as economic development and redevelopment director gave him experience addressing some of the crime and blight issues facing Antioch.

In Duran's two years at the helm in Hercules, the city eliminated a \$1.1 million structural general fund deficit and moved forward on an Intermodal Transit Center project and a Safeway-anchored shopping center. His job was also to help restore public trust after years of alleged mismanagement and cronyism that resulted in an FBI investigation and lawsuit by the city against former City Manager Nelson Oliva and his family company that was recently settled for \$3.15 million.

"It's always a hard decision to leave because there's never a time when you feel everything is done," Duran said.

In addition to the lure of a bigger city and salary, Duran said he was drawn to Antioch despite its challenges because the city's leadership "has things going in the right direction," and he wants to help continue that.

Meanwhile, Hercules leaders expressed concern Monday about how the city will cope with Duran's departure just as it is trying to put its financial house in order.

"It couldn't have come at a worse time," Councilman Dan Romero said. "We were a house of cards

barely standing. Now, the middle card is being pulled out.

"I wish him well, but the timing is really bad. It poses a great financial danger to the city."

Romero said many issues are pending right now, such as fulfilling the terms of a settlement with bond insurer Ambac, a land deal for 17.25 acres and a residential-and-retail project, and he fears there's "a strong possibility" deals could be lost.

Duran said the Hercules deals "are in good hands," as the hired consultants are some of the best real estate professionals in the state.

City leaders are also worried because there is no one to fill Duran's job in an interim role. Hercules Mayor John Delgado said he is calling a special City Council meeting Tuesday to address the situation.

"Obviously, I wish we had an assistant city manager to take the reins," Delgado said. The absence of an assistant city manager has been a topic of concern, he added.

Duran said he has already started working with city leaders on lining up some potential candidates to serve as interim city manager.

Duran's current employment contract is for three years, beginning in October 2011, and he said it contains a clause obligating him to give 60 days notice if he quits.

In his resignation letter to Hercules, Duran asked that his final working day be Jan. 6. Otherwise, his last day will be Jan. 31.

In the upcoming discussion of Duran's exit plan, Romero said he will ask that Antioch compensate Hercules if Duran leaves early.

Before returning to West Contra Costa, where he was raised, Duran worked for four years with San Jose's redevelopment agency and before that in the private sector in real estate and business management for 23 years.

Duran's compensation package includes an annual salary of \$230,000, which will be cut to \$207,000 until city furloughs are discontinued, and a one-year severance package. His base annual salary in Hercules was \$193,239 in 2012, according to this newspaper's public employees salary database.

"I wish Steve the best," Delgado said. "Antioch is getting a good city manager."

Contact Paul Burgarino at 925-779-7164. Follow him at [Twitter.com/paulburgarino](https://twitter.com/paulburgarino).