



NOTICE AND AGENDA FOR REGULAR MEETING

DATE/TIME: Wednesday, September 9, 2015, 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 a change of organization consisting of an annexation or detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area, it is the intent of the Commission to waive subsequent protest and election proceedings provided that appropriate mailed notice has been given to landowners and registered voters within the affected territory pursuant to Gov. Code sections 56157 and 56663, and no written opposition from affected landowner or voters to the proposal is received before the conclusion of the commission proceedings on the proposal.

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.

September 9, 2015 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 August 12, 2015 regular LAFCO meeting.
6. **Informational Presentation** - Proposed South Camino Pablo (Moraga) Annexation; Applicability of LAFCO Island Policy
7. **Informational Presentation** – Town of Discovery Bay Community Services District: Drought Management Efforts

SPHERE OF INFLUENCE/BOUNDARY CHANGES

8. **LAFCO 08-30 – West County Wastewater District Annexation No. 312** - consider proposed annexation of two parcels (APNs 430-122-030/ -031). The area comprises 2.57± acres located on Sobrante Avenue in unincorporated El Sobrante. Also consider related actions under the California Environmental Quality Act (CEQA). **Public Hearing**
9. **LAFCO 14-05 – Reorganization 186 (Magee Ranch/Summerhill): Annexations to CCCSD and EBMUD** - consider proposed reorganization submitted by CCCSD including annexations to CCCSD and EBMUD. The area comprises 410± acres (10 parcels) located on the south side of Diablo and Blackhawk Roads in the Town of Danville. Also consider related actions under CEQA. **Public Hearing – Continued from August 12, 2015 Meeting**

BUSINESS ITEMS

10. **Award Contract – EMS/Fire MSR** - consider approving a contract with the recommended consultants.

CORRESPONDENCE

11. Special Acknowledgement Awards - Special District Risk Management Authority (SDRMA)
12. Correspondence from Contra Costa County Employees' Retirement Association (CCCERA)

INFORMATIONAL ITEMS

13. Commissioner Comments and Announcements
14. Staff Announcements
 - CALAFCO Updates
 - Pending Projects
 - Newspaper Articles

ADJOURNMENT

Next regular LAFCO meeting – October 14, 2015 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

August 12, 2015

September 9, 2015
Agenda Item 5

Board of Supervisors Chambers
Martinez, CA

1. Chair Rob Schroder called the meeting to order at 1:34 p.m.
2. The Pledge of Allegiance was recited.
3. Seating of Commissioners

Contra Costa County Counsel Sharon L. Anderson administered the oath of office to Stanley Caldwell, elected as Alternate Special District Member.

4. Roll was called. A quorum was present of the following Commissioners:

City Members Rob Schroder and Don Tatzin.

County Member Alternate Candace Andersen.

Special District Members Mike McGill and Igor Skaredoff and Alternate Stanley Caldwell.

Public Member Don Blubaugh.

Present were Executive Officer Lou Ann Texeira, Legal Counsel Sharon Anderson, Planner Nat Taylor, and Clerk Kate Sibley.

5. Approval of the Agenda

Upon motion of Tatzin, second by McGill, Commissioners, by a vote of 6-0, adopted the agenda.

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin

NOES: none

ABSENT: Glover (M), Piepho (M)

ABSTAIN: none

6. Public Comments

Chris Lauritzen, representing Ironhorse Sanitary District (ISD), introduced Chad Davisson, ISD's new General Manager, who spoke on the district's new recycled water distribution program.

7. Approval of July 8, 2015 Meeting Minutes

Upon motion of Skaredoff, second by Andersen, the minutes were approved by a vote of 6-0.

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin

NOES: none

ABSENT: Glover (M), Piepho (M)

ABSTAIN: none

8. Informational Presentation - Diablo Water District - Drought Management Efforts

Chair Schroder introduced Mike Yeraka, General Manager of Diablo Water District (DWD). Mr. Yeraka has been the General Manager and Chief Engineer at Diablo Water District for the past 23 years. Previously, he served as an engineer at Contra Costa Water District. Under his leadership, the DWD has constructed the 40-million GPD (gallons per day) Randall-Bold Water Treatment Plant in Oakley; developed groundwater wells to supplement surface water supplies; constructed a water delivery system to the City of Brentwood during their period of high growth; and developed a real-time water rate model.

DRAFT

Mr. Yeraka began by pointing out that DWD has seen a 28% reduction in water consumption overall. They asked customers to cut back 40% outside, and 10% (or as much as possible) inside, and they have responded well to the challenge. The District has an active program of monitoring water users, and has been giving away free shut-off nozzles to those who need them. They are offering free 20-minute irrigation consultations.

Most importantly, DWD has gone to tiered rates (as recommended in LAFCO's 2007 Water/Wastewater MSR); Mr. Yeraka provided comparisons with water districts in the area. Additionally, DWD staff can read about 25% of their customers' water meters from the office, which allows them to call anyone who has unusual water use to discuss the problem with them.

Commissioners provided comments, noting that DWD has been proactive in its efforts, and thanked Mr. Yeraka for his presentation. (DWD presentation available on the LAFCO website)

9. LAFCO 09-07 - Laurel Place/Pleasant View Annexation to the City of Concord and Concurrent Detachment from County Service Area (CSA) P-6

The Executive Officer introduced this proposal to annex to the City of Concord approximately 6 acres located at Laurel Drive and Pleasant View Lane in the Ayers Ranch area. This proposal was submitted by Lenox Homes as a condition of LAFCO's out of agency service approval in 2008. The purpose of the annexation is to allow for City services, including sewer. It is also proposed that the subject area be detached from CSA P-6; if the area is annexed it will rely on City police services rather than County Sheriff services.

Following brief questions and comments by Commissioners, the Chair opened the public hearing.

Dan Freeman with Lenox Homes thanked the Commissioners for the hearing and acknowledged the many years that it has taken to get to this point; and that in this time an eight-lot subdivision has been built and is already inhabited, and a four-lot subdivision is following closely. There is a new urban trail as a result of this project.

The Chair closed the public hearing.

Upon motion of Blubaugh, second by Tatzin, Commissioners unanimously, by a 6-0 vote, certified that it reviewed and considered the information contained in the CEQA documentation; approved the proposal to be known as Laurel Place/Pleasant View Annexation to City of Concord and Concurrent Detachment from CSA P-6, with specified conditions, including that recordation of the annexation will be deferred to as late as August 2, 2016; found that the subject territory is inhabited, has less than 100% consent of the affected landowners and registered voters, that no affected landowners/registered voters opposed the annexation in writing, that the annexing agency has given written consent to the waiver of conducting authority proceedings, waived the protest proceeding, and directed staff to complete the proceeding by August 2, 2016.

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Glover (M), Piepho (M)
ABSTAIN: none

10. LAFCO 14-05 - Reorganization 186 (Magee Ranch/SummerHill): Annexations to CCCSD and EBMUD

The Executive Officer noted that the hearing on this item, a proposal submitted by CCCSD to annex property to CCCSD and EBMUD in conjunction with a 69 lot single family subdivision, had been continued from the May 13, 2015 meeting. The Court of Appeals scheduled oral arguments on August 4, which starts the 90-day clock for the court to issue a decision; the case was argued and submitted, and there was no ruling on August 4th. Following distribution of the agenda packet, but prior to the meeting, LAFCO received a letter from Maryann Cella, member of SOS-Danville,

requesting a boundary reduction to the proposal; this letter was distributed to Commissioners and will be included in the next hearing on this item.

Maryann Cella, member of SOS-Danville, distributed a newspaper article regarding the court case, and urged Commissioners to reduce the boundary of the proposed annexation and protect the area designated as protected permanent open space.

Upon motion of Tatzin, second by Andersen, Commissioners, by a 6-0 vote, kept the public hearing open and continued it to the September 9, 2015 meeting.

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Glover (M), Piepho (M)
ABSTAIN: none

11. Agriculture & Open Space Preservation Policy and Workshop

The Executive Officer introduced Chris Howard, Senior GIS Planner in the County Department of Conservation and Development (DCD), who worked with Commissioners Tatzin and Burke on the development of a series of maps that accompany the day's discussion. Mr. Howard prepares most of the maps used by LAFCO, for proposals, MSRs, and the LAFCO Directory of Local Agencies. He and the DCD GIS team maintain the key data sets for the County, and prepare most of the maps used by the County.

Commissioner Tatzin laid out the plan for the presentation, beginning with the maps that Mr. Howard created. The second part will be a series of four slides (i.e., decision tree) that ask questions to be answered by Commissioners, with input from members of the public in attendance.

Mr. Howard reviewed a set of ten maps of Contra Costa County, beginning with an illustration of prime agricultural soil and important farmland throughout the county. The designations (light, medium, and dark green) are derived from the Natural Resources Conservation Service (NRCS) (light green; NRCS, an agency of the U.S. Dept. of Agriculture), the State of California Farmland Mapping and Monitoring Program (medium green), and a combination of the two, covering both prime agricultural soil and important farmland (dark green). In response to questions, Mr. Howard confirmed that these designations are serving as a proxy for LAFCO and CEQA prime ag designations, which do not exactly match. Commissioner Tatzin pointed out that the ten maps to be presented today are distillations of many more maps that could have been shown. Commissioner Tatzin stated that these maps also don't indicate whether the land is being irrigated (one of the indications of land value). Additionally, any place that has been developed will not show land that at one time would have been prime agricultural land.

The second map shows the areas of the county that are "inside urban services districts" (cities and special districts both) where obtaining services such as sewer and water would not require a LAFCO action. The third map added the County Urban Limit Line (ULL) and cities' urban growth boundaries (UGB) to this information, highlighting certain areas (both inside and outside the ULL or UGB) that may need LAFCO action to obtain urban services.

Commissioner Tatzin explained that the following maps would, through a series of overlays, reduce the amount of land that might come before LAFCO for urban services. With the fourth map, Mr. Howard laid the agricultural lands over the layers showing urban services districts.

The fifth map shows an overlay of a darker gray color, which represents parks and protected open space, and the lighter gray has been expanded to include developed land which will never again be agricultural land.

The sixth map adds to the darker gray color other areas that are private open space (e.g., Save Mount Diablo) and "facility buffers," areas around refineries, quarries, landfills, etc.

With the seventh map, Williamson Act Contracts land and agricultural easements have been added to the dark gray area, further reducing the endangered agricultural lands (sometimes temporary protection).

The eighth map adds the County's Agricultural Core protection from the General Plan to the dark gray color on the map. As Commissioner Tatzin explained, all of this tends to reduce the likelihood that land in the dark gray area will be brought before LAFCO for urban services.

Commissioner Tatzin pointed out that what the maps have shown to this point are lands primarily *outside* the ULL or UGBs. The ninth and tenth maps focus on areas *inside* the ULL or UGBs that have some level of agricultural soil. Some LAFCO ag policies have recommended that lands in this category should be removed from spheres of influence (SOIs) of jurisdictions when they're prime ag land.

The ninth map shows the prime ag lands that are inside the ULL and UGBs that would have the potential for LAFCO action, and the tenth map highlights those areas. The areas in gold/orange are not prime ag land; rather, they are developable areas that may need LAFCO-approved urban services. The green areas are prime ag land within the ULL and UGBs.

Commissioners offered comments and questions regarding the maps.

Commissioner Andersen pointed out that the county and cities have been doing a good job of protecting prime ag land. Commissioner McGill asked if, in protecting ag land, we are keeping orderly growth in mind; this is an important aspect of LAFCO's mission. Commissioner Andersen stated her concern about ensuring that cities have an opportunity to weigh in on this issue if LAFCO goes forward with developing a policy.

Commissioner Tatzin suggested that LAFCO needs an update on Plan Bay Area and how it relates to anticipated growth in Contra Costa County.

Commissioner Skaredoff commented that Contra Costa Resource Conservation District (CCRCD) is now working on urban agriculture and the value of even small pockets of agriculture to quality of life (and food) in the urban areas. This map could be extremely useful to CCRCD. Commissioner McGill also mentioned the farm partnership CCCSD has entered into on 15 acres of their buffer land.

Chair Schroder asked for public comment on the maps.

Juan Pablo Galván, with Save Mount Diablo (SMD), noted that some of the areas inside the ULL are significant habitat areas for a number of species, particularly within the Pittsburg UGB. He reminded LAFCO to include open space lands, including where grazing takes place.

Joel Devalcourt, with Greenbelt Alliance (GA), noted that they submitted a letter that includes a map showing at-risk lands—the vast majority of these are at urban edges or outside of the ULL because they are not permanently protected. The restricted view of the dark gray area is somewhat misleading; many of those at-risk lands could in fact come to LAFCO, especially in the Brentwood area.

Kathryn Lyddan, Brentwood Agricultural Land Trust (BALT), noted it is important to recognize the County's efforts to protect land through policy measures—but these are not permanent protection, and there have been efforts (failed so far) to move the urban area out into protected ag land.

Commissioner Tatzin suggested that staff add a page to the LAFCO website that focuses on this issue, including the maps presented today as well as other reports and materials. He then briefly presented his "decision tree" slides and suggested that Commissioners discuss them one slide at a time.

Commissioner McGill commented that there are certain things, like the Ag Core and the ULL, that are policies; one of the speakers implied that if LAFCO policy is layered on top of these, these policies may become stronger. But policies can be changed, so there are no guarantees.

Commissioner Andersen suggested that LAFCO hold discussions with County and city representatives before proceeding with an ag & open space policy. Commissioner Andersen commented that the maps don't seem to show that there is much land at risk. She supports keeping ag land in production, but doesn't want LAFCO to overreach.

Most of the Commissioners generally agreed that the engagement of stakeholders is desirable before moving ahead with developing a policy on ag and open space preservation.

Commissioner Tatzin pointed out that in the absence of a policy, LAFCO is limited in the conditions it can impose on an application. He believes that Commissioners should proceed with developing a policy, and LAFCO's role is different from the role of the land use agencies (i.e., County and cities) and what they can do within their own boundaries in accordance with their General Plans.

Commissioner Tatzin also noted that it may be easier to develop definitions for ag land and its preservation, and more difficult to develop definitions for open space preservation.

Commissioner Tatzin also commented that it may be easier for agencies to respond to a draft LAFCO policy rather than put forward an open set of questions.

In response to a question from Commissioner McGill regarding the placement of conditions on an application, the Executive Officer replied that LAFCO has broad discretion in applying terms and conditions, but that a specific policy would be beneficial. Legal Counsel Anderson stated that it always depends on the facts, but there would surely be occasions when a policy would be useful.

Casey McCann, Brentwood Community Development Director, reported that the Brentwood City Council and the new City Manager, Gus Vina, will participate in a two-day policy workshop in early September. Among the issues to be considered are a master phasing plan for future development of areas beyond the ULL, and whether the city should update its current agricultural plan, which was last updated in 2008. The city's newly adopted general plan identifies two future growth areas in prime agricultural land: the "Measure L" area abutting the west side of Sellars Road, and an area adjoining the south side of Marsh Creek Road. There are also two remaining areas on the west side of town (Ginocchio property, claimed by both Brentwood and Antioch in their planning areas; and another property on the south side of Balfour Road) that are designated for development. The future disposition of all of these areas will be addressed by the City Council, and Mr. McCann hopes to report back with updates after that workshop.

At the request of Commissioner McGill, John Kopchik, Director, County Department of Conservation and Development, reported that the County is required to review the voter-approved ULL in 2016, not in terms of moving it but to examine if it's working. There are restrictions on moving the ULL without voter approval; it can only be moved with certain findings, and only if it's less than 30 acres with those findings. Otherwise, it must be taken to the voters.

Commissioners discussed the issue of housing needs and the ongoing importance of getting input from local agencies—and what LAFCO does and does not have jurisdiction over. Commissioner McGill referenced the recent LAO report on California's high housing costs. Commissioner Tatzin noted that the Contra Costa Transportation Authority (CCTA) is considering placing a half-cent sales tax on the November 2016 ballot; the ULL emanated from voter-approved Measure C in 1985, which formed the CCTA. As part of its update process, CCTA has convened an Expenditure Plan Advisory Committee, which will advise on both the expenditure plan and the growth management plan. Commissioners suggested that CCTA is another group to contact about LAFCO's role.

Lisa Vorderbrueggen, with Building Industry Association of the Bay Area (BIA), urged LAFCO to consider potential consequences of erecting more barriers to production of housing during this housing crisis, and commented on LAFCO's responsibility to balance the competing interests of orderly development and preservation of ag & open space lands. Ms. Vorderbrueggen commented that the workshop and maps have demonstrated that policies are in place to protect the land in virtual perpetuity; very little land is at risk of conversion from agriculture to urban uses. If most of these

lands are already protected by the various policies, what is LAFCO trying to achieve through an agricultural and open space preservation policy? She cited passages of the CKH that limit LAFCO's role in land use.

Juan Pablo Galván stated that SMD can immediately identify 1,500 units of development needing annexation to cities that might be affected by a LAFCO ag and open space preservation policy, which would enable LAFCO's stated purpose and its existing authority. Many LAFCOs, including four in close proximity to the Bay Area, have policies that include measures such as mitigation ratios and agricultural buffers. They encourage LAFCO to go forward in guiding smart development by developing an agriculture and open space (including rangeland) preservation policy.

Joel Devalcourt, GA, referred again to the letter submitted by GA for this meeting, as well as the maps submitted for the workshop. The GA has been active in this county for several decades. Agriculture provides about \$100 million to the county's economy, and there is a huge ecotourism impact related to the county's open space; there are many ways these areas can be valued, and they should all be considered. We have lost 20% of farmland just since 1990 and we still have at risk about 18,000 acres. There have been numerous attempts to break the ULL; it is constantly being challenged at every part of its border throughout the county. The framework for a policy is there for LAFCO, and years of regional planning show that 100% of the county's growth can be accommodated within the ULL. It is incumbent on all to make sure that infill development is easy to do rather than going outside already developed land.

Commissioner Schroder responded that infill development is the hardest kind of development to do, and cities need all the help they can get from groups like the GA and SMD to make this happen.

Kathryn Lyddan, BALT, noted that Contra Costa agriculture is a regional resource; we're talking about protecting a resource that feeds not only the Bay Area but the nation and even the world. The \$100 million economy it represents is only the "farmgate" value, and doesn't include the multiplier effect. It also provides us with climate change protection as well as other protections. While there are policies protecting this land, they are not enough. As long as they're just policies and not permanent protection, there is still speculation that the lands are developable, and that impacts the whole economic dynamic of agriculture on the urban edge. When the ULL is challenged, or when a city's general plan suggests development of lands at its edge, agricultural land value escalates and farmers can no longer afford to buy that land and have their businesses pencil out for agriculture. This land needs to be strategically permanently protected to preserve not only the ag land itself but also the agricultural economy. LAFCO is in a unique position to protest ag & open space land.

Maryann Cella, SOS-Danville, echoed Commissioner Skaredoff's comments regarding the value of these agricultural and open space lands, not just as producers of food crops but also as habitat for endangered species, flood control, among other benefits. She urged Commissioners to remember that the biggest stakeholders are those in the immediate community next to the ag and open space and grazing lands, and suggested that cities should be asked, as LAFCO engages with them on this topic, to actively consider preserving open space in projects that come to them.

Chad Godoy, County Agricultural Commissioner, stressed the importance of agriculture to this county, and urged Commissioners to develop a preservation policy, which he feels is overdue. There are still about 30,000 acres of high quality farm land (not counting grazing land), but every time you take away a little bit of this land, the rest becomes less viable. This affects the ag industry as a whole as well as the rest of the economy. The multiplier effect mentioned by Kathryn Lyddan is being studied by his department, and he will share it with LAFCO when it is completed.

Gretchen Logue, resident of Tassajara Valley, heard about this meeting just the night before, and she expressed strong support for an agriculture and open space preservation policy. Open space is important to people who live in and move to Contra Costa County. To her and her neighbors, the

housing crisis is represented by what she has seen happen to Alameda County around Dublin. She encourages LAFCO to work to protect these spaces.

Commissioner McGill confirmed that it would be useful to see the multiplier effect report when it is finished by the Agriculture Department. Housing data will be critical in this discussion. In the CKH, prime agricultural land has a number of items that qualify it; he's not sure about open space—and that needs to be identified by each city, which may have various definitions of open space in their planning areas—that may also change over time.

Commissioner Tatzin acknowledged that, while there were only six Commissioners sitting at the dais, there is general interest in pursuing a policy, but that the next step should be communicating with cities, CCTA, the County, and others. At the same time, LAFCO would like more information, such as the agriculture multiplier effect study, GA's information and maps, information regarding the sustainable community strategy mandated by State law and that cities and the county have adopted.

Commissioner Andersen suggested a quick survey of cities' general plans. The Executive Officer responded that they have emailed all the cities, asking for their general plans, policies, guidelines regarding ag and open space, and general comments, and have heard back from only four cities.

Commissioner Andersen further stated that she is questioning to what extent LAFCO is the one to protect open space and ag lands.

Commissioner Tatzin reminded Commissioners that any LAFCO policy will focus on annexations and SOI actions.

Commissioner Skaredoff suggested that the same kind of systematic information gathering that was done for agricultural land should also be done for open space lands.

Commissioner McGill would like a better understanding of the County's housing needs and the overall range of housing. He added his appreciation to Commissioners Tatzin and Burke and to staff for their hard work on this issue.

Further discussion ensued regarding a timeline and the various presentations that will need to be made. Commissioner Tatzin suggested presenting to the Public Managers Association, the Contra Costa chapter of the California Special Districts Association, CCTA, as well as the County's Transportation and Infrastructure Committee and subsequently the Board of Supervisors. A report will be made once these presentations are under way.

12. LAFCO Fee Schedule Update

The Executive Officer reported that in June the Commission discussed the LAFCO fee schedule, which was last amended in 2007, and expressed interest in updating the fee schedule and enhancing cost recovery. The Commission also asked for information regarding LAFCO's "customers" (i.e., applicants). Staff noted that applications can come to LAFCO either through a public agency or a petition of landowners or voters. The majority of our applications come from public agencies—the County, cities, and special districts—that have the ability to recover their costs.

LAFCO staff conducted a comprehensive review of LAFCO's fees, looking at historical fee adjustments, average staff time spent on proposals and projects, and surveying 13 other LAFCOs (Bay Area & urban) for comparability.

The proposed adjustments to Contra Costa LAFCO's fee schedule focus on improving cost recovery, and bringing Contra Costa LAFCO fees closer to the average of other Bay Area and urban LAFCOs, while also enhancing revenue, which ultimately benefits the agencies that annually fund LAFCO.

Upon motion of Andersen, second by Tatzin, Commissioners unanimously, by a 6-0 vote, reviewed the proposed revisions to the LAFCO Schedule of Processing Fees; directed staff to circulate the proposed fee schedule to all local agencies and interested parties pursuant to Government Code

§66016; and fixed the October 14, 2015, at 1:30 p.m. as the date and time for the public hearing to consider adoption of the revised Contra Costa LAFCO Schedule of Processing Fees.

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Glover (M), Piepho (M)
ABSTAIN: none

13. Special District Risk Management Authority (SDRMA) Board Election

Subcommittee members Commissioner Schroder and Commissioner Skaredoff reported that they had reviewed the four candidates for the SDRMA Board of Directors and recommended Ed Gray (Incumbent), Director/President, Chino Valley Independent Fire District; R. Michael Wright, Director/President, Los Osos Community Services District; and Sandy Seifert-Raffelson (Incumbent), District Clerk, Herlong Public Utility District for the open positions.

Upon motion of Blubaugh, second by McGill, Commissioners unanimously, by a 6-0 vote, approved the subcommittee's recommendation; adopted Resolution No. 2015-01 containing the Official 2015 SDRMA Election Ballot; and directed staff to file the LAFCO resolution with SDRMA prior to August 25, 2015.

14. Correspondence from CCCERA

There were no comments on this item.

15. Commissioner Comments and Announcements

Commissioner McGill reported that he attended the CALAFCO Legislative Committee meeting on July 24, and the CALAFCO Board meeting on July 31.

Commissioner Schroder announced that he has located wine and beer for the CALAFCO 9th Annual Beer & Wine Competition—both entries are from Martinez: Creek Monkey Tap House/Rock Steady Brewing and Climbing Monkey Winery.

16. Staff Announcements

The Executive Officer reported on legislation that the CALAFCO Legislative Committee is following: AB 851, regarding disincorporations, is still moving; AB 1532, the omnibus bill, has been chaptered; SB 239, pertaining to fire districts, has been modified and the CALAFCO Legislative Committee has removed its position of opposition and adopted “no position”; SB 88, the trailer bill addressing consolidation of water districts, has been signed by the Governor and CALAFCO is currently working with the State Water Board on cleanup and implementation.

Additionally, the Executive Officer announced that at its recent meeting, the CALAFCO Board approved an increase in conference registration fees and the hiring of a conference coordinator.

The meeting adjourned at 3:58 p.m.

Final Minutes Approved by the Commission September 9, 2015.

AYES:
NOES:
ABSTAIN:
ABSENT:

By _____
Executive Officer



Lou Ann Teixeira
Executive Officer

MEMBERS

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

ALTERNATE MEMBERS

Candace Andersen <i>County Member</i>
Sharon Burke <i>Public Member</i>
Tom Butt <i>City Member</i>
Stanley Caldwell <i>Special District Member</i>

September 9, 2015 (Agenda)

September 9, 2015
Agenda Item 6

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

**Informational Presentation – Town of Moraga
Proposed South Camino Pablo Annexation and Applicability of LAFCO Island Policy**

Dear Members of the Commission:

In February 2015, the Town of Moraga held a Study Session on the potential annexation and residential subdivision of a portion of the Carr Ranch property located at the southeastern edge of the Town, within the Town’s sphere of influence (SOI) and within the Urban Limit Line (ULL).

In April 2015, the Town initiated its environmental review process in conjunction with the proposed Camino Pablo Annexation Subdivision Project. The proposed annexation boundary excludes the adjacent Sky View Subdivision, which results in a somewhat illogical boundary.

On September 9th, Town of Moraga staff will provide a brief overview and background information regarding this project and the proposed annexation boundary to familiarize the Commission with the project. This is informational only and the Commission will not be asked to make any decisions at this time.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER



Lou Ann Texeira
Executive Officer

MEMBERS

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

ALTERNATE MEMBERS

Candace Andersen <i>County Member</i>
Sharon Burke <i>Public Member</i>
Tom Butt <i>City Member</i>
Stanley Caldwell <i>Special District Member</i>

September 9, 2015 (Agenda)

September 9, 2015
Agenda Item 7

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

Informational Presentation – Town of Discovery Bay Community Services District

Dear Members of the Commission:

This is the fourth in a series of presentations from local agencies in Contra Costa County regarding their drought management efforts.

We previously heard from Contra Costa Water District, East Bay Municipal Utility District and Diablo Water District.

Today, we are pleased to welcome Rick Howard, General Manager, Town of Discovery Bay Community Services District. Rick joined the District in June 2010 as General Manager. He is responsible for the day-to-day operations of the District, which provides water, wastewater, landscape services and recreational opportunities to more than 14,000 residents in the waterfront community situated on the California Delta in eastern Contra Costa County.

Prior experience includes serving in executive level positions for the North County Transit District (Oceanside, CA); City of Mission Viejo, CA; and City of Poway, CA.

Rick holds a Bachelor’s Degree in Political Science from the University of San Diego and a Master’s Degree in Public Administration from the University of Southern California.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

September 9, 2015 (Agenda)

September 9, 2015
Agenda Item 8

LAFCO 08-30 West County Wastewater District (WCWD) Annexation No. 312

PROPONENT WCWD by Resolution No. 7-17-07A adopted June 17, 2007

SYNOPSIS The district proposes to annex 2.57± acres (APNs 430-122-030/031) located on El Sobrante Avenue in unincorporated El Sobrante as shown on the attached map (Attachment 1).

DISCUSSION

The District filed an application with LAFCO to annex the properties to WCWD. The proposed annexation will facilitate the development of up to two single family residential units.

Government Code §56668 sets forth factors that the Commission must consider in evaluating a proposed boundary change as discussed below. In the Commission's review, 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 area proposed for annexation is within WCWD's SOI, and within the County Urban Limit Line; both parcels are located in the unincorporated community of El Sobrante.

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

The County General Plan designations are Open Space (OS) for APN 420-122-030, and SM (Single Family Residential Medium) for APN 420-122-031. Both parcels are zoned by the County as R-10 (Single Family Residential, lot size 10,000 square feet minimum). Currently, one of the parcels (APN 420-122-030) contains a 1,162 square foot studio/residential structure, and the other parcel is vacant. No changes are proposed to the General Plan or zoning designations as part of this proposal. Surrounding land uses include vacant land, with residential development to the north and northeast (City of Pinole).

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

The subject property contains no prime farmland or land covered under Williamson Act Land Conservation agreements; there are no agricultural uses on the property proposed for annexation.

4. Topography, Natural Features and Drainage Basins:

The general topography of the site is relatively steep hills. The surrounding areas are characterized by rolling hills.

5. Population:

Development of two single family homes is planned for the annexation area. The estimated population increase for the annexation area is approximately six, based on 2014 California Department of Finance estimates for households in the El Sobrante 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 annexation area is served by various local agencies including, but not limited to, Contra Costa County, Contra Costa County Fire Protection District, and East Bay Municipal Utility District (EBMUD).

The proposal before the Commission is to annex the properties to WCWD for the provision of sanitary sewer service.

WCWD provides wastewater collection, treatment and disposal services for a 16.9± square mile service area within the City of Richmond (40% of District), the City of San Pablo (15% of District), the City of Pinole (2% of the District) and other unincorporated areas within Contra Costa County (43% of the District). WCWD serves approximately 93,000 customers. The District's facilities include a water pollution control plant, 249 miles of sewer pipeline, and 17 pump stations. WCWD's wastewater treatment plant has capacity of 12.5 million gallons per day (mgd) dry weather capacity and 21 mgd wet weather treatment capacity.

Based on the maximum number of dwelling units (two) planned for the annexation area, the maximum demand for service is approximately 540 gallons of wastewater per day. WCWD has the capacity to serve the annexation area.

WCWD has infrastructure in the area and serves a number of surrounding properties. There is an existing 6-inch vitrified clay pipe (VCP) sanitary sewer main line located in an easement on the northwestern side of the property. Revenue generated to serve the properties includes a one-time sewer connection fee and an annual sewer use charge paid by the property owner.

8. Timely Availability of Water and Related Issues:

The properties are currently served by EBMUD. The EBMUD service area is approximately 331 square miles (Contra Costa and Alameda counties). EBMUD provides potable water to approximately 1.3 million people within the two-county service area. Within Contra Costa County, EBMUD provides water service to a 146± square mile service area, serving an estimated 477,212 residents.

EBMUD's water supply is distributed through a collection system consisting of aqueducts, reservoirs, and other components. The primary source of water supply for EBMUD is the Mokelumne River; this watershed accounts for 90 percent of EBMUD's water supply. EBMUD's existing water rights allow the delivery of up to 325 mgd or approximately 364,046 acre-feet per year of water from the Mokelumne River.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 85036. The total assessed value, including land and improvements, for the annexation area is \$249,751 (2015-16 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies. The County and District will rely on the master tax transfer agreement for this annexation.

10. Environmental Impact of the Proposal:

The District, as Lead Agency, found the project to be exempt from the California Environmental Quality Act (CEQA) pursuant to sections 15061(b)(3), 15319, and 15303. The LAFCO environmental coordinator concurs with the District's finding.

11. Landowner Consent and Consent by Annexing Agency:

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

WCWD indicates that 100% of the affected landowners have provided 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 September 9, 2015 LAFCO hearing.

12. Boundaries and Lines of Assessment:

The annexation area is within WCWD's SOI and contiguous to the District's service boundary. A map and legal description to implement the proposed boundary changes have been submitted and are subject to approval by the County Surveyor. The proposed annexation will create an island to the west. While LAFCO encourages logical and orderly boundaries, it is not unusual for sewer and water districts to have islands and pockets within their service boundaries; as historically, annexations to these types of districts have occurred as the need for service arises. The island area is composed of six whole parcels and portions of three parcels that are already paying into WCWD. The County General Plan designations for the island area is comparable to the annexation area and includes OS, SM and SH (Single family Residential – High). Zoning for the island area includes R-7, R-10 and P-1 (Planned Unit – Residential and Non-Residential). Of the six "island" parcels, there are residential dwelling units on three of the parcels, miscellaneous buildings on one, an EBMUD reservoir on one, and one vacant parcel. Of the three remainder areas, one is an existing residential lot and the other two are vacant.

13. Environmental Justice:

LAFCO is required to consider the extent to which proposals for a change 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 Department of Conservation and Department, the annexation area does 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 actions:

Option 1

Approve the annexation.

- A. Determine that the project is exempt pursuant to CEQA Guidelines, Section 15061(b)(3).
- B. Adopt this report, approve LAFCO Resolution No. 08-30 (Attachment 2), and approve the proposal, to be known as West County Wastewater District Annexation No. 312 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 WCWD has delivered an executed indemnification agreement providing for WCWD 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

Exhibits

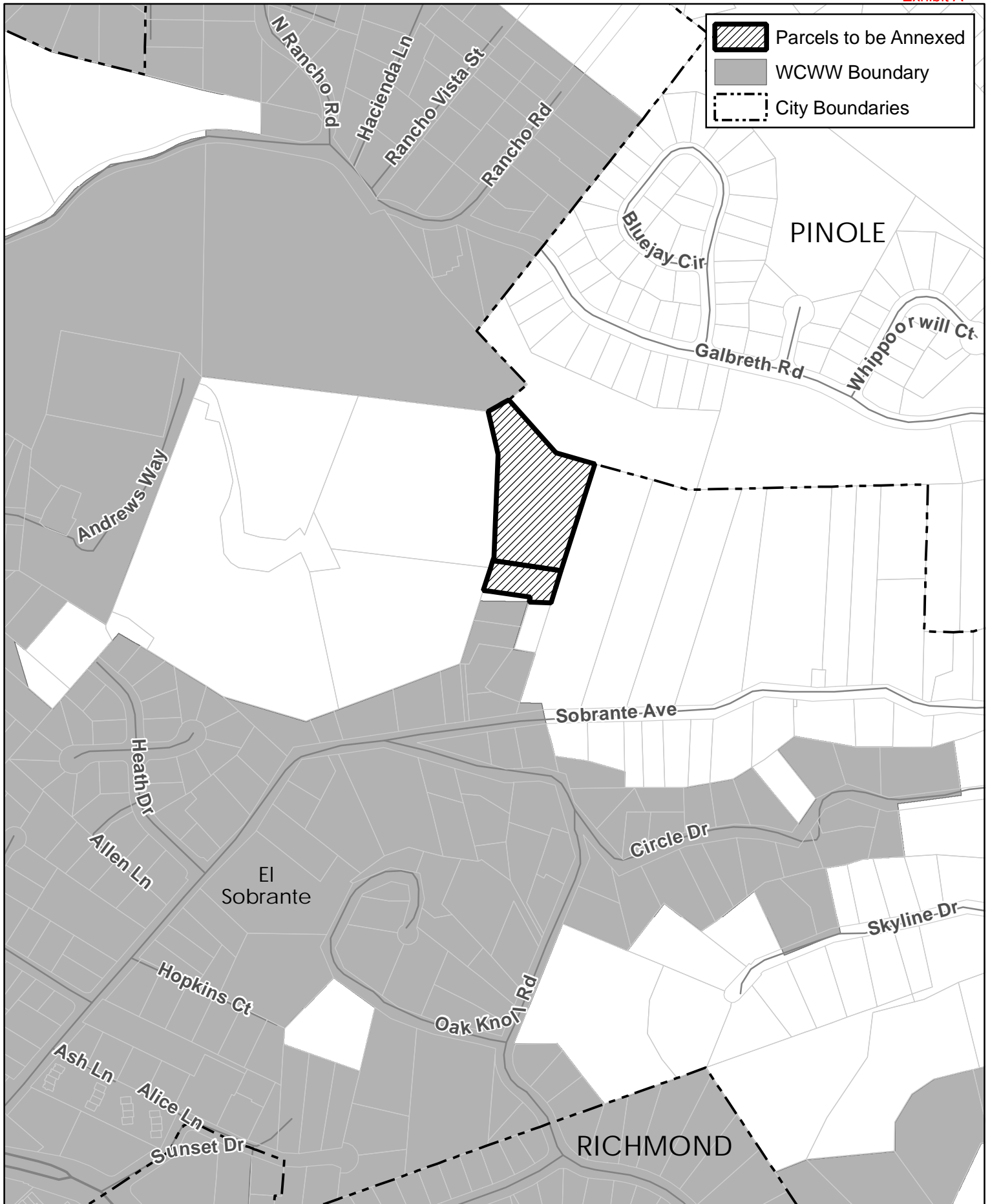
A – WCWD Annexation Map




B – Draft LAFCO Resolution 08-30

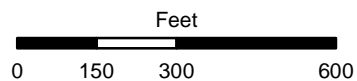
c: Distribution

LAFCO No. 08-30: West County Wastewater District Annexation #312 (Sobranite Ave)

Exhibit A



	Parcels to be Annexed
	WCWW Boundary
	City Boundaries



RESOLUTION NO. 08-30**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
WEST COUNTY WASTEWATER DISTRICT ANNEXATION NO. 312**

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, the Executive Officer has examined the application and executed her certification in accordance with law, determining and certifying that the filing is sufficient; 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 Executive Officer has reviewed available information and prepared a report including her recommendations therein, and the report and related information have been presented to and considered by the Commission; and

WHEREAS, at a public hearing held on September 9, 2015 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, consistency with the sphere of influence, contiguity with the districts' boundaries, and related factors and information including those contained in Gov. Code §56668; 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 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 project is categorically exempt pursuant to CEQA Guidelines, Section 15061(b)(3).
2. The annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

WEST COUNTY WASTEWATER DISTRICT ANNEXATION NO. 312

Contra Costa LAFCO
Resolution No. 08-30

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 West County Wastewater District (WCWD) delivered an executed indemnification agreement between the WCWD and Contra Costa LAFCO providing for WCWD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
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 9th day of September 2015, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROB SCHRODER, 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: September 9, 2015

Lou Ann Texeira, Executive Officer

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

September 9, 2015 (Agenda)

September 9, 2015
Agenda Item 9

LAFCO 14-05 Reorganization 186 (Magee Ranch) – Annexations to Central Contra Costa Sanitary District (CCCSD) and East Bay Municipal Utility District (EBMUD)

PROPONENT CCCSD by Resolution No. 2014-018 adopted June 19, 2014

SYNOPSIS The project site consists of 410± acres, 40± acres of which will become a 69-lot single family subdivision; the remaining 370± acres will be preserved as permanent open space.

The applicant proposes to annex 400.4± acres (eight parcels) to CCCSD and 367± acres (seven parcels) to EBMUD. The property is located on the south side of Diablo and Blackhawk Roads in the Town of Danville as shown on the attached map (Attachment 1).

This item was continued from the August 12, 2015 LAFCO meeting, and the public hearing remains open.

Since the Commission last heard this item, the Court of Appeal scheduled oral arguments on August 4, which starts the 90-day clock for the court to issue a decision. According to the court documents, cause was argued and submitted. There was no ruling on August 4th; consequently, we recommend continuing the LAFCO hearing to October 14, 2015.

DISCUSSION

CCCSD filed an application with LAFCO to annex the properties to both CCCSD and EBMUD. The annexation area will contain 69 single family lots and 370± acres to be preserved as permanent open space. The property owner has petitioned CCCSD for annexation. In their ongoing efforts to clean up service area boundaries, the Districts are proposing to annex all of the project area, including the open space portion, which will avoid leaving large holes or islands within their service boundaries.

Government Code §56668 sets forth factors that the Commission must consider in evaluating a proposed boundary change as discussed below. In the Commission's review, 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 area proposed for annexation is within the SOIs of both CCCSD and EBMUD, and within the County Urban Limit Line.

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

Existing land uses for the 410± acre site consist primarily of open range land and hillsides used for cattle operations. Existing structures on the site include water storage facilities, cell tower sites, storage buildings, horse corrals, a parking area, and access roads associated with the existing ranch use.

In 2013, the Town of Danville approved rezoning changes consistent with the preliminary development plan for the project, which consists of a single family residential subdivision and 370± acres of open space.

The single family homes will be located in two separate clusters; three homes are proposed on McCauley Road, south of the Diablo Road/McCauley Road/Green Valley Road intersection, and the remaining 66 homes will be located on the eastern portion of the property, accessed by a new driveway just east of Jillian Way. The 370-acre open space area will be privately owned by either a Geologic Hazard Abatement District or the project's Homeowners Association.

The Town's General Plan designations for the annexation area include General Open Space, Agricultural, Rural Residential and Single family – Low Density (with clustering allowed). The Town's zoning designation is Planned Unit Development (P-1). A minimum of 10% of the homes will include second dwelling units in accordance with the Town's affordable housing requirements.

The approved P-1 (Planned Unit Development District) zoning allows clustering of residential units on the flatter portions of the site while maintaining the same overall density allowed under the current General Plan Land Use designation. This allows portions of the site that contain steeper slopes and visible ridgelines to be retained as open space.

The 410± acre site is bounded by single family residences and the Sycamore Valley Open Space Preserve to the north, south and east. To the west are single family homes, along with the San Ramon Valley Fire Protection District Station 33, the Sunrise Assisted Living facility, and the Green Valley Elementary School.

3. Environmental Impact of the Proposal:

On June 18, 2013, the Town of Danville, as Lead Agency, certified an Environmental Impact Report (EIR), adopted Findings of Fact, and a Statement of Overriding Considerations, and adopted Mitigation Measures and a Mitigation Monitoring and Reporting Program in conjunction with the development project. Copies of these documents were previously provided to the Commissioners and are available for review in the LAFCO office.

In July 2013, Save Open Space (SOS) Danville, a local citizen group, filed a lawsuit challenging the Town of Danville's approval of the SummerHill development project. The suit challenged the Town's position that the development did not require an amendment to the Town's General Plan, and therefore, did not invoke Measure S – a 2000 measure that requires voter approval by ballot for General Plan amendments or zoning changes involving agricultural or open space lands. The suit also challenged various aspects of the Town's EIR.

In July 2014, Contra Costa County Superior Court Judge Steven K. Austin ruled that the Danville Town Council violated part of the Town's General Plan when it rezoned the property and failed to conform to the requirements of Measure S which requires a vote of the people. The Court also found that the EIR was deficient in that it failed to adequately analyze the impact of the added homes on bicyclists' safety along Diablo Road. The court ruling was issued after the CCCSD Board took action to apply to LAFCO.

The judgment set aside the EIR and the Town's approval of the development project, pending the resolution of the appeal filed by the Town. The Court Order included an injunction that enjoined the Town, the developer, "and those acting in in concert with them... from issuing any construction or development permits or undertaking any construction activities related to the Town's approval of the project." The Town has appealed the judgment of the Superior Court.

The Court of Appeal scheduled oral arguments in the case on August 4th, which starts the 90-day clock for the court to issue its decision. There was no ruling on August 4th; consequently, we recommend continuing the LAFCO hearing to October 14, 2015.

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

As described in the project EIR, the 410± acre project site has historically been used and continues to be used for cattle grazing and related operations; however, the Town's EIR found that no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance are located on the project site and on this basis, it found that the project would not result in a loss of Farmland of Statewide Importance to non-agricultural use. While the project site consists of grazing land, it does not meet the criteria for prime or important agricultural land as defined by CEQA, nor does it qualify as prime land for livestock production per the USDA Handbook criteria (one animal unit per acre), since the average stocking rate for grazing operations on the project site is one cow per 10 acres. Thus the subject property is not Prime Agricultural Land as defined in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH).

No portion of the proposal area is currently under a Williamson Act Land Conservation Act agreement. Four of the 10 parcels on the project site were formerly subject to a Williamson Act contract. A notice of non-renewal was filed in 2000, and the properties came out of the Williamson Act contract in 2010.

5. Topography, Natural Features and Drainage Basins:

The site consists primarily of undeveloped land and hillsides used for cattle operations. Oak woodland is scattered throughout the property. The site varies in elevation from approximately 430 feet in the northwestern corner to approximately 955 feet in the southern portion of the site. The East Branch Green Valley Creek extends in a northwesterly direction along portions of the north boundary of the project site.

To the south and east of the project site are rolling hills; to the west and north are residential uses in generally flat areas. Mt. Diablo State Park is located approximately one mile northeast of the site.

6. Population:

Development of 69 single family homes is planned for the annexation area. Of the 69 units, 10% (seven units) within the project will be required to incorporate second dwelling units. The estimated population increase for the annexation area is approximately 211, based on 2014 California Department of Finance estimates for households in the Town of Danville. The estimate includes both the 69 single family homes and the second units.

7. 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.

Of the 69 units, 10% (seven units) within the project site will be required to incorporate second dwelling units, which are to be rented at rental rates set by the California Department of Housing and Community Development as being affordable to "low income" households.

8. 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 annexation area is served by various local agencies including, but not limited to, the Town of Danville and the San Ramon Valley Fire Protection District.

The proposal before the Commission is to annex the property to CCCSD and EBMUD for the provision of sanitary sewer and water services, respectively.

CCCSD currently serves an estimated population of 471,000 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. CCCSD's wastewater treatment plant provides secondary level treatment for an average dry weather flow of approximately 33.8 million gallons per day (mgd) of wastewater. The wastewater treatment plant has a permitted discharge limit of 53.8 mgd.

Based on the maximum number of dwelling units planned for the annexation area, the maximum demand for service is approximately 15,405 gallons of wastewater per day. CCCSD has the capacity to serve the project.

CCCSD has infrastructure in the area and serves a significant number of surrounding properties.

All gravity mains required to serve the affected parcels will be 8-inch diameter or up to 2-inch diameter for pressure mains (CCCSD's minimum size). All laterals will be 4-inch diameter (CCCSD's minimum size for gravity laterals), or 1¼ to 2-inch diameter pump laterals (CCCSD's minimum size for pump laterals, depending on the specific pump type installed).

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.

9. Timely Availability of Water and Related Issues:

The proposal also includes annexation to EBMUD. EBMUD provides potable water services and limited wastewater collection and treatment services in portions of the District's service area. The EBMUD service area is approximately 331 square miles (Contra Costa and Alameda counties). EBMUD provides potable water to approximately 1.3 million people within the two-

county service area. Within Contra Costa County, EBMUD provides water service to a 146± square mile service area, serving an estimated 477,212 residents.

EBMUD's water supply is distributed through a collection system consisting of aqueducts, reservoirs, and other components. The primary source of water supply for EBMUD is the Mokelumne River; this watershed accounts for 90 percent of EBMUD's water supply. EBMUD's existing water rights allow the delivery of up to 325 mgd or approximately 364,046 acre-feet per year of water from the Mokelumne River.

EBMUD's water rights are subject to variability, particularly during dry and multiple dry years. The availability of the Mokelumne River runoff is subject to senior water rights of other users, downstream fishery flow requirements, and other Mokelumne River water uses. Given the variability, EBMUD indicates that supplemental water supply sources are needed to meet future water demand during extended periods of drought.

The Freeport Regional Water Facility is a regional water supply project that provides supplemental water supply to EBMUD during dry years, as part of the Central Valley Project (CVP), a federal water management program. During periods of drought, EBMUD receives CVP water from its Freeport Regional Water Facility to augment its water supply. The U.S. Bureau of Reclamation (USBR) provides supplemental water supply during dry and multiple dry years to ensure the reliability of EBMUD's water supply. In conjunction with the request to annex the property, EBMUD is also seeking approval from the USBR.

Following the January 2015 LAFCO meeting, LAFCO staff consulted with EBMUD staff regarding the details and timing of obtaining USBR approval. EBMUD staff reports that in 2006, EBMUD and the USBR entered into a long-term renewal contract under which EBMUD can receive supplemental water from the CVP during dry years. The contract defines EBMUD's CVP Contractor's Service Area (CSA), and USBR must approve the addition of any new areas requesting water service that are outside of the CSA. To support its review of a request for such additions, USBR must comply with the National Environmental Policy Act (NEPA), the Endangered Species Act, and Section 106 of the National Historic Preservation Act.

Applying to USBR for inclusion of new areas into EBMUD's CVP CSA can be a lengthy process. A formal application for inclusion cannot be submitted to USBR until EBMUD's Board of Directors adopts a resolution for such application, which is dependent on receiving a LAFCO Certificate of Completion approving the annexation. After a formal application for inclusion is submitted, USBR can take several months to review, approve the inclusion, and issue a revised EBMUD CVP CSA map. As part of the inclusion application, EBMUD works with the developer and forwards applicable CEQA documents, U.S. Army Corps of Engineers permits, and NEPA documents to USBR for review. In the meanwhile, no water service can be provided to the annexed area until USBR approval is obtained.

According to EBMUD staff, USBR indicates that it will not accept an application for inclusion with any uncertainties, such as an annexation conditioned on the outcome of pending litigation. The USBR action would amend the EBMUD CVP CSA to include the annexed area; thus, if the

LAFCO action is conditioned on the outcome of the court appeal, the USBR will not accept the application.

EBMUD has adequate capacity to serve the project from the District's Scenic Pressure Zone, with a service elevation between 650 and 850 feet. Main extensions will be required to serve the proposed development.

Additionally, the proposed project is required to comply with the California Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). The project sponsor should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all applicable water-efficiency measures described in the regulations are installed.

The costs associated with water supply system as described, as well as development system capacity and service connection fees, will be borne by the project sponsor. Ongoing maintenance of the system will be funded through usage fees collected by EBMUD. The project EIR estimates the water demand will be 46,530 gallons per day. EBMUD has the capacity to serve the project.

10. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate areas 16001, 16002 and 16003. The assessed value for the annexation area is \$3,447,117 (2014-15 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are fewer than 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) received notice of the initial hearing on January 14, 2015.

12. Boundaries and Lines of Assessment:

The annexation area is within the SOIs of both CCCSD and EBMUD and is contiguous to the districts' service boundaries. A map and legal description to implement the proposed boundary changes have been received and are being reviewed by the County Surveyor.

13. Environmental Justice:

LAFCO is required to consider the extent to which proposals for a change 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 area does not meet the criteria of a DUC.

15. Comments from Affected Agencies/Other Interested Parties

On January 7, 2015, LAFCO received communication from Maryann Cella with SOS Danville Group (Attachment 3) informing LAFCO of the status of the lawsuit and the injunction issued by the Court. Ms. Cella requested that LAFCO table its consideration of the Magee Ranch annexations until there is a legally valid EIR and a legally valid development plan approval for the SummerHill/Magee project.

On January 9, 2015, LAFCO was copied on a letter from Stuart M. Flashman, attorney for SOS Danville Group, claiming that CCCSD, EBMUD and LAFCO are subject to the injunction issued by the Superior Court, and that moving forward with approving the reorganization while the injunction remains in effect would be a violation of that injunction and could subject the parties to a claim of being in contempt of court (Attachment 4).

LAFCO staff has continued to communicate with the Town of Danville, CCCSD and EBMUD staff, and with representatives of SOS Danville Group and SummerHill Homes on the proposal.

On August 6, 2015, LAFCO received correspondence from Maryann Cella, SOS Danville Group (Attachment 5) requesting that LAFCO reduce the annexation boundary to include only the parcels that will require sewer and/or water service (APNs 202-050-071/078/079 and 215-040-002) – see Attachment 6. Ms. Cella notes that the other six parcels will be preserved as permanent open space, will not be developed; and therefore, will have no need for utility services.

The Town of Danville staff indicates that as part of the project, 40± acres will be developed, and the remaining 370± acres will remain undeveloped, shall be preserved as permanent open space, and designated as such on the final map for the project. In addition, the applicant shall dedicate to the Town a scenic easement covering the undeveloped portions of the project site. The scenic easement shall preclude any future development on these portions of the project site.

The developer, CCCSD and EBMUD support annexation of the entire area, as proposed, in order to ensure logical and orderly boundaries; and the Town of Danville's primary focus is that the residential units in the project, as approved, have the ability to be served by the utilities. The Commission has discretion to amend the annexation boundaries as desired.

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 actions:

Option 1 CONTINUE this matter to a future meeting. Based on the information obtained from the parties, and in anticipation of an Appellate Court decision, it is recommended that LAFCO continue the matter to October 14, 2015.

Option 2 APPROVE the reorganization as submitted.

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Magee Ranches EIR and related environmental documents as certified by the Town of Danville on June 18, 2013; and that the Commission adopts the Town of Danville's Findings of Fact and Statement of Overriding Considerations.
- B. Adopt this report, approve LAFCO Resolution No. 14-05 (Attachment 2), and approve the proposal, to be known as Reorganization 186 (Magee Ranch/SummerHill): Annexations to CCCSD and EBMUD 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.
 3. Water service is conditional upon EBMUD receiving acceptance for inclusion of the annexed areas from the USBR, pursuant to the requirements in EBMUD's contract with USBR for supplemental water supply from the CVP.
 4. LAFCO's approval is conditioned on a) receipt from the Town of Danville of a valid EIR (either through acceptance of the EIR by the Court of Appeal, or through the revision/recirculation process); and b) validation from the Court of Appeal that the Town of Danville's approval of the SummerHill Homes development plan and related actions are legally valid. As noted above, the USBR will not accept an application for inclusion of an area in the EBMUD CVP service area if there are uncertainties, such as a conditional approval by LAFCO.
- C. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

Option 3 APPROVE the reorganization as modified by the Commission.

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Magee Ranches EIR and related environmental documents as certified by the Town of Danville on June 18, 2013; and that the Commission adopts the Town of Danville's Findings of Fact and Statement of Overriding Considerations.
- B. Adopt this report, approve LAFCO Resolution No. 14-05 (Attachment 2), and approve the proposal, to be known as ***Reorganization 186 (Magee Ranch/ SummerHill): Annexations to CCCSD and EBMUD*** 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.
 3. Water service is conditional upon EBMUD receiving acceptance for inclusion of the annexed areas from the USBR, pursuant to the requirements in EBMUD's contract with USBR for supplemental water supply from the CVP.
 4. LAFCO's approval is conditioned on a) receipt from the Town of Danville of a valid EIR (either through acceptance of the EIR by the Court of Appeal, or through the revision/recirculation process); and b) validation from the Court of Appeal that the Town of Danville's approval of the SummerHill Homes development plan and related actions are legally valid. As noted above, the USBR will not accept an application for inclusion of an area in the EBMUD CVP service area if there are uncertainties, such as a conditional approval by LAFCO.
- C. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

Option 4 Adopt this report and DENY the proposal.

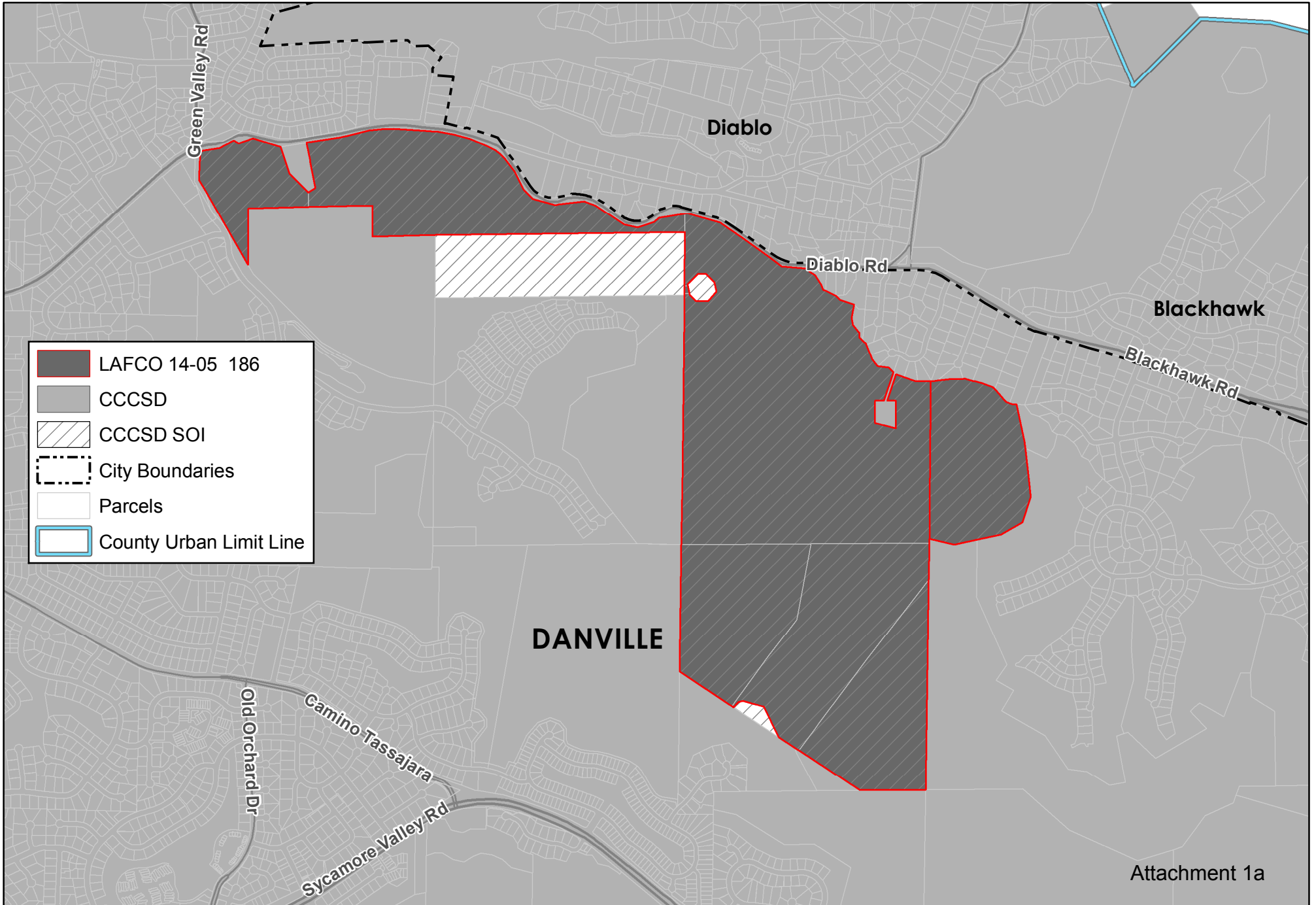
RECOMMENDED ACTION: **Approve Option 1** and continue the matter to October 14, 2015.

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

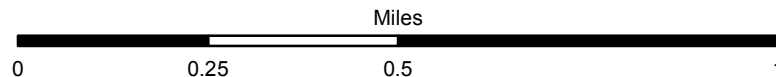
Attachments:

- 1a & 1b – CCCSD/EBMUD Annexation Maps
- 2 – Draft LAFCO Resolution 14-05
- 3 – E-mail communication dated January 7, 2015 from Maryann Cella with SOS Danville Group
- 4 – Letter dated January 9, 2015 from Stuart M. Flashman, Attorney for SOS Danville Group
- 5 – Communication dated August 6, 2015 from Maryann Cella, SOS Danville Group
- 6 – Annexation Map – Reduced Boundary Option

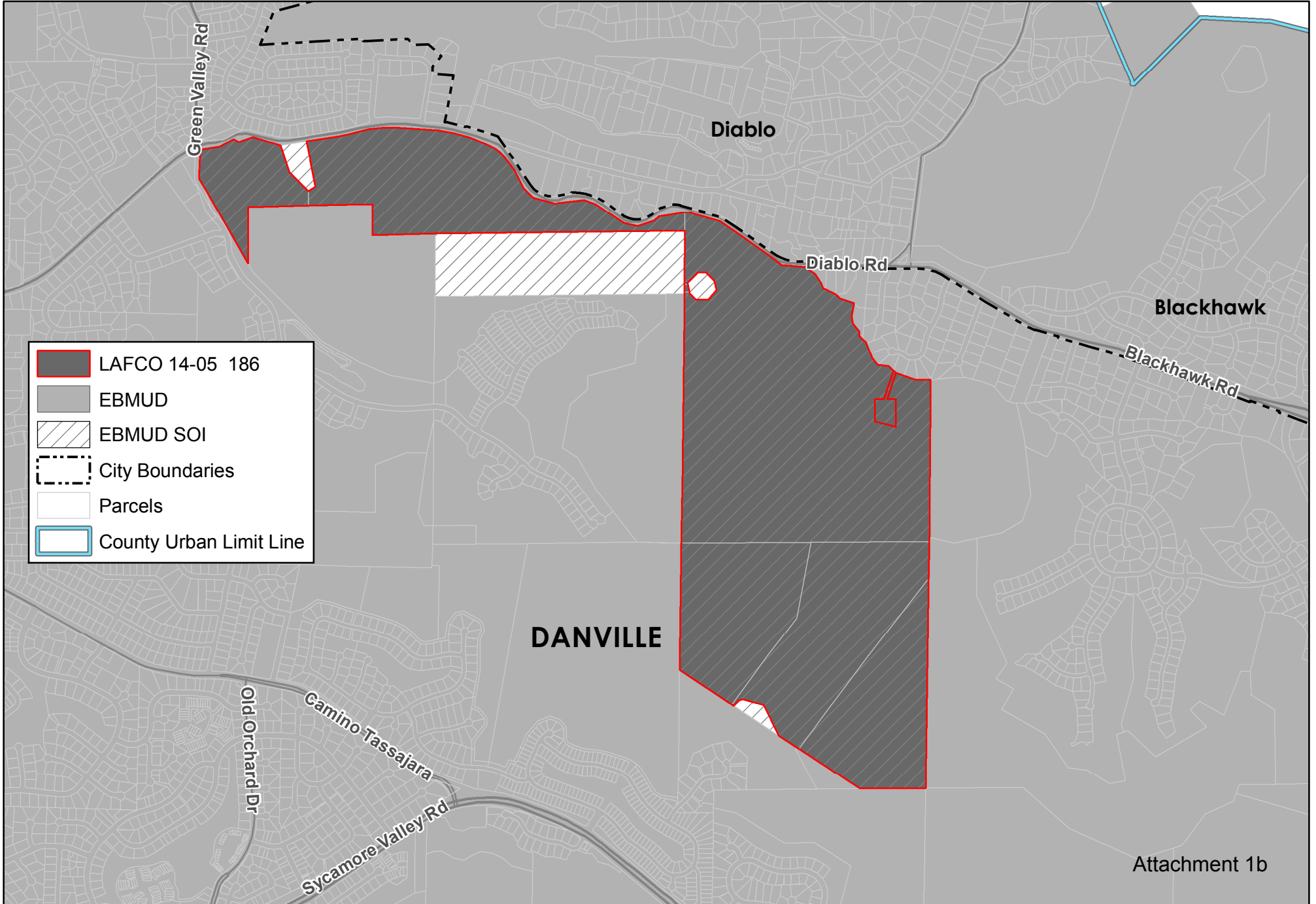
LAFCO No. 14-05: Annexation 186 Magee Ranch/Summerhill to Central Contra Costa Sanitary District



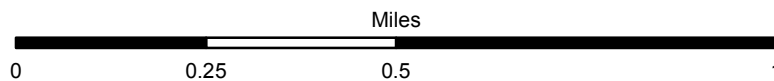
Attachment 1a



LAFCO No. 14-05: Annexation 186 Magee Ranch/Summerhill to East Bay Municipal Utilities District



Attachment 1b



Kate Sibley

From: Lou Ann Texeira
Sent: Wednesday, January 21, 2015 2:58 PM
To: Kate Sibley
Subject: FW: OPPOSITION TO LAFCO 14-05. Reorganization 186. SummerHill/Magee Ranch annexations to CCCSD and EBMUD.
Attachments: Order on Petition for Writ of Mandate.pdf

From: Maryann Cella [<mailto:maryann.cella@gmail.com>]
Sent: Wednesday, January 07, 2015 12:03 PM
To: Lou Ann Texeira
Cc: Todd B. Gary; jonpat@sbcglobal.net; CHARLES S WAITMAN; Clelen Tanner; stu@stufdash.com
Subject: RE: OPPOSITION TO LAFCO 14-05. Reorganization 186. SummerHill/Magee Ranch annexations to CCCSD and EBMUD.

Hi, Ms. Texeira. Thank you for speaking with me this morning regarding the above-captioned matter. As discussed, SOS-Danville requests that **LAFCO table its consideration of the Magee Ranch annexations until there is a LEGALLY VALID EIR and a LEGALLY VALID DEVELOPMENT PLAN APPROVAL for the SummerHill Homes Magee Ranches project.**

Pursuant to our discussion, I attach Judge Austin's rulings in SOS-Danville v. Town of Danville, et al. The rulings give rise to three reasons why LAFCO should table the SummerHill Homes Magee Ranch annexation.

1. THE SUMMERHILL HOMES MAGEE RANCHES EIR IS LEGALLY INVALID. As you will see from the rulings, Judge Austin determined that **the Town of Danville's EIR for the SummerHill Homes Magee Ranches development is LEGALLY INVALID.** For the specifics, please see the section of the rulings entitled as follows:

"Impacts on traffic---bicycle safety: petition granted. "

Because the Magee Ranches EIR is legally invalid, **it would be legally wrong for LAFCO to base a decision on that EIR.** Accordingly, SOS-Danville respectfully requests that **LAFCO table its consideration of the Magee Ranch annexations until there is a LEGALLY VALID EIR.**

2. THERE IS AN INJUNCTION AGAINST LAFCO AS AN ENTITY "ACTING IN CONCERT" WITH DEFENDANTS. I will send you shortly Judge Austin's FINAL JUDGEMENT containing the **injunction.** As we discussed, the injunction is against the Town of Danville, SummerHill Homes, the Magee Ranch investors, their agents, and THOSE ACTING IN CONCERT WITH THEM. We believe that the injunction applies to LAFCO as an entity ACTING IN CONCERT with SummerHill Homes and the Magee Ranch investors. **Therefore LAFCO is enjoined from acting on the annexations application as long as the injunction is in place and LAFCO must table the annexations unless and until the injunction is no longer in effect.**

3. THE DEVELOPMENT PLAN APPROVAL FOR THE SUMMERHILL MAGEE RANCHES PROJECT IS LEGALLY INVALID. Please review the section of the rulings entitled "Rezoning of

Agricultural land to P-1". Judge Austin determined that the Danville Town Council's approval of the SummerHill Homes development plan application was legally invalid because the plan required a rezoning to P-1, Planned Unit Development, which is not allowed on Agricultural-designated land. Because the development plan approval was illegal, it is not appropriate for LAFCO to consider annexations based upon that approval.

The rezoning to P-1 was the CENTRAL ISSUE of the case, and because SOS-Danville won that issue, Judge Austin determined in his final judgment that **SOS-Danville is the PREVAILING PARTY in the suit.** Commonly, plaintiffs in these sorts of cases raise many issues and don't expect to win all of them. Winning the key issue or issues, makes a party the "prevailing party".

The Town of Danville is now appealing both of the issues they lost. If the appellate court affirms Judge Austin's decision, SummerHill Homes will have to go back to the drawing board and RESUBMIT a **new development application** including a "GENERAL PLAN AMENDMENT" TO CHANGE THE LAND USE DESIGNATION of the Ag. parcel to a residential one. Then there will have to be the study prepared that is referenced in the General Plan's Ag. section regarding the possibilities for continued Ag. use of the Ag. parcel. **There will also have to be another EIR section prepared on the bike safety issue** (the rest of the EIR will still be good only if the resubmitted plan is still the same or fewer number of and same location for the units). If the Council approves the new EIR and the new development plan application, Danville's Open Space Protection law, Measure S, will be triggered. Measure S will require a public vote of approval on the application before the development can go forward.

Please let me know if you have any questions. My cell # is 980-6170. I look forward to hearing from you regarding this matter.

Thank you so much for your consideration. You may wish to contact our SOS-Danville attorney, Stuart Flashman, at [510-652-5373](tel:510-652-5373).

Maryann Cella
SOS-Danville Group
www.SOS-Danville.com

Law Offices of
Stuart M. Flashman
5626 Ocean View Drive
Oakland, CA 94618-1533
(510) 652-5373 (voice & FAX)
e-mail: stu@stuflash.com

DELIVERY VIA E-MAIL AND U.S. MAIL

January 9, 2015

Mr. Andrew Faber, Esq.
Berliner Cohen
10 Almaden Boulevard, Suite 1100
San Jose, CA 95113-2233

Re: Final Judgment in *SOS-Danville Group v. Town of Danville et al.*, Contra
Costa County Superior Court Case No. MSN13-1151

Dear Mr. Faber:

I am writing to you on behalf of my client, SOS-Danville Group in your role as legal counsel for the real parties in interest in the above-entitled case, and specifically as counsel for Summerhill Homes, LLC. As you know, final judgment was entered against your clients on August 18, 2014. As you also know, that judgment included a permanent injunction against real parties in interest, their agents, employees, servants, officers, assigns, and those acting in concert with them against issuing any construction or development permits that are dependent on Respondents' approvals of the Magee Ranch Residential Project that were challenged in the case. A copy of that judgment (without attachments) is attached hereto.

It has come to my attention that Summerhill has applied to the Contra Costa County LAFCO for annexation of the Magee Ranch Project property to the service areas for East Bay MUD and Central Contra Costa County Sanitary Districts. Both these annexations, which SOS-Danville Group considers to be a form of development permit as they are necessary adjuncts to moving forward with the development of the Project, rely upon the Final EIR for the Project, the approval of which was one of the approvals that was successfully challenged in the litigation.

As a consequence, Contra Costa County LAFCO and the two annexing agencies are acting in concert with Summerhill in approving the annexations, and are therefore subject to the injunction in that judgment.

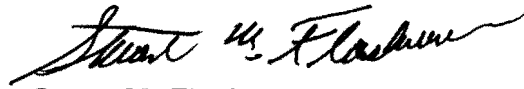
In addition, unless the Court of Appeal reverses the trial court's judgment, the approvals for the Project must be rescinded and the property will revert to its former Agricultural land use and zoning, under which the proposed annexations would be improper under the Cortese-Knox act.

By this letter, you, Summerhill, and the three agencies involved are placed on notice that moving forward with approving the annexations while the injunction and the final judgment remain in effect would be a violation of that injunction and could subject you, and them, to a claim of being in contempt of court.

As you know, while the writ of mandate for rescission of the Towns approvals has been stayed by the appeal your clients have filed, the final judgment and the prohibitory injunction included in the judgment (and properly served on you) were not. If you and your clients believe the circumstances justify allowing these annexations to move forward while the appeal of the judgment is pending, my client believe the proper course

would have been to apply to the Court of Appeal for a stay of that injunction. In the absence of such a stay, the terms of the injunction remain in effect. We expect you and your client to respect the trial court's judgment and to not move forward with the pending annexation proceedings until and unless you receive a valid stay of the injunction.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart M. Flashman". The signature is written in a cursive style with a long, sweeping underline.

Stuart M. Flashman
Attorney for SOS-Danville Group

Attachment: Final Judgment

cc: Contra Costa County LAFCO
East Bay MUD
Central Contra Costa Sanitary District

COPY

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Stuart M. Flashman (SBN 148396)
5626 Ocean View Dr.
Oakland, CA 94618-1533
Telephone/Fax: (510) 652-5373
e-mail: stu@stufash.com

Attorney for Petitioner and Plaintiff SOS-DANVILLE GROUP

7/28/2014 10:09 AM
COURT OF SUPERIOR COURT
COUNTY OF CONTRA COSTA, CA
BY: _____
D. WEBER

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA**

SOS – DANVILLE GROUP,
Petitioner and Plaintiff

vs.

TOWN OF DANVILLE, *et al.*,
Respondents and Defendants
SUMMERHILL HOMES, LLC, *et al.*,
Real Parties In Interest

No. MSN13-1151 Filed July 25, 2013
Assigned for all purposes to Hon. Steven K.
Austin, Dept. 33

[proposed] FINAL JUDGMENT

BY FAX

This action came on regularly for hearing on June 25, 2014 in Department 33 of the Contra Costa County Superior Court, the Honorable Steven K. Austin presiding. Petitioner and Plaintiff SOS – Danville Group (“Petitioner”) appeared by Stuart M. Flashman. Respondents and Defendants Town of Danville (“Town”) and Danville Town Council (the foregoing, collectively, “Respondents”) appeared by Robert S. Perlmutter, Esq. of Shute, Mihaly & Weinberger LLP and Andrew L. Faber, Esq. of Berliner Cohen LLP. Real Parties in Interest Summerhill Homes LLC, Magee Investment Company, and Teardrop Partners LP (the foregoing, collectively, “Real Parties”) appeared by Andrew L. Faber, Esq. of Berliner Cohen LLP.

The Court, having considered the papers and evidence submitted by the parties and the arguments of counsel at hearing, issued its Order re: Petition for Writ of Mandate (CEQA) and Order re: Demurrer to First Amended Civil Petition, copies of which are attached hereto as Exhibits A and B respectively and are incorporated herein by this reference, on July 28, 2014.

Pursuant to the Court’s orders, and based upon the pleadings, evidence and argument submitted in this case, **IT IS ORDERED, ADJUDGED AND DECREED** as follows:

1 1. Rulings on Preliminary Matters: The Court grants all the parties’ requests for
2 judicial notice as requested. The objections to the Declaration of David Crompton are overruled.

3 2. Petitioner’s First Cause of Action for mandamus under the California
4 Environmental Quality Act (“CEQA”) is **GRANTED** in part and **DENIED** in part as set forth in
5 greater detail in the attached order.

6 3. Petitioner’s Second Cause of Action for mandamus under California Planning and
7 Zoning Law for approval of a project inconsistent with the Town’s General Plan is **GRANTED**
8 in part and **DENIED** in part as set forth in greater detail in the attached order.

9 4. Petitioner’s Third Cause of Action, for Declaratory Relief, is **DISMISSED**
10 **WITH PREJUDICE** as set forth in greater detail in the attached order on the demurrer thereto.

11 5. This Final Judgment fully disposes of all of the matters related to this action.

12 6. A Peremptory Writ of Mandate shall issue, under seal of the Court, ordering
13 Respondents to rescind their actions in approving the Magee Ranch Residential Project and
14 certifying the Final Environmental Impact Report for said project. Respondents shall file a
15 written return to said writ within sixty days of its service.

16 7. Respondents, Real Parties in Interest, their agents, employees, servants, officers,
17 assigns, and those acting in concert with them are hereby **PERMANENTLY ENJOINED** from
18 issuing any construction or development permits or undertaking any construction activities
19 which permits or construction activities are dependent on Respondents’ approvals of the Magee
20 Ranch Residential Project that were challenged herein.

21 8. Petitioner, as the prevailing party, shall recover its costs of suit as provided by
22 law. Such costs shall be appended to this judgment.

23 9. The right of Petitioner to seek attorneys’ fees in this matter under Code of Civil
24 1021.5 is hereby reserved for later determination in accordance with California Rule of Court
25 3.1702.

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IT IS SO ORDERED.

Date: 8-11-14

STEVEN K. AUSTIN

Steven K. Austin
Judge of the Superior Court

Approved as to form:

Date: 8/6/14

Robert B. Ewing, City Attorney

Shute, Mihaly & Weinberger LLP
Robert S. Perlmutter

Attorneys for Respondents and Defendants
Town of Danville and Danville Town
Council

By: Robert B. Ewing
Robert B. Ewing

Date: 8/5/14

Andrew L. Faber
Andrew L. Faber
Attorney for Real Parties in Interest
Summerhill Homes, LLC, Magee
Investment Company, and Teardrop
Partners, LP

Kate Sibley

From: Maryann Cella <maryann.cella@gmail.com>
Sent: Thursday, August 06, 2015 5:05 PM
To: Kate Sibley
Subject: LAFCO 14-05 - Reorg. 186 (Magee/SummerHill): Danville planner's answers to questions regarding the "permanent Open Space" associated with the SummerHill Homes "Magee Ranches" development
Attachments: 4370_001.pdf

PLEASE ATTACH THE LETTER BELOW (INCLUDING THE ATTACHMENT) TO THE PACKET FOR THE WEDNESDAY, AUGUST 12TH LAFCO HEARING.

CONTRA COSTA COUNTY LAFCO
Lou Ann Texeira, Executive Officer

Dear Ms. Texeira,

Thank you for providing us with timely notice of the upcoming LAFCO hearing. It has been a pleasure to work with you, Kate Sibley, and Sharon Anderson throughout this process.

SOS-Danville has the following comments regarding the upcoming hearing:

1. We concur with the Executive Officer's recommendation to continue the hearing regarding LAFCO 14-05 - Reorg. 186 (Magee/SummerHill) until September 2015.
2. We respectfully request that the EBMUD and the CCC Sanitary District annexation areas be reduced to include only the following four parcels:

202-050-071

202-050-078

202-050-079

215-040-002

You will recall that at the May hearing regarding the above annexation, SOS-Danville requested that the planned permanent Open Space associated with the Magee Ranches developments be removed from the area to be annexed. That Open Space area will never be developed, and therefore annexation of it is improper.

Below, you will see the Danville planner David Crompton's listing of the only 4 Magee Ranch parcels (of the 10 that comprise the current Magee Ranch) that are to be developed, and the legal means that are supposed to ensure that the rest of the parcels remain undeveloped.

Thank you for consideration of our comments.

Sincerely,
Maryann Cella
SOS-Danville Group
www.sos-danville.com

----- Forwarded message -----

From: **David Crompton** <DCrompton@danville.ca.gov>

Date: Wed, May 27, 2015 at 8:09 AM

Subject: RE: Questions regarding the Danville -Town- Council-approved SummerHill Homes development for Magee Ranch

To: "Maryann Cella (maryann.cella@gmail.com)" <maryann.cella@gmail.com>

Hi Maryann,

As approved, homes and/or infrastructure would be developed on the following APNs:

202-050-071

202-050-078

202-050-079

215-040-002

No other parcels would receive any development (see attached chart).

Condition of Approval B.5. of Town Council Resolution No. 60-2013 reads as follows.

As part of the subject P-1; Planned Unit Development District, the remaining approximately 372 acre undeveloped portion of the site shall be preserved as permanent open space, and shall be designated as such on the final map for the project. In addition, the applicant shall dedicate to the Town of Danville a Scenic Easement covering the undeveloped portions of the project site. The scenic easement shall

preclude any future development on these portions of the project site. The public trail easement area to be located along Diablo Road shall be excluded from the scenic easement.

Sincerely,

David Crompton

Principal Planner

From: Maryann Cella [mailto:maryann.cella@gmail.com]

Sent: Monday, May 18, 2015 2:49 PM

To: David Crompton

Subject: Questions regarding the Danville -Town- Council-approved SummerHill Homes development for Magee Ranch

Hi, David. I hope all is well with you.

Could you please answer the following questions regarding the "Magee Ranches" SummerHill Homes project, as approved:

1. Of the 11 parcels contained within the current Magee Ranch site, which parcels will contain homes or infrastructure associated with the project, as approved?
2. Which of the 11 parcels will not contain any homes or infrastructure associated with the project, as approved?
3. Please list any specific conditions of approval for the project that will restrict the future development of any of the parcels that will not contain homes or infrastructure associated with the project.

Thank you for your assistance.

Maryann Cella

Proposed Development

The project proposes to develop 70 new residential units on approximately 410 acres. At least 10 percent of the units would include second units (referred to as “casitas”) to satisfy the Town’s affordable housing requirements. Second units are excluded from density determinations in accordance with California Government Code §65852.2.¹ Development would be primarily clustered in two areas of the project site. Approximately 302 acres would be dedicated as permanent open space.

The proposed project would concentrate site development activities on approximately 108 acres. In order to cluster development, the project proposes to rezone the project site to P-1; Planned Unit Development District. Table 4.9-1 below shows the existing General Plan land use designations and the existing and proposed zoning designations. No General Plan amendments are proposed in connection with the project.

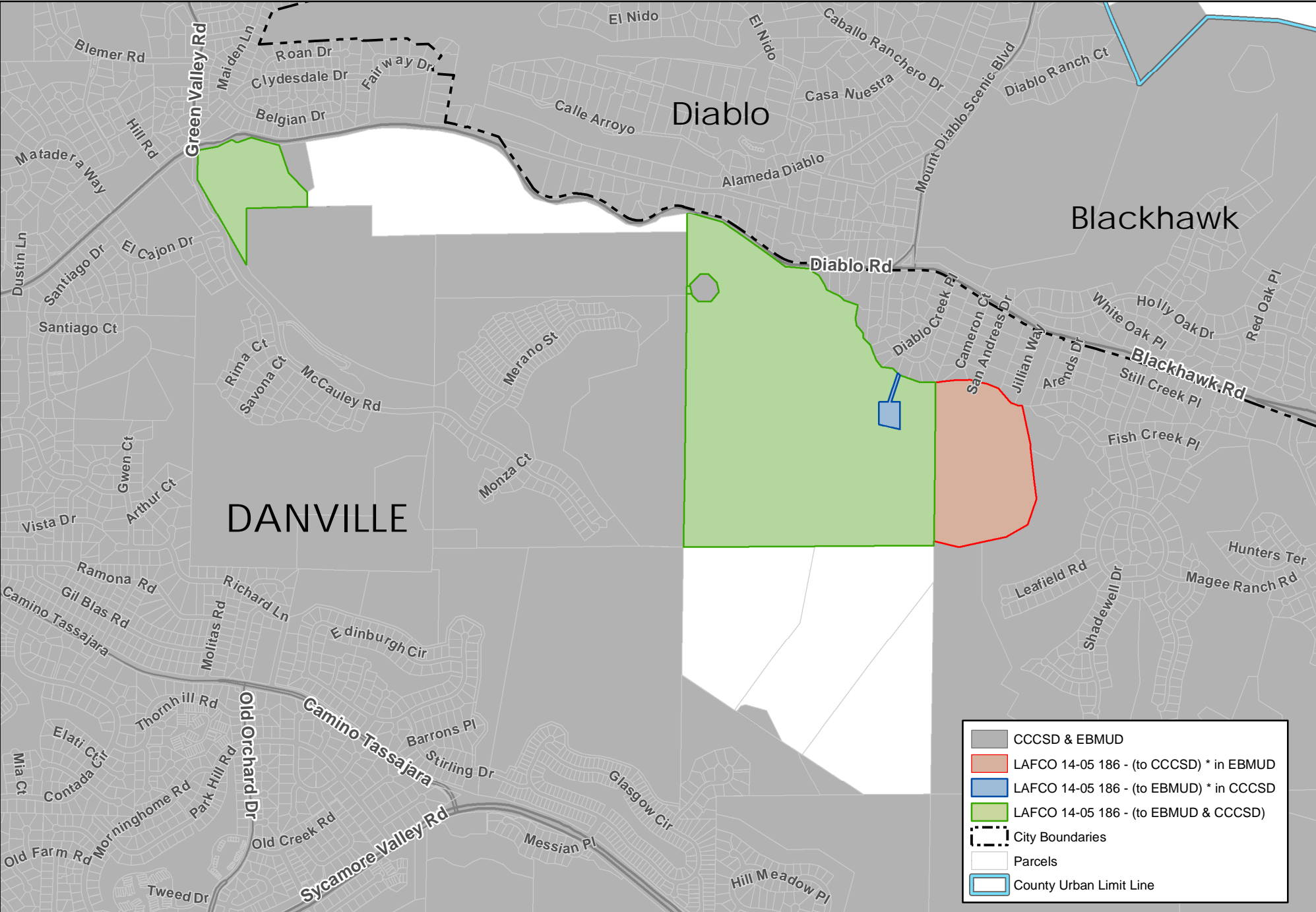
APN	General Plan Designations	Existing Zoning	Proposed Zoning	Acres
202-050-071	Public and Open Space -Agricultural	A-4	P-1	36.4
202-050-073	Public and Open Space - General Open Space	P-1	P-1	3.4
202-050-078	Public and Open Space -Agricultural	A-4	P-1	159.1
202-050-079	Residential - Rural Residential	A-2	P-1	17.2
202-050-080	Residential - Rural Residential	A-2	P-1	52.7
	Residential - Single Family - Low Density	A-2	P-1	5.0
202-100-017	Residential - Rural Residential	A-2	P-1	40.8
202-100-019	Residential - Rural Residential	A-2	P-1	38.9
202-100-038	Residential - Rural Residential	A-2	P-1	51.1
202-100-040	Public and Open Space -- General Open Space	P-1	P-1	2.5
215-040-002	Public and Open Space -Agricultural	A-4	P-1	3.2
Total Acres				410.3
A-2; General Agricultural District A-4; Agricultural Preserve District P-1; Planned Unit District Sources: Town of Danville 2010 Land Use Map; Town of Danville Zoning Map				

Regulatory Environment*Local*

2010 Town of Danville General Plan. Pursuant to California Government Code §65300, each city is required to adopt a comprehensive General Plan to guide the physical development of the community. The 2010 General Plan consists of goals, policies, and implementation measures for the physical development of the Town.

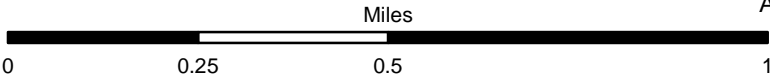
¹ Municipal Code §32-76, which regulates second dwelling units further states that, “a second dwelling unit, which meets the requirements of this section [§32-76], shall be allowed on a parcel, which is zoned for single-family residential use. A second dwelling unit which meets the requirements of this section shall be considered in compliance with the allowable density for the lot upon which the second dwelling unit is located and shall be considered a residential use that is consistent with the existing General Plan and zoning designation for the lot.”

LAFCO No. 14-05: Annexation 186 Magee Ranch/Summerhill to Central Contra Costa Sanitary District and/or East Bay Municipal Utilities District



Map created 08/31/2015
 by Contra Costa County Department of
 Conservation and Development, GIS Group
 30 Muir Road, Martinez, CA 94553
 37:59:41.791N 122:07:03.756W

This map or dataset was created by the Contra Costa County Department of Conservation and Development with data from the Contra Costa County GIS Program. Some base data, primarily City Limits, is derived from the CA State Board of Equalization's tax rate areas. While obligated to use this data the County assumes no responsibility for its accuracy. This map contains copyrighted information and may not be altered. It may be reproduced in its current state if the source is cited. Users of this map agree to read and accept the County of Contra Costa disclaimer of liability for geographic information.



Attachment 6





Lou Ann Texeira
Executive Officer

MEMBERS

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

ALTERNATE MEMBERS

Candace Andersen
County Member
 Sharon Burke
Public Member
 Tom Butt
City Member
 Stanley Caldwell
Special District Member

September 9, 2015 (Agenda)

September 9, 2015
 Agenda Item 10

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

**Authorize Service Contract - Countywide 2nd Round Municipal Service Review
 and Sphere of Influence Updates – Emergency Medical and Fire Services**

Dear Members of the Commission:

DISCUSSION

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires that on or before January 1, 2008, and every five years thereafter, LAFCO review and update the sphere of influence (SOI) of each local agency, as necessary. As part of the SOI update, LAFCO must prepare a corresponding Municipal Service Review (MSR) to determine the range and adequacy of governmental services provided.

In April 2013, Contra Costa LAFCO completed its inaugural MSR cycle covering all 19 cities and 75 special districts. In conjunction with the MSRs, LAFCO updated the SOIs for most agencies. In August 2013, LAFCO initiated its second round MSRs/SOI updates, and in June 2014, completed a countywide review of water/wastewater services. We are currently working on the 2nd round MSR covering reclamation (levee) services, which should be complete by the end of the calendar year.

In conjunction with the FY 2015-16 LAFCO budget, the Commission directed staff to move forward with the 2nd round MSR covering fire and emergency medical services (EMS).

Consultant Recruitment Process - Contra Costa LAFCO has relied primarily on consultants to prepare MSRs. Given the technical nature of EMS and fire services, LAFCO will utilize professional consulting services for this MSR. In July, the Commission approved release of a Request for Proposals (RFP) and Scope of Services for this MSR. The RFP was released on July 10th, was sent to over 30 firms, and posted on the Contra Costa LAFCO, CALAFCO and California Special Districts Association websites. Proposals were submitted by four firms (copies of the proposals are available upon request):

- **Emergency Services Consulting International** – Sheldon Gilbert, Dawn Mittleman, John Lehr, and Rob Strong
- **Harvey M. Rose Associates, LLC** – Fred Brousseau, Amanda Guma, and Adrian Gonzales
- **Municipal Resource Group, LLC (MRG) and Berkson Associates (BA)** – Mike Oliver and Brian M. Kelly (MRG), and Richard Berkson (BA)
- **Policy Consulting Associates, LLC (PCA) and E. Mulberg & Associates (EMA)** – Jennifer Stephenson, Oxana Wolfson, and Chief Steve Kovacs (PCA) and Elliot Mulberg (EMA)

The proposals varied in terms of approach, number of team members and timelines; and costs ranged from \$47,410 to \$80,000.

As directed by the Commission, the screening included a *fire management professional* – **David Rocha**, Fire Chief, Alameda County Fire Department with nearly 30 years of fire service experience with Alameda County and the City of San Leandro; a *representative from a fire labor organization* – **Kevin Brown**, Firefighter/Paramedic, City of Vallejo Fire Dept. and Board Member, Professional Firefighters Local 1186; and a *public manager* – **Theresa Smith Rude**, Administrative Analyst, Alameda County Administrator's Office with over 25 years of budget and program analysis experience in two counties, focusing on fire, health care, police services and public assistance. Your Executive Officer also participated in the review of the written proposals and interviews.

The four firms were interviewed on August 27th. The interviews were structured, with questions designed to gauge the consultants' understanding of the required tasks, proposed approach to the MSR, experience and familiarity with LAFCO, knowledge of EMS and fire service, qualifications of personnel assigned to work on the MSR, budget and other factors.

Following the interviews, the committee deliberated and concluded that while all firms are qualified and could provide the needed services, it is recommended that the Commission hire Municipal Resource Group, LLC and Berkson Associates to prepare the 2015-16 EMS/Fire Services MSR. Subsequently, LAFCO staff conducted a reference check and reviewed some of the firms' sample MSR work products; all were positive and support the committee's recommendation.

The project team has significant experience working with LAFCOs and local agencies.

- ❖ **Mike Oliver** has served as City Manager for the cities of Oakley, Citrus Heights and San Leandro. Mike brings significant experience in the areas of fiscal and operational analysis; service realignment and enhancement; public safety studies for cities and counties; and alternative service delivery options for local governments.
- ❖ **Brian M. Kelly** has over 35 years of experience in the EMS and fire service, including serving as Fire Chief for over 20 years for the cities of Millbrae, Union City and San Mateo, as Fire Marshal for Sonoma County, and as interim Fire Chief for local and federal agencies. Brian has also worked in various capacities for the International Association of Fire Chiefs,

State of California FIRESCOPE operations group, and the California Fire Chiefs Association.

- ❖ **Richard L. Berkson** (Principal, Berkson Associates) has over 30 years of experience working with local agencies throughout California. Areas of expertise include government organization, fiscal, financial and market analysis, and public finance. Richard has prepared numerous LAFCO governance studies and municipal service reviews; studies addressing incorporations, annexations, special district formations, consolidations, and dissolutions; design and preparation of financial strategy studies, capital and infrastructure plans, fee, tax and related studies.

The Municipal Resource Group, LLC and Berkson Associates proposal and consultant resumes are available through the LAFCO office.

FINANCING

Adequate funding is included in the FY 2015-16 budget to cover costs associated with this MSR.

RECOMMENDATION

Authorize staff to execute a contract with Municipal Resource Group, LLC and Berkson Associates to prepare the 2nd round EMS/Fire Services MSR/SOI updates for the term October 1, 2015 through September 30, 2016 in an amount not to exceed \$80,000.

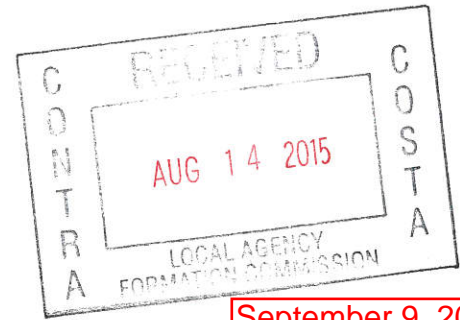
Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

c: Distribution

August 12, 2015

Mr. Rob Schroder
Chair
Contra Costa Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, California 94553-1229



Re: President's Special Acknowledgement Award - Workers' Compensation Program

**September 9, 2015
Agenda Item 11**

Dear Mr. Schroder:

This letter is to formally acknowledge the dedicated efforts of the Contra Costa Local Agency Formation Commission's Governing Body, management and staff towards proactive loss prevention and workplace safety for earning the President's Special Acknowledgement Award! The Award is to recognize members with no "paid" claims during the prior **five consecutive program years** in either the Property/Liability or Workers' Compensation Programs.

A "paid" claim for the purposes of this recognition represents the first payment on an open claim during the prior program year. Your agency's efforts have resulted in no "paid" workers' compensation claims for the prior 5 consecutive program years including 2014-15. This is an outstanding accomplishment that serves as an example for all SDRMA members!

It is through the efforts of members such as Contra Costa Local Agency Formation Commission that SDRMA has been able to continue providing affordable workers' compensation coverage to over 415 public agencies throughout California. While 271 members or 65% in the workers' compensation program had no "paid" claims in program year 2014-15, 123 members or 30% had no paid claims for the prior 5 consecutive years.

In addition to this annual recognition, members with no "paid" claims during 2014-15 earn 2 credit incentive points (CIPs) reducing their annual contribution amount and members with no "paid" claims for the prior 5 consecutive program years will earn 3 additional bonus CIPs. Also, members without claims receive a lower "experience modification factor" (EMOD) which also reduces their annual contribution amount.

On behalf of the SDRMA Board of Directors and staff, it is my privilege to congratulate the Governing Body, management and staff of Contra Costa Local Agency Formation Commission for their commitment to proactive loss prevention and safety in the workplace.

Sincerely,
Special District Risk Management Authority



David Aranda, President
Board of Directors



SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

President's Special Acknowledgement Award

THE PRESIDENT OF THE SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

HEREBY GIVES SPECIAL RECOGNITION TO

Contra Costa Local Agency Formation Commission

The President's Special Acknowledgement Award is to recognize members with no "paid" claims during the prior five consecutive program years in the Workers' Compensation Program. A "paid" claim for the purposes of this recognition represents the first payment on an open claim during that same period. Congratulations on your excellent claims record!

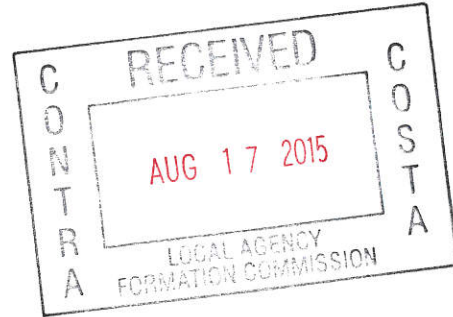
David Aranda, SDRMA Board President

August 12, 2015

Date

August 12, 2015

Mr. Rob Schroder
Chair
Contra Costa Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, California 94553-1229



Re: President's Special Acknowledgement Award – Property/Liability Program

Dear Mr. Schroder:

This letter is to formally acknowledge the dedicated efforts of the Contra Costa Local Agency Formation Commission's Governing Body, management and staff towards proactive risk management and loss prevention training for earning the President's Special Acknowledgement Award! The Award is to recognize members with no "paid" claims during the prior **five consecutive program years** in either the Property/Liability or Workers' Compensation Programs.

A "paid" claim for the purposes of this recognition represents the first payment on an open claim during the prior program year and excludes property claims. Your agency's efforts have resulted in no "paid" property/liability claims for the prior 5 consecutive program years including 2014-15. This is an outstanding accomplishment that serves as an example for all SDRMA members!

It is through the efforts of members such as Contra Costa Local Agency Formation Commission that SDRMA has been able to continue providing affordable property/liability coverage to over 491 public agencies throughout California. While 424 members or 86% in the property/liability program had no "paid" claims in program year 2014-15, 287 members or 58% had no paid claims for the prior 5 consecutive years.

In addition to this annual recognition, members with no "paid" claims during 2014-15 earn 2 credit incentive points (CIPs) reducing their annual contribution amount and members with no "paid" claims for the prior 5 consecutive program years will earn 3 additional bonus CIPs. Also, members with no "paid" claims for at least 3 consecutive program years may receive a lower "risk factor" which also helps to reduce the annual contribution amount.

On behalf of the SDRMA Board of Directors and staff, it is my honor to congratulate the Governing Body, management and staff of Contra Costa Local Agency Formation Commission for their commitment to proactive risk management and loss prevention training.

Sincerely,
Special District Risk Management Authority

A handwritten signature in blue ink, appearing to read "David Aranda".

David Aranda, President
Board of Directors



SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

President's Special Acknowledgement Award

THE PRESIDENT OF THE SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

HEREBY GIVES SPECIAL RECOGNITION TO

Contra Costa Local Agency Formation Commission

The President's Special Acknowledgement Award is to recognize members with no "paid" claims during the prior five consecutive program years in the Property/Liability Program. A "paid" claim for the purposes of this recognition represents the first payment on an open claim during that same period and excludes property claims. Congratulations on your excellent claims record!

David Aranda, SDRMA Board President

August 12, 2015

Date



September 9, 2015
Agenda Item 12

AGENDA

RETIREMENT BOARD MEETING

SECOND MONTHLY MEETING
August 27, 2015
9:00 a.m.

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 May 28, 2015 meeting.

CLOSED SESSION

4. CONFERENCE WITH LABOR NEGOTIATORS
(Government Code Section 54957.6)

Agency designated representatives:
Gail Strohl, Retirement Chief Executive Officer
Christina Dunn, Retirement Admin/HR Manager
Joe Wiley/Masa Shiohira, CCCERA's Chief Negotiator

Employee Organization: AFSCME Local 2700
Unrepresented Employees: All CCCERA unrepresented positions

OPEN SESSION

5. Presentation from staff and Pathway regarding proposed Pathway 8 commitment.
6. Consider and take possible action regarding potential commitment to the Pathway Private Equity Fund Investors 8.
7. Review of total portfolio performance for period ending June 30, 2015.
8. Consider and take possible action to add or remove managers from the Watch List.
9. Report from staff on semi-annual rebalancing.

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.

10. Consider and take possible action to approve a five percent increase to the CCCERA CEO base pay effective September 1, 2015.
 - a. Approve first amendment to the CEO employment contract setting forth a monthly base salary of \$15,925.00 effective September 1, 2015 and authorize Board Chairperson to execute the amendment
 - b. Amend Resolution 2015-1 providing for salary and benefits for unrepresented employees of CCCERA to reflect the new CEO monthly base salary effective September 1, 2015
 - c. Consider and take possible action to adopt the pay schedules for all CCCERA classifications effective September 1, 2015.
11. Presentation from staff on updated CCCERA website.
12. Consider authorizing the attendance of Board and/or staff:
 - a. Trustees' Roundtable, CALAPRS, San Jose, CA, September 18, 2015.
 - b. Annual Bancfund Partners Retreat, Carpenter Community Bancfund, Newport Beach, CA, October 1-2, 2015.
 - c. Torchlight Investment Summit 2015, New York, NY, October 7-8, 2015.
 - d. Public Safety Employees Pension and Benefits Conference, NCPERS, Rancho Mirage, CA, October 25-28, 2015.
 - e. INVESCO Real Estate US Client Conference, La Jolla, CA, November 3-5, 2015.
13. 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.

CALAFCO Daily Legislative Report as of Tuesday, September 01, 2015

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: 8/15/2014-Failed Deadline pursuant to Rule 61(b)(14). (Last location was APPR. SUSPENSE FILE on 8/12/2013)

Desk	Policy	Fiscal	Floor	Desk	Policy	Dead	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: 8/15/2014-Failed Deadline pursuant to Rule 61(b)(14) . (Last location was APPR. SUSPENSE FILE on 8/13/2013).

Desk	Policy	Fiscal	Floor	Desk	Policy	Dead	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 1521](#) (Fox D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Current Text: Vetoed: 9/29/2014 [pdf](#) [html](#)

Introduced: 1/16/2014

Last Amended: 8/4/2014

Status: 9/28/2014-Vetoed by the Governor

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, current 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 2014-15 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

Attachments:

[CALAFCO Letter of Support \(Feb 2014\)](#)

Position: Support

Subject: Financial Viability of Agencies, Tax Allocation

CALAFCO Comments: This bill reinstates the VLF payment (through ERAF) and changes the way that the growth in the VLF adjustment amount (property tax in lieu of VLF) is calculated starting in FY 2014-15 to include the growth of assessed valuation, including in an annexed area, from FY 2004-05 to FY 2014-15. Beginning in FY 2015-16, the VLF adjustment amount would be the jurisdiction's annual change in the assessed valuation.

AB 1527 (Perea D) Public water systems: Safe Drinking Water State Revolving Fund.

Current Text: Vetoes: 9/29/2014 [pdf](#) [html](#)

Introduced: 1/17/2014

Last Amended: 8/20/2014

Status: 9/28/2014-Vetoed by the Governor

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

Summary:

Would require the State Water Resources Control Board to provide incentives for the consolidation of public water systems based upon a service review developed by a local agency formation commission. This bill would repeal these provisions as of January 1 of the next calendar year occurring after the board provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the board has adopted a policy handbook.

Attachments:

[CALAFCO Support Letter](#)

[CALAFCO Support if Amended Letter](#)

Position: Support

Subject: Disadvantaged Communities, Municipal Services, Service Reviews/Spheres

CALAFCO Comments: As amended, this bill requires the State Water Resources Control Board to provide incentives for the consolidation of public water systems based on LAFCo studies. It further requires the Board to adopt a policy handbook. Once done, this newly added provision will be repealed.

The bill has undergone a number of substantial amendments, consequently eliminating the provision that LAFCos be added to the list of eligible entities for receiving grant funding from the Strategic Growth Council. However it still acknowledges the importance and usefulness of Municipal Service Reviews at the state level by requiring the Board to use that data in their processes of consolidation incentives.

AB 1729 (Logue R) Local government: agricultural land: subvention payments.

Current Text: Amended: 3/20/2014 [pdf](#) [html](#)

Introduced: 2/14/2014

Last Amended: 3/20/2014

Status: 8/31/2014-Failed Deadline pursuant to Rule 61(b)(17). (Last location was A. APPR. on 3/24/2014)

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

Summary:

Would appropriate \$40,000,000 to the Controller from the General Fund for the 2014-15 fiscal year to make subvention payments to counties to reimburse counties for property tax revenues not received as a result of these contracts. The bill would make legislative findings and declarations related to the preservation of agricultural land.

Attachments:

[CALAFCO Letter of Support_March 2014](#)

Position: Support

Subject: Ag Preservation - Williamson

CALAFCO Comments: As amended, the bill will appropriate \$40 million from the General Fund in fiscal year 2014/2015 for subvention payments to counties for Williamson Act contracts.

AB 1739 (Dickinson D) Groundwater management.

Current Text: Chaptered: 9/16/2014 [pdf](#) [html](#)

Introduced: 2/14/2014

Last Amended: 8/22/2014

Status: 9/16/2014-Chaptered by Secretary of State - Chapter 347, Statutes of 2014.

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

Summary:

Would provide specific authority to a groundwater sustainability agency, as defined in SB 1168 of the 2013-14 Regular Session, to impose certain fees. The bill would authorize the Department of Water Resources or a groundwater sustainability agency to provide technical assistance to entities that extract or use groundwater to promote water conservation and protect groundwater resources. This bill would require the department, by January 1, 2017, to publish on its Internet Web site best management practices for the sustainable management of groundwater.

Attachments:

[CALAFCO Letter of Concern \(June 2014\)](#)

Position: Watch

Subject: LAFCo Administration, Water

CALAFCO Comments: As amended, all references to LAFCo being involved in the formation and governance processes for groundwater management agencies have been removed. Agencies will be formed by public agencies as dependent special districts or through JPA, MOU or some other legal agreement. Coordination for overlapping basins and subbasins will be done at the local level.

[AB 1961](#) (Eggman D) Land use: planning: sustainable farmland strategy.

Current Text: Amended: 4/22/2014 [pdf](#) [html](#)

Introduced: 2/19/2014

Last Amended: 4/22/2014

Status: 5/23/2014-Failed Deadline pursuant to Rule 61(b)(8). (Last location was A. APPR. SUSPENSE FILE on 5/23/2014)

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

Summary:

Would require each county to develop, on or before January 2, 2018, a sustainable farmland strategy. The bill would require the sustainable farmland strategy to include, among other things, a map and inventory of all agriculturally zoned land within the county, a description of the goals, strategies, and related policies and ordinances, to retain agriculturally zoned land where practical and mitigate the loss of agriculturally zoned land to nonagricultural uses or zones, and a page on the county's Internet Web site with the relevant documentation for the goals, strategies, and related policies and ordinances, as specified.

Position: Watch

Subject: Ag/Open Space Protection, CKH General Procedures, LAFCo Administration

CALAFCO Comments: As amended, the bill requires counties with 4% or more of its land zoned as agricultural to create a sustainable farmland strategy (sfs) effective January 1, 2018, in consultation with cities and LAFCo, and to update the sfs as necessary. The bill also requires OPR to create best practices that support ag land retention and mitigation. The bill creates an unfunded mandate for counties.

[AB 2156](#) (Achadjian R) Local agency formation commissions: studies.

Current Text: Chaptered: 6/4/2014 [pdf](#) [html](#)

Introduced: 2/20/2014

Last Amended: 3/24/2014

Status: 6/4/2014-Chaptered by Secretary of State - Chapter 21, Statutes of 2014.

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

Summary:

Would include joint powers agencies and joint powers authorities among the entities from which the local agency formation commission is authorized to request land use information, studies, and plans, for purposes of conducting specified studies, and also would include joint powers agreements in the list of items the commission may request in conducting those studies. The bill would specifically define "joint powers agency" and "joint powers authority" for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Attachments:

[CALAFCO Letter of Support_March 2014](#)

Position: Support

Subject: CKH General Procedures, LAFCo Administration, Municipal Services, Service Reviews/Spheres

CALAFCO Comments: As amended, the bill specifically defines "joint powers agency" and "joint powers authority" for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (C-K-H), and includes joint powers agencies and joint powers authorities (JPAs) among the entities from which a local agency formation commission (LAFCo) is authorized to request information in order to conduct required studies.

[AB 2762](#) (Committee on Local Government) Local government.

Current Text: Chaptered: 7/9/2014 [pdf](#) [html](#)

Introduced: 3/24/2014

Last Amended: 5/6/2014

Status: 7/9/2014-Chaptered by Secretary of State. Chapter 112, Statutes of 2014.

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

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 does not apply to pending proceedings for a change or organization or reorganization for which the application was accepted for filing prior to January 1, 2001, as specified. The act authorizes these pending proceedings to be continued and completed under, and in accordance with, the law under which the proceedings were commenced. This bill would repeal those provisions relating to pending proceedings for a change or organization or reorganization for which an application was accepted for filing prior to January 1, 2001, and make other

conforming changes.

Attachments:

- [CALAFCO Request Governor Signature](#)
- [CALAFCO Letter of Support March 2014](#)

Position: Sponsor

Subject: CKH General Procedures

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: 2/3/2014-Returned to Secretary of Senate pursuant to Joint Rule 56.

Dead	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 69 (Roth D) Local government finance: property tax revenue allocation: vehicle license fee adjustments.

Current Text: Vetoed: 9/29/2014 [pdf](#) [html](#)

Introduced: 1/10/2013

Last Amended: 8/18/2014

Status: 9/28/2014-Vetoed by the Governor

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

Summary:

Current property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures. This bill would modify these reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2014-15 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 Requesting Governor Signature SB 69 \(Aug 2014\)](#)
- [CALAFCO Support SB 69 Feb 2014](#)

Position: Support

Subject: Tax Allocation

CALAFCO Comments: The bill calls for reinstatement of the VLF through ERAF for cities that incorporated between January 1, 2004 and January 1, 2012. There are no provisions for back payments for lost revenue, but the bill does reinstate future payments beginning in the 2014/15 year for cities that incorporated between 1-1-2004 and 1-1-2012.

SB 614 (Wolk D) Local government: jurisdictional changes: infrastructure financing.

Current Text: Chaptered: 9/29/2014 [pdf](#) [html](#)

Introduced: 2/22/2013

Last Amended: 8/18/2014

Status: 9/29/2014-Chaptered by Secretary of State - Chapter 784, Statutes of 2014.

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

Summary:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a local agency or school district that initiates proceedings for a change of local government organization or reorganization by submitting a resolution of application to a local agency formation commission to also submit a plan for providing services within the affected territory, as specified. This bill would instead require, if a proposal for a change of organization or reorganization is submitted to a local commission, that the applicant submit a plan for providing services within the affected territory.

Attachments:

- [CALAFCO Letter Requesting Governor Signature](#)
- [CALAFCO Letter of Concern \(June 2014\)](#)

Position: Support

Subject: Annexation Proceedings, CKH General Procedures, Disadvantaged Communities

CALAFCO Comments: As amended, the bill is intended to provide an incentive to cities to annex disadvantaged unincorporated communities by creating an option for a funding mechanism using a property tax sharing agreement by affected entities (to share the 1% tax dollars) and ensuing tax increment. A special district would be created to act as the vehicle for that funding. The bill allows LAFCo to consider, as part of the application, the formation of a new district or the reorganization of an existing district, but only if all of the affected agencies are in agreement.

CALAFCO had a number of concerns with the bill which were addressed by the author in the August 18th amendments.

[SB 757](#) (Berryhill R) Groundwater management.

Current Text: Amended: 8/22/2014 [pdf](#) [html](#)

Introduced: 2/22/2013

Last Amended: 8/22/2014

Status: 8/31/2014-Failed Deadline pursuant to Rule 61(b)(17). (Last location was A. RLS. on 8/25/2014)

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

Summary:

Would state the policy of the state that groundwater resources be managed responsibly for long-term water supply reliability and multiple economic, social, or environmental benefits for current and future beneficial uses. The bill would state that responsible groundwater management is best achieved locally through the development, implementation, and updating of plans and programs based on the best available science and in consideration of local needs and circumstances.

Position: Watch

Subject: LAFCo Administration, Water

[SB 1168](#) (Pavley D) Groundwater management.

Current Text: Chaptered: 9/16/2014 [pdf](#) [html](#)

Introduced: 2/20/2014

Last Amended: 8/29/2014

Status: 9/16/2014-Chaptered by Secretary of State - Chapter 346, Statutes of 2014.

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

Summary:

Would state the policy of the state that groundwater resources be managed sustainably for long-term reliability and multiple economic, social, and environmental benefits for current and future beneficial uses. This bill would state that sustainable groundwater management is best achieved locally through the development, implementation, and updating of plans and programs based on the best available science. This bill contains other related provisions and other existing laws.

Attachments:

- [CALAFCO Letter of Concern](#)

Position: Watch

Subject: Water

[SB 1319](#) (Pavley D) Groundwater.

Current Text: Chaptered: 9/16/2014 [pdf](#) [html](#)

Introduced: 2/21/2014

Last Amended: 8/29/2014

Status: 9/16/2014-Chaptered by Secretary of State - Chapter 348, Statutes of 2014.

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

Summary:

Would authorize the state board to designate certain high- and medium-priority basins as a probationary basin if, after January 31, 2025, prescribed criteria are met, including that the state board determines that the basin is in a condition where groundwater extractions result in significant depletions of interconnected surface waters. This bill would add to the prescribed determinations that would prevent the state board from designating the basin as a probationary basin for a specified time period.

Subject: Water

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

Current Text: Vetoed: 9/25/2014 [pdf](#) [html](#)

Introduced: 2/20/2013

Last Amended: 6/24/2014

Status: 9/25/2014-Vetoed by the Governor

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

Summary:

CEQA requires the Office of Planning and Research to prepare and develop guidelines for the implementation of CEQA and the Secretary of the Natural Resources Agency to certify and adopt those guidelines. This bill would require the office, on or before July 1, 2016, to prepare and develop recommended amendments to the guidelines and the secretary, on or before January 1, 2017, to certify and adopt those amendments to the guidelines to establish criteria for a lead agency to assess the need for translating those notices into non-English languages, as specified.

Position: Watch

Subject: CEQA

CALAFCO Comments: As amended, requires OPR to establish criteria for a lead agency to assess the need for translating those notices into non-English languages, as specified by July 1, 2016.

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: 1/24/2014-Failed Deadline pursuant to Rule 61(b)(2). (Last location was JUD. on 3/11/2013)

Desk	Dead	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 677 (Fox D) Local government finance: property tax revenue allocation: vehicle license fee adjustments.

Current Text: Amended: 1/6/2014 [pdf](#) [html](#)

Introduced: 2/21/2013

Last Amended: 1/6/2014

Status: 1/17/2014-Failed Deadline pursuant to Rule 61(b)(1). (Last location was L. GOV. on 1/7/2014)

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

Summary:

Would modify specified 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 would also 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 for certain cities incorporating after a specified date, as provided. This bill contains other related provisions and other existing laws.

Position: Watch

Subject: Financial Viability of Agencies, Tax Allocation

AB 1593 (Dahle R) Public cemetery districts: Auburn Public Cemetery District.

Current Text: Introduced: 2/3/2014 [pdf](#) [html](#)

Introduced: 2/3/2014

Status: 5/9/2014-Failed Deadline pursuant to Rule 61(b)(6). (Last location was L. GOV. on 2/14/2014)

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

Summary:

Would authorize the Auburn Public Cemetery District in Placer County to use their cemeteries for up to a total of 400 interments each, not to exceed 40 interments each per calendar year, to inter nonresidents and nonproperty taxpayers, if specified conditions are met. This bill contains other related provisions.

Position: Watch

Subject: Other

AB 1897 (Hernández, Roger D) Labor contracting: client liability.

Current Text: Chaptered: 9/29/2014 [pdf](#) [html](#)

Introduced: 2/19/2014

Last Amended: 8/22/2014

Status: 9/28/2014-Chaptered by Secretary of State - Chapter 728, Statutes of 2014.

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

Summary:

Would require a client employer to share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for the payment of wages and the failure to obtain valid workers' compensation coverage. The bill would prohibit a client employer from shifting to the labor contractor legal duties or liabilities under workplace safety provisions with respect to workers provided by the labor contractor. The bill would define a client employer as a business entity that obtains or is provided workers to perform labor within the usual course of business from a labor contractor, except as specified.

Position: Watch

Subject: LAFCo Administration

[AB 1995](#) ([Levine D](#)) **Community service districts: covenants, conditions, and restrictions: enforcement.**

Current Text: Chaptered: 8/25/2014 [pdf](#) [html](#)

Introduced: 2/20/2014

Last Amended: 6/30/2014

Status: 8/25/2014-Chaptered by Secretary of State - Chapter 289, Statutes of 2014.

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

Summary:

Would authorize the Bel Marin Keys Community Services District to enforce all or part of the covenants, conditions, and restrictions for a tract within that district, and to assume the duties of an architectural control committee for that tract, as provided. This bill contains other related provisions.

Position: Watch

Subject: LAFCo Administration, Special District Powers

[AB 2443](#) ([Rendon D](#)) **Water Recycling Act of 1991: mutual water companies: duplication of service.**

Current Text: Chaptered: 9/29/2014 [pdf](#) [html](#)

Introduced: 2/21/2014

Last Amended: 8/22/2014

Status: 9/29/2014-Chaptered by Secretary of State - Chapter 817, Statutes of 2014.

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

Summary:

Would authorize a recycled water producer or wholesaler that has identified a potential use or customer within the service area or jurisdiction of the retail water supplier, to request, in writing, a retail water supplier to enter into an agreement to provide recycled water to the potential customer consistent with specified requirements of the Water Recycling Act of 1991. This bill contains other related provisions and other existing laws.

Position: Watch

Subject: Water

[AB 2453](#) ([Achadjian R](#)) **Paso Robles Basin Water District.**

Current Text: Chaptered: 9/16/2014 [pdf](#) [html](#)

Introduced: 2/21/2014

Last Amended: 8/4/2014

Status: 9/16/2014-Chaptered by Secretary of State - Chapter 350, Statutes of 2014.

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

Summary:

Would, until January 1, 2019, provide for the formation of the Paso Robles Basin Water District, and would set forth the composition of, and method of election by landowners and registered voters for, the board of directors for the Paso Robles Basin Water District, the boundaries of which would be established and may be modified by the San Luis Obispo County Local Agency Formation Commission.

Position: Watch

Subject: Water

[AB 2455](#) ([Williams D](#)) **The Santa Rita Hills Community Services District.**

Current Text: Chaptered: 9/20/2014 [pdf](#) [html](#)

Introduced: 2/21/2014

Last Amended: 6/17/2014

Status: 9/20/2014-Chaptered by Secretary of State - Chapter 505, Statutes of 2014.

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

Summary:

Would authorize, until January 1, 2035, the board of directors of the Santa Rita Hills Community Services District to consist of 3 members, if the board of directors receives a petition signed by a majority of voters requesting a reduction in the number of board members and thereafter adopts a resolution that orders the reduction, as specified. The bill would also, until January 1, 2025, authorize the board, if the number of members is reduced to 3, to adopt a resolution to increase the number of members from 3 to 5, as specified. This bill contains other related provisions.

Position: Watch

Subject: Special District Principle Acts

CALAFCO Comments: This bill as amended allows for the reduction of the size of the governing Board of this district from five to three members until January 1, 2025.

AB 2480 (Yamada D) Local government finance: cities: annexations.

Current Text: Amended: 3/28/2014 [pdf](#) [html](#)

Introduced: 2/21/2014

Last Amended: 3/28/2014

Status: 8/31/2014-Failed Deadline pursuant to Rule 61(b)(17). (Last location was A. L. GOV. on 4/1/2014)

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

Summary:

Would, beginning on January 10, 2015, and on the 10th of each month thereafter, require the Controller to pay to each city that incorporated before August 5, 2004, an amount equal to an amount determined by a specified formula. This bill would continuously appropriate to the Controller an amount sufficient to make those payments from the General Fund.

Position: Watch

Subject: Financial Viability of Agencies, Tax Allocation

CALAFCO Comments: The intent of this bill is the same as AB 1521, which is moving forward, so the author has let this bill die.

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: 8/31/2014-Failed Deadline pursuant to Rule 61(b)(17). (Last location was L. GOV. on 9/11/2013)

Desk	Policy	Fiscal	Floor	Desk	Dead	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapted
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

SB 1122 (Pavley D) Sustainable communities: Strategic Growth Council.

Current Text: Amended: 5/5/2014 [pdf](#) [html](#)

Introduced: 2/19/2014

Last Amended: 5/5/2014

Status: 5/23/2014-Failed Deadline pursuant to Rule 61(b)(8). (Last location was S. APPR. SUSPENSE FILE on 5/23/2014)

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

Summary:

Current law authorizes moneys from the Greenhouse Gas Reduction Fund to be allocated for the purpose of reducing greenhouse gas emissions in this state through specified investments, including funding to reduce greenhouse gas emissions through strategic planning and development of sustainable infrastructure projects. This bill would additionally authorize the council to manage and award financial assistance for the purpose of supporting the implementation of sustainable communities strategies or alternative planning strategies, to be funded from moneys from the Greenhouse Gas Reduction Fund, upon appropriation by the Legislature. The bill would require the council to adopt guidelines for the use of the funds by recipients.

Position: Watch

Subject: Sustainable Community Plans

SB 1230 (Committee on Governance and Finance) Validations.

Current Text: Chaptered: 5/29/2014 [pdf](#) [html](#)

Introduced: 2/20/2014

Status: 5/29/2014-Chaptered by Secretary of State - Chapter 19, Statutes of 2014.

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

Summary:

This bill would enact the First Validating Act of 2014, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

Attachments:

[CALAFCO Support Letter](#)

Position: Support

Subject: Other

Total Measures: 28

Total Tracking Forms: 28

9/1/2015 1:07:49 PM

**CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
PENDING PROPOSALS – SEPTEMBER 9, 2015**

September 9, 2015
Agenda Item 14b

LAFCO APPLICATION	RECEIVED	STATUS
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
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	Continued from 11/12/14 meeting
Northeast Antioch Reorganization Area 2A: Annexations to City of Antioch and DDSO; detachments from CSAs L-100 and P-6	7/30/13	Continued from 6/10/15 meeting to 6/8/16
Reorganization 186 - Annexations to CCCSD and EBMUD: proposed annexation of Magee Ranch/SummerHill (402± acres; 9 parcels total;) to CCCSD (8 parcels) and EBMUD (7 parcels)	6/20/14	Continued from 5/13/15 meeting to 9/9/15
West County Wastewater District Annexation 314 (Park Avenue)	7/21/15	Under review

San Bernardino fire services outsourcing plan recommends county fire

By [Ryan Hagen](#), The Sun

Posted: 08/11/15, 8:19 PM PDT | Updated: 12 hrs ago

SAN BERNARDINO >> The City Council will get a report Wednesday supporting a plan to outsource fire services to the San Bernardino County Fire Department, City Manager Allen Parker said Tuesday.

The City Council is set to vote on the plan — one of three options presented to the city — at a special meeting on Aug. 24.

The proposal from county fire would save the city \$7 million while providing increased fire and emergency response, Parker said, and would add nearly another \$8 million to the city's general fund through a possible \$139-per-parcel fee on residents.

That fee is not vital, Parker said, but the plan would involve an annexation process, which the city must initiate with the Local Agency Formation Commission for San Bernardino County by the first week of September in order to complete by 2016.

“The county would annex us to a district, so we would have to give up control of our Fire Department,” Parker said.

But, he said, it would be worth it, resulting in both cost savings that the city counts on to exit bankruptcy and faster emergency response times.

“We wouldn't be going down this road if we didn't think it would improve service,” Parker said. “They would close one additional (fire) station, but they'd supplement that with one of theirs. The number, I think, would go from 38 to 41 (firefighters) on duty at a given time.”

The report was developed by Citygate Associates, a consultant that has [studied the city's Fire Department](#) before, without input from the department's battalion chiefs.

That breaks a promise Parker made to the seven top-ranked Fire Department employees, who form a union called the Fire Management Association, that group's president said in an email to Parker.

“On multiple occasions, you assured the FMA of your commitment to include us in this process,” Battalion Chief Michael Bilheimer wrote. “Yet as of (Monday), we have been excluded from every step. It gravely concerns me that you have independently elected to draft a Request

for Proposal, retained a consultant to review those proposals, barred us from reviewing the proposals, and are preparing to take action without ever having consulted with the leadership of the Fire Department.”

Parker wrote in response that he would meet with fire management this week, once the City Council had gotten a final copy of the report.

He said that Bilheimer’s perception that they were promised involvement but then shut out was “probably” accurate, but that fire leaders’ opposition has been clear from the beginning.

“They don’t like it because the county won’t accept anyone above the rank of captain, so they’d get demoted,” Parker said.

Sure, they have something to lose, Bilheimer said Tuesday — like everyone.

“We have a lot to lose, fire labor has a lot to lose, the community would have a lot to lose,” he said. “I don’t think this is the best option for anybody. I don’t think it’s self-serving on anybody’s part (to oppose the outsourcing).”

Fire management has remained mostly out of the political fray for the past several years, but Bilheimer ended that Monday night by emailing to various community members a one-page “fact sheet” opposing outsourcing.

The sheet points, among other things, to the extra \$139 that would be charged to the owners of each of the city’s 56,000 parcels.

“That’s a tax, even if they don’t call it a tax,” Bilheimer said, asking residents to call their City Council member to oppose the outsourcing move.

County fire was one of three groups to respond to the city’s request for proposals to provide fire services. One of those proposals came from the city’s own Fire Department, while another came from a private firm called Centerra.

Centerra’s proposal would have saved even more money, according to Parker, but it’s not recommended because neighboring agencies said they would not share resources with a private firm.

Antioch eyes desalination system to increase water supply

By Rowena Coetsee rcoetsee@bayareanewsgroup.com

Posted: 08/12/2015 09:42:07 AM PDT Updated: about 17 hours ago



Filter tanks and basins can be seen at the water treatment plant in Antioch. City officials now are considering increasing Antioch's water supply with a desalination system that would be added to this plant. (Susan Tripp Pollard/Bay Area News Group)

ANTIOCH -- Saddled with mandatory water conservation measures and no relief from the drought in sight, city officials here now are considering increasing Antioch's water supply with a desalination system.

The City Council on Tuesday unanimously approved a \$100,000 contract with a consulting firm that, over the next five or so months, will explore the feasibility of treating brackish water pumped from the San Joaquin River.

"Water is the new oil these days," said Lou Carella of Corollo Engineers, which specializes in the design of water treatment facilities.

As the volume of fresh mountain water flowing into the Delta has decreased, the concentration of salt in the river has risen.

The city historically has relied on Contra Costa Water District to supplement its supply because, even though Antioch enjoys the long-held right to pump what it needs from the San Joaquin River without a state permit, the salinity of that water changes constantly, Public Works Director Ron Bernal said following the meeting.



Steve Callahan, an operator at the Antioch water treatment plant, demonstrates how to perform a chloride titration test to determine the chloride level in water. (Susan Tripp Pollard/Bay Area News Group)

The city's existing treatment plants aren't equipped to handle the current high chloride levels, so Antioch became totally reliant on CCWD's costlier stores of raw water earlier this year.

Regaining a measure of independence by adopting desalination technology would require building a third treatment plant -- a project that would run into the tens of millions -- which the city would use whenever it needed to remove salts from the Delta to boost its supply of potable water, Bernal said.

The approach would afford the city the chance to pump from the river year-round, he added.

A desalination facility wouldn't completely eliminate Antioch's dependence on CCWD, however.

Residents' demand for water in hot weather has been known to far exceed 16 million gallons per day, the most the city's pump on the river can handle, Bernal said.

He noted that this summer is shaping up to be very different, however: Whereas the state requires the city to curtail its water use by 28 percent, Antioch actually has seen consumption drop by 36 percent since June 1 as compared with the same period in 2013, Bernal said.

Antioch's tentative step toward the use of desalination isn't unique: CCWD has been studying the idea along with four other water distributors since 2003.

The group shifted its focus this spring only after learning that the next step in the process -- doing an environmental impact report and a water rights analysis -- came with an estimated \$6 million price tag.

The group, now eight members strong, hasn't tabled the idea of desalination, but it's started considering other ways of ensuring that the region has a reliable supply of high-quality water.

As for Antioch, the city began exploring desalination as an option a little over a year ago by scouting potential sites for a plant and analyzing potential effects on the environment.

If council members ultimately decide the project is a go, the engineering firm would help the city apply for a low-interest loan and grant from the state.

Reach Rowena Coetsee at 925-779-7141. Follow her at [Twitter.com/RowenaCoetsee](https://twitter.com/RowenaCoetsee)

NEWS

AUGUST 13, 2015

Mayors appoint Oakdale's Tom Dunlop to LAFCO

HIGHLIGHTS

Hughson Mayor Matt Beekman's farmland preservation vote put him at odds with other mayors

Dunlop's career is steeped in agriculture

Waterford Mayor Mike Van Winkle, also joining LAFCO, rankles some with inquiry on suppressing public comment

BY GARTH STAPLEY
gstapley@modbee.com

Mayors throughout Stanislaus County on Wednesday selected Oakdale City Councilman Tom Dunlop to represent cities on the Local Agency Formation Commission. He replaces Hughson Mayor Matt Beekman, whose controversial ouster in July from the growth-guiding panel provoked outcry.

Dunlop, a 10-year veteran of Oakdale government currently serving as vice mayor, said he's well aware of LAFCO's recent politically charged atmosphere. His mayor, Pat Paul, asked him to consider an appointment and he agreed, he said.

"I don't get into the minutiae of who's fighting

with who," Dunlop said. "I just want to make decisions so things go better between all the agencies in the county. I'm willing to look at all the facts and make a judgment call."

“

**IF WE ALL (AVOIDED POLITICAL
MINEFIELDS), I GUESS NO GOOD
DECISIONS WOULD BE MADE.**

Tom Dunlop, city councilman, Oakdale

A 5-4 majority of mayors removed Beekman from LAFCO last month for voting in March in favor of a policy change addressing farmland preservation. The vote adopted a formula for valuing fees paid to preserve farmland elsewhere when a city sacrifices farmland for growth; LAFCOs rule on cities' annexation requests.

The issue became a rallying point for people supporting agriculture and Beekman, who has extensive experience in statewide LAFCO governance and who defended his March vote to the end.

"Builders don't want someone who is pro-ag preservation on LAFCOs" throughout California, Beekman said Thursday. "They want LAFCOs to be pro-builder. It's not a big mystery."

Earlier this year, the mayors chose Beekman as chairman of the committee that last month removed him from LAFCO. On Wednesday, he continued to preside and cast the only dissent

in a 7-1 vote appointing Dunlop; Turlock Mayor Gary Soiseth was absent.

Dunlop did not attend Wednesday, saying, "I was not there to lobby for myself."

"I'm not new to the game," Dunlop continued.

"I think they were looking for someone with experience. (The suggestion that I'm) not in favor of farmland preservation is an absolute lie. My whole life has been in ag: I run a feedlot in Oakdale and I have other partnerships in ag. Farming and ranching is my whole income and I've never been opposed to that."

Also on a 7-1 vote, with Beekman dissenting, the majority on Wednesday appointed Waterford Mayor Mike Van Winkle as cities' alternate member on LAFCO, replacing Riverbank Mayor Richard O'Brien. Alternates vote in the absence of regular voting members.

“

THE PUBLIC DEFINITELY GOT THE SHAFT.

Matt Beekman, mayor, Hughson

O'Brien said he asked to step aside to avoid creating a problem if he and his nephew, County Supervisor Bill O'Brien, were to be confronted with a potential work-related conflict of interest. Bill O'Brien is the county's alternate member on LAFCO and both men work for the same family-owned grocery business.

Richard O'Brien said he's sensitive to such

conflicts partly because he was dinged with a warning by the California Fair Political Practices Commission for voting to approve \$46.72 in city purchases from O'Brien's Market in 2012, when he was a councilman.

"I didn't want to put LAFCO in the position of not having a quorum," Richard O'Brien said.

Before Beekman's mayoral counterparts kicked him off LAFCO, his fans created a Facebook page in his support. They obtained and posted at the site an email purportedly written by Van Winkle asking to suppress redundant public comment at the July selection meeting, and asking "if it is appropriate to stop the speaker when they are making false statements about the mayors being corrupt and in the pockets of the (Building Industry Association)?"

County Counsel John Doering, who provides legal advice to county staff helping the mayors' committee, said Thursday, "Every Brown Act meeting has to have an opportunity for the public to speak." He referred to California open-meetings law.

The Modesto Bee was unable to reach Van Winkle for comment.

Beekman said, "The guy discouraging public comment is now on LAFCO."

Garth Stapley: 209-578-2390



MORE NEWS

COMMENTS

1 Comment

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Citizens for Matthew Beekman

Churchwell White has its lackey in place now for a majority vote to overturn Amendment 22. No one ever said that Tom Dunlop is against "ag preservation". It was said at the last LAFCO meeting that he's against "ag mitigation". Actions speak louder than words Tom Dunlop, time to prove you're not your city attorney's puppet. Any vote to the contrary will prove you are.

(Citizens for Matthew Beekman is not run by nor affiliated with Matthew Beekman.)

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Councilman Dunlop Appointed To LAFCO

Richard Paloma
rpaloma@oakdaleleader.com
209 847-3021 ext 8136
August 14, 2015

After the July removal of Hughson Mayor Matt Beekman from the Local Agency Formation Commission (LAFCO), Stanislaus County mayors on Wednesday, Aug. 12 appointed Oakdale City Councilman Tom Dunlop to the vacant seat of the agency that creates new cities and special districts, changes boundaries, reorganizes local agencies, and performs municipal service reviews.

Dunlop, who also serves as Oakdale's Mayor Pro Tem, said he was flattered at the nomination and had gratitude for Oakdale Mayor Pat Paul to put his name forward.

"I've been doing this stuff for a long time," Dunlop said. "I've already worked with a lot of the same people and same commissions from my time on StanCOG."

Dunlop, who works in the ag industry, also said he was aware of some controversy, including "lackey" name calling, surrounding his appointment as well as the removal of Beekman due to a perceived pro-growth position.

A slight majority of Stanislaus's nine mayors voted to remove Beekman from LAFCO in July for his March vote favoring a change in the stance on farmland preservation that favored growth.

"I'm here to serve no other purpose except good governance and offer opinions," Dunlop said. "It's a sad day when it's about the propaganda and not the facts. Good government is about facts."

Paul said she felt Dunlop was the best to be on the LAFCO commission.

"He's got a degree in ag, works in ag, and will speak up when needed," Paul said. "He's smart and a good person. He cares deeply about ag like all

us mayors do.”

The commission also appointed Waterford Mayor Mike Van Winkle as a city alternate member on LAFCO. The former alternate, Riverbank Mayor Richard O’Brien, asked to step aside to avoid creating a conflict of interest situation if he and his nephew, County Supervisor Bill O’Brien, had to decide on the same item. Bill O’Brien is the county’s alternate member on LAFCO and both men work for the same family-owned grocery business, O’Brien’s Market.

<http://www.oakdaleleader.com/section/44/article/14555/>

Developer lawsuit protesting fees has wide implications

Posted: Friday, August 14, 2015 4:52 pm

A developer with plans to construct hundreds of homes locally filed a lawsuit against the county and city claiming a \$9,500 “annexation fee” charged to builders for each residential lot has no legal justification.

Santa Clara-based Award Homes filed the lawsuit July 17 with the San Benito County Superior Courthouse. The suit is requesting that the courts make a ruling on the charging of “annexation fees” and halt the practice.

That fee is a result of a tax-sharing agreement between the City of Hollister and San Benito County. According to the court records, the two government entities first developed the tax-sharing agreement—including the annexation fee—in 1999 at the height of Hollister’s last building boom. Annexation is the process that involves one jurisdiction taking over domain of another municipality’s land. It tends to occur mostly on the outskirts of a city as it grows into a rural area.

The designated annexation fee was \$7,500 per unit under the 1999 agreement and increased to 9,500 per unit in an updated 2011 agreement, according to records.

A judge’s decision could have wide implications not only on Award Homes' projects, but also on other developers interested in building here. Those fees can add up quickly and could potentially play a role in whether a developer decides a particular project pencils out. With Hollister in growth mode right now, it also could result in a massive sway of revenue one way or the other for the struggling county—which reaps the money from the annexation fees—in the millions of dollars.

Though Hollister experienced a building moratorium for six years starting in the fall of 2002—due to a 15 million-gallon sewer spill that year—it’s possible the court’s decision could have implications on prior development activity as well, though Hollister’s city attorney, Brad Sullivan, noted how statutes of limitations might have an impact in any



Housing market

KB Home has been building near R.O. Hardin School along Line Street.

decisions.

Award Homes is arguing in the lawsuit that there was never a study or nexus—government fees generally are mandated to correlate with specific costs—justifying the charges. The company in the suit refers to the fees as “illegal taxes” and unconstitutional. The lawsuit mentions that the company tried to work with the local entities and exhausted all of its administrative options.

Award Homes contends in the lawsuit it was “threatened with demands” from the defendants. The company mentions its 667-unit West of Fairview project, originally approved in 2000, and argues there was never a mention of such fees 15 years ago or when the plans were updated in 2012. Award Homes also is progressing on an 82-unit single-family residential project called Ladd Ranch south of Southside Road and west of Ladd Lane, said Mike Gibbons, a Hollister planning intern.

The company wants a judge to declare the law as invalid, approve a temporary restraining order or preliminary injunction to halt the practice, and ultimately sign a permanent injunction against it. The company is also asking for attorney’s fees and other litigation costs.

Despite filing the official response denying the allegations, Sullivan wasn’t optimistic about the local government entities’ chances in defending the lawsuit and the notion of annexation fees. Sullivan said San Benito might be the only county in the state that charges them and mentioned that other developers—along with the California Building Industry Association—have been questioning the fees as well.

“We don’t think it’s enforceable, either,” he said.

Sullivan, who pointed out how prior city and county management pushed through the charges, said the fees are “inconsistent with a general plan trying to encourage growth around the city.”

County Counsel Matthew Granger said the office policy is to decline commenting on pending litigation.

The West of Fairview project is proposed near Airline Highway and Fairview Road and has been in the works for more than two decades. Council members approved the 127-acre subdivision in October 2000 during a firestorm of debate over growth.

In mid-2001, the Local Agency Formation Commission, responsible for annexation of county property into city limits, delayed the project's momentum as it faced a 2003 deadline to get started. In May 2002, Award Homes filed a \$56 million lawsuit against LAFCO at around the time of the moratorium-inducing sewer spill.

Los Medanos Health board member faces assault charges in connection with Antioch shooting

By Nate Gartrell ngartrell@bayareanewsgroup.com

Updated: 08/15/2015 04:01:08 PM PDT

ContraCostaTimes.com

PITTSBURG -- A health care district director ran for a City Council seat here last year with a blemish on his resume voters never knew of: He was facing felony assault charges for shooting a man.

Emmanuel Ogunleye, 55, was then reappointed to his board seat by members of the Los Medanos Community Healthcare District, who also were apparently unaware of the charges facing him. A jury in March failed to reach a verdict in Ogunleye's case, voting 11-1 to convict him on charges of assault with a firearm and shooting at an occupied vehicle in 2014. After that trial, the District Attorney's Office recharged Ogunleye with assault with a semi-automatic firearm, a more serious offense, along with shooting at an occupied vehicle, court records show. He is set to go to trial next month for a second time.



Emmanuel Ogunleye, 55, was arrested in Antioch on suspicion of assault with a deadly weapon in February 2014, while serving on the Los Medanos board.

During the early morning hours of Feb. 12, 2014, Ogunleye, 55, was arrested after he shot a 30-year-old man who had been attempting to rendezvous with Ogunleye's then-18-year-old daughter, according to police. The man was hit in the back while sitting in his car on Mt. Darwin Court in Antioch, but the bullet didn't penetrate his skin. He drove himself to a hospital.

Meanwhile, a neighbor who heard the gunshot called police, who arrested Ogunleye after interviewing him. His bail was set at \$250,000.

When asked about the charges in a recent interview, Ogunleye stood by a statement he made in court that he fired the shot accidentally. He said he has never disclosed the charges to his fellow board members -- a decision he said was made after consulting with an attorney -- and decided not to bring up the matter during his 2014 candidacy for City Council because he didn't want the issue to be a distraction.

"Campaigns are funny; that would be all anyone wanted to talk about, and really, campaigns are supposed to be about the people," Ogunleye said, adding that he also wanted to protect his daughter from embarrassment. "There is really no judgment one way or the other. ... I believe I will be vindicated."

Ogunleye, who was paid \$4,300 last year for his part-time position on the health care board, wasn't legally obligated to publicly disclose the charges, but he still should have, said Judy Nadler, a former Santa Clara mayor who now works as a consultant on government ethics. She added that his decision to not tell the other board members is "a violation of the trust."

"This is something that's relevant to the voters," Nadler said. "Yes, to the extent that people would have been talking about it, it would have been a distraction. But there's a difference between a distraction that's not relevant and a distraction that is relevant. ... If you get arrested and are being investigated, that's something I think the board has a right to know."

Los Medanos Community Healthcare CEO Bobbi Palmer said in an email that no one within the district was aware of the charges facing Ogunleye.



Pittsburg city council candidate Emmanuel Ogunleye is photographed at the CCTV studio in Martinez, Calif., on Thursday, Sept. 18, 2014. (Jose Carlos

"If a criminal trial was pending upon an arrest, yes, that should be disclosed -- obviously by anyone applying for public office and a conviction would result in removal from public office," she said.

Los Medanos board President Linda Strong said the issue sounded like a personal matter to her but declined to comment further.

After losing the 2014 council election, Ogunleye was reappointed to the health care board Dec. 8, 2014, three weeks before his term was to expire.

Ogunleye said he was living in Antioch temporarily at the time of the shooting and maintained a separate address in Pittsburg, which made him eligible to run for City Council there. Los Medanos board members are required to live within the district, which encompasses Pittsburg, Bay Point, Clyde and unincorporated areas around Marsh Creek, but they are given leeway if they move out of the district temporarily. Palmer said the district would research Ogunleye's residence.

During his trial, Ogunleye took the stand in his own defense and testified that he had fired the gun unintentionally and felt badly about the incident.

"I have tailored my life to serve the community, not to kill its residents," he said under oath.

After Ogunleye learned that his 18-year-old daughter had been sneaking out of the house to meet a man, he went outside holding a semi-automatic handgun that he kept under his bed, according to the prosecution. Then, as the man began to drive off, Ogunleye allegedly fired a shot at the car, striking the victim in the back.

Ogunleye, testifying in his own defense in his first trial, told a slightly different story, one he said he still stands by.

Ogunleye said he had shot the man accidentally because he was "still a little jittery," after catching his daughter sneaking out. He said he grabbed the gun because he initially believed she had been kidnapped, not to start a confrontation. He said he left the house with the gun in his pajamas pocket, with the intention of simply talking with the man.

But the man made a "sideward motion," Ogunleye testified, that caused him to fear for his life.

Then, when the man began to drive off, Ogunleye testified that he became startled, pulled out the gun and accidentally fired a shot that struck the car.

"I have memory of the sound of the gunshot, but I didn't consciously decide to pull it," Ogunleye said under oath.

Ogunleye has previously served on various local committees and as a Democratic Party delegate. In 2006, he launched a failed bid for Assembly, and in 2010 lost a bid for a seat on the Los Medanos board. He runs his own Social Security eligibility services business and worked two health care-related jobs for the state over a 12-year period.

He was first appointed to the Los Medanos board in 2012, after voters elected incumbent Darnell Turner, who died shortly before the election. He fell 600 votes short of winning a City Council seat last year.

Staff writer Thomas Peele contributed to this article.

California Drought: Parts of Central Valley sinking 2 inches a month

By Lisa M. Krieger lkrieger@mercurynews.com

Posted: 08/20/2015 06:41:09 AM PDT Updated: about 6 hours ago

Parts of the great San Joaquin Valley are sinking almost 2 inches every month, as the state's subterranean water supply is being drained to record lows by farms and towns coping with the devastating drought.

On Wednesday, the most comprehensive study yet of the problem revealed the startling pace and extent of the damage: NASA satellites found the ground subsiding almost everywhere in the 140-mile stretch between Modesto and Tulare, with some of the worst sinking near the town of Corcoran, dropping 13 inches, and El Nido, 10 inches, over a six-month period through early this year.

Even worse, the sinking is threatening the stability of the California Aqueduct, as satellite images show a bowl of land between Huron and Kettleman City plunged about 14 inches less than half a mile from the state's great canal.



U.S. Geological Survey hydrologist Michelle Sneed is photographed at a ground water monitoring well along the Delta-Mendota Canal Tuesday, Feb. 11, 2014 near Los Banos, Calif. Damage to the canal from possible ground subsidence is being studied by the agency. (Aric Crabb/Bay Area News Group) (ARIC CRABB)

"We are pumping more than we are recharging," Mark Cowin, California Department of Water Resources director, lamented in a Wednesday news briefing to release data collected for the state by NASA's Jet Propulsion Laboratory. He urged regulation of new wells, saying: "We don't believe we can sustain this type of pumping."

Another report released Wednesday warned of the drought's calamitous impact if California's historic dryspell continues for another two to three years.

Rural low-income communities, which rely on shallow wells for their water supply, and the environment will suffer the most acute affects, according to a new Public Policy Institute of California study. As many as 18 species of native fish, including salmon, could go extinct, the study found. It also warned of deaths among water birds that use the Pacific Flyway.

In contrast, cities are likely to avoid extreme scarcity, because they've invested heavily in conservation, expanded storage, recycled wastewater and other sources, according to the institute's report.

But the crisis is already well underway in California's agriculture-rich Central Valley: The intense pumping has left groundwater levels at record lows -- up to 100 feet lower than previous records, according to Cowin.

The damage is mounting: Roads have cracked, some pipelines have been exhumed, and the slope of the land is altered, changing drainage patterns, said Jeanine Jones, the department's deputy drought manager and interstate resources manager.

Along the California Aqueduct, the canal lining has been raised in multiple locations over the years in order to preserve flow.

And the damage to the earth may not be reversible: Even when rains resume, the water cannot expand the underground deep layers of clay, sand and gravel that store the state's great freshwater aquifers. When pumped too dry, they collapse, stacking like pancakes.

NASA's satellites can map surface deformations of a fraction of an inch over large areas -- making it possible to monitor groundwater and subsidence as never before. The study ended last winter, so does not reflect any additional subsidence caused by summer pumping.

Decades ago, overpumping sunk half of the entire San Joaquin Valley, in one area as much as 28 feet. The subsidence largely stopped when the state and federal governments built reservoirs that delivered water to agriculture.

But with little rain and reduced flow from reservoirs, farmers are turning to aquifers to support their crops. The Central Valley, home to the world's largest swath of ultra-fertile Class 1 soil, is the backbone of California's \$36.9 billion a year, high-tech agricultural industry.

Some of the areas of greatest subsidence are where agriculture has shifted from grazing and row crops to more intensive cultivation of orchards, such as almonds and grapes, that command a higher profit but demand water to survive year-round. Domestic wells are also failing, because they are shallow and subsidence causes casings to break. In Tulare County, more than 1,500 domestic wells have failed in the past year and a half, and about 1,000 households depend on the county to provide bottled drinking water.

Modesto farmer Paul Wenger blamed the loss of delivered "surface water" from reservoirs for the crisis. Because of the drought, less water is made available to farmers -- and more is devoted to fish in the rivers, he said. In 2014, Central Valley farms lost roughly a third of normal surface water supplies, or 6.5 million acre-feet. In 2015, the deficit may rise to 8.7 million acre feet.

Even conservation has unintended effects -- drip irrigation, unlike traditional flooding of fields, sends less water back into the ground, he said.

"Farmers have known for a long time about groundwater and subsidence," said Wenger, president of the California Farm Bureau Federation. "But when I throw you a lifeline, you'll grab it. You take what you can't get anywhere else. Farmers are trying to pay bills. They'll continue to access the only water they have, which is groundwater."

Last year, the state created a framework to regulate groundwater -- the first time in state history - - but it won't be fully implemented until 2020. And then it will take a decade or two for water levels to rebound, Cowin said.

He urged counties to follow the example of Glenn County, which on Tuesday night issued a six-month moratorium on permits for new wells.

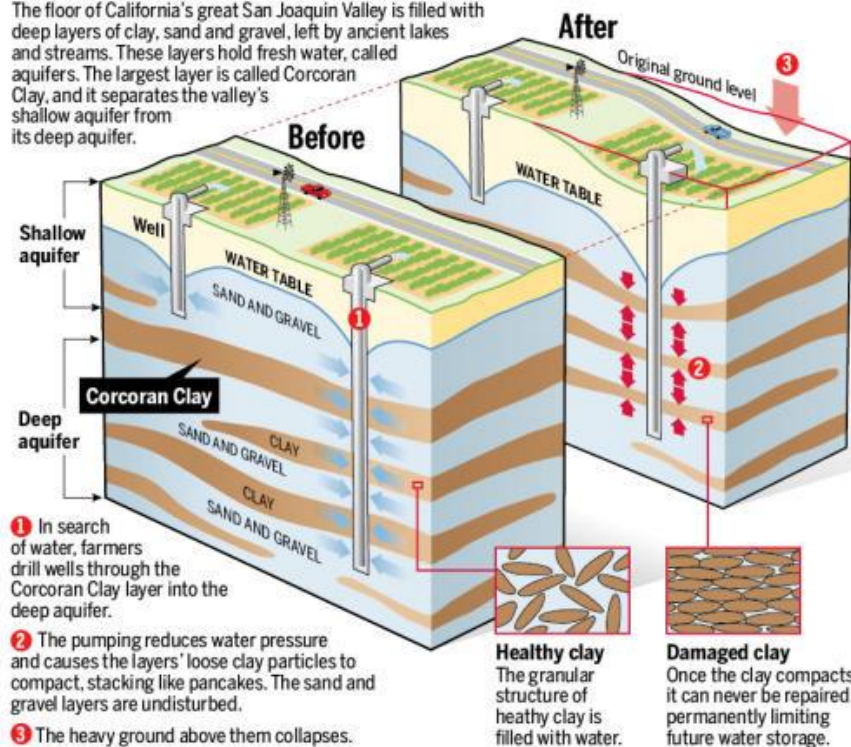
"The most important thing that can happen is for counties to pass or strengthen ordinances that limit over-pumping," he said. "It will take that kind of action to have any real effect."

Contact Lisa M. Krieger at 650-492-4098. Follow her at www.facebook.com/LisaMKrieger and [Twitter.com/lisamkrieger](https://twitter.com/lisamkrieger).

READ THE REPORT The report, Progress Report: Subsidence in the Central Valley, California, prepared for the Department of Water Resources by researchers at the NASA's Jet Propulsion Laboratory, is available here: <http://water.ca.gov/waterconditions/index.cfm>

Sinking ground

The floor of California's great San Joaquin Valley is filled with deep layers of clay, sand and gravel, left by ancient lakes and streams. These layers hold fresh water, called aquifers. The largest layer is called Corcoran Clay, and it separates the valley's shallow aquifer from its deep aquifer.



Source: U.S. Geological Survey

DOUG GRISWOLD/BAY AREA NEWS GROUP

Shuttered Lafayette fire station could reopen

By [Jennifer Modenessi jmodenessi@bayareanewsgroup.com](mailto:jmodenessi@bayareanewsgroup.com)

Posted: 08/19/2015 07:14:37 AM PDT Updated: 113 min. ago

MARTINEZ -- Buoyed by stronger finances, the Contra Costa County Fire District is considering reopening a closed fire station in Lafayette and scrapping a partnership with a neighboring fire district to build a new facility on the Lafayette-Orinda border.

County supervisors acting as the fire district board directed ConFire Chief Jeff Carman Tuesday to explore overhauling and reopening Fire Station 16 on Los Arabis Drive in Lafayette's west end, which the district shuttered in January 2012 amid budget cuts. Carman estimated that rehabbing the closed fire station could take 12-15 months.

Officials also agreed to table a plan to jointly remodel and staff a new fire station with the Moraga-Orinda Fire District. Dubbed "Station 46," that fire station would replace MOFD's aging Station 43 on Via Las Cruces in Orinda, which officials say needs about \$3 million in reconstruction.

If supervisors move forward with rebuilding Station 16, ConFire will save millions of dollars it would spend on building and staffing the joint station. The district would save about \$5 million in total capital investment and about \$700,000 annually on staffing and other operational costs, according to a report. The fire districts had yet to reach an agreement to build the station despite years of negotiations.

"Fire Station 16 seems a lot more advantageous for us right now," Carman said. "We can open the station for less money than it would cost us to build a new one, in less time and less operational costs."

Moraga-Orinda Fire Chief Stephen Healy said in an email that Station 46 offered the districts flexible staffing and cost sharing that would result in an estimated \$100 million in savings over a 40-year term. But he acknowledged at least one advantage of a reopened Lafayette station -- eight companies of firefighters year-round.

Orinda resident Ellen Dale, who spearheaded a petition to stop MOFD from shutting one of its two Orinda stations to build the joint station, said she was pleased to hear the Lafayette fire station could reopen.

"All of Lamorinda needs Station 16 to provide closer backup during major incidents where every truck is called out and the sooner the full fighting force is on the scene, the better the outcome," Dale wrote in an email.

Lafayette officials urged ConFire to move forward with reopening the closed station, warning residents there are growing impatient with the lack of protection during a high fire season that has already seen its share of blazes.

"This area presents a greater risk for catastrophic fire than any other area in ConFire's jurisdiction and yet it has been without a continuously operated fire station for four years," said City Manager Steve Falk.

Falk's reminder about the millions of dollars Lafayette taxpayers are contributing to ConFire, and residents' willingness to detach from the district, got a rebuke from Supervisor Karen Mitchoff, who said other residents living within the district are tired of hearing Lafayette residents complain they are overpaying for fire service.

If Station 46 doesn't move forward, Moraga-Orinda directors will have to decide what to do with the 3.2-acre property they bought in 2013 for the new station. The district will also probably rebuild the ailing Orinda fire station, Healy said.

Contra Costa Times editorial: Facing felony charges, health care district director should resign

Contra Costa Times editorial

Posted: 08/22/2015 04:00:00 PM PDT

Now we have two dishonest East Contra Costa politicians.

Earlier this month, the District Attorney's Office filed a misdemeanor charge against Jeff Belle, a trustee of the Contra Costa County Board of Education, for lying on his ballot statement.

Now comes the case of Emmanuel Ogunleye, 55, a director on the Los Medanos Community Healthcare District board, who faces charges of assault with a semi-automatic firearm and shooting at an occupied vehicle.

While he deserves his day in court, he doesn't deserve to keep his seat, which he gained by deception.

As this newspaper's Nate Gartrell reported last week, Ogunleye in 2014 shot a 30-year-old man who had attempted to meet up with Ogunleye's then-18-year-old daughter.

According to the prosecution, Ogunleye went outside holding a semi-automatic handgun that he kept under his bed. As the man began to drive off, Ogunleye fired a shot at the car, striking the victim in the back.

The bullet didn't penetrate his skin and he drove himself to a hospital. Ogunleye says he didn't mean to fire. A jury in March failed to reach a verdict, voting 11-1 to convict him. The district attorney has refiled charges.

Ogunleye was awaiting the trial when he ran unsuccessfully for the Pittsburg City Council in November and when he applied for reappointment to the health care board in December. In neither case did he reveal the criminal charges against him.

"Campaigns are funny; that would be all anyone wanted to talk about, and really, campaigns are supposed to be about the people," Ogunleye told Gartrell, adding that he also wanted to protect his daughter from embarrassment.

That's right. Campaigns are supposed to be about the people, not only their positions on the issue but also their character, including their behavior and forthrightness. And applicants for vacancies on public boards should be held to the same standards.

As health care district CEO Bobbi Palmer said, Ogunleye should have disclosed the charges when he applied for reappointment. Of course, there's another issue: Someone should have asked.

Candidates should face direct questions about whether they have ever been charged with a misdemeanor or felony and the outcome. They should similarly be asked about any civil cases and judgments.

They should be asked by good government groups like the League of Women Voters; by organizations weighing endorsements; and, yes, by members of the media like us. We should have asked and we didn't.

But that doesn't excuse Ogunleye's failure to disclose the criminal charges, the deception about them, the jury's near unanimous determination. That's enough: Ogunleye should resign.



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ConFire Station 16 Back in Play

By Nick Marnell

The Contra Costa County Fire Protection District board of directors authorized fire chief Jeff Carman Aug. 18 to investigate the cost of reopening fire station 16 in Lafayette, putting on hold plans for a joint fire station 46 with the Moraga-Orinda Fire District.

Discussions of the joint venture have been fraught with negatives since then-MOFD chief Randy Bradley proposed in 2013 that Orinda station 43 and Lafayette station 16 merge across districts. MOFD questioned the financial capability of ConFire to complete the deal, and the ConFire board originally voted against the consolidation, blaming a terrible financial environment. In 2014, as the economy improved, both districts began work on the joint station agreement.

But Carman told the board that the station 46 negotiations have been difficult. "There are operational contract issues," he said, starting with the annual district call volume: 5,000 for MOFD and 50,000 for ConFire. "They have more time to do things like public education, things we'd love to have the time to do," he said, noting that if MOFD took its company out of station 46 to conduct an educational seminar at a high school, ConFire may find issue with that. And if ConFire wanted to pull the 46 company to move up and cover for a Walnut Creek call, Carman said MOFD residents might have a problem. "And that's going to occur a disproportionate amount of time," he said. The chief said that response times in western Lafayette have increased more than 30 seconds since station 16 closed. "Lafayette is in a high fire hazard severity zone," he explained. "There is potential for devastating property loss, and that worries me more than anything."

North Orinda residents have touted response time concerns of their own should their local station 43 be closed, staging a petition drive to halt construction of the proposed joint station. Carman acknowledged that the opposition could further delay the project. "It was clear to me that the Orinda residents were not happy about moving their fire station and being associated with ConFire," he said. "It gave me insight that this was not going to be an easy process."

The clincher for the chief was a recent report from a ConFire contractor who disputed conventional wisdom and said that shuttered station 16 could be rebuilt, and at a much lower cost than the construction of fire station 46. ConFire's capital investment was estimated to be less than \$1 million to repair station 16 as opposed to \$6 million to build station 46, and the operational costs for station 16 would increase \$800,000 per year, about half of the district's share of projected annual costs of the joint station. Carman projected a 12-15 month timetable for the repairs, and he asked the board for authorization to further investigate station 16 as an alternative to station 46.

"Move forward with all haste," said director Karen Mitchoff, with the other three directors expressing a similar sentiment.

"We're disappointed because we were making real progress on a deal," said MOFD board president Alex Evans. "But we are happy that ConFire is going to rebuild and restaff station 16. Our fear was that they'd never do that and MOFD would carry an unfair burden." MOFD Fire Chief Stephen Healy agreed that opening station 16 would increase regional fire capacity. "However, 46 did offer the flexibility of having one or two engines staffed on a daily basis," he said. Evans said the board will take no action on the property purchased for the new station until station 16 is up and running.

"I am doing back flips!" said Ellen Dale, leader of the north Orinda community group that opposed station 46. "We were prepared to force this plan to a referendum. So, the chief was correct in his assessment that this would have been delayed."

Carman plans to update his board Sept. 22 on the feasibility of reopening station 16.

Reach the reporter at: info@lamorindaweekly.com



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Published **August 26th, 2015**

Lafayette Reacts to Station 16 Announcement

By Nick Marnell



One step closer to opening up that door
Photo Ohlen Alexander

reminded the board that the pressure for detachment has grown, and is very real. "Our patience has a limit," he said. "It's time to resolve this."

"We can't promise that we'll never close a station again," said director Karen Mitchoff. "And it's getting tiring hearing about Lafayette paying more into the district. This is not a fee for service; you are paying for capacity."

ConFire chief Jeff Carman explained that Lafayette, one of nine cities in the fire district, is part of a major network, much larger than MOFD. "We can supply you with bulldozers, helicopters, fire investigators, an infinite number of resources," he said. He told officials at the Aug. 18 task force meeting about the recent arrest of the arsonist thanks to the work of four ConFire investigators. "That's the stuff you don't see," he said. "We are sure that he set several fires in Lafayette."

Should ConFire nix the proposed station 46 joint venture with MOFD and begin the rehabilitation of station 16 on Los Arabis Drive, Carman estimated that the work will take 12-15 months to complete. Task force member Rich Cunningham, who helped build a fire station in Albany, warned the chief that, since the station rehab project must go through the county public works department, he should count on a lot longer time frame than 15 months.

Jim Fajardo, task force member and retired fire chief, piled on with the skepticism. "I don't trust that the timeline will be met, or that in the future, we won't be in the same place we are today," he said, echoing that secession was a real possibility if the city does not receive the fire service it has purchased.

"If it's still the desire of Lafayette to detach and join another fire district, I can't say anything about that," said Carman. "I try to balance fire service for our district between nine cities, within a budget. I'm trying to provide good, honest communication in the district. I'm what you've got, and if you don't like what you've got, I can't change that."

"We put in our money, and we expect full coverage of fire and medical service," said task force co-chair and Lafayette mayor Brandt Andersson. "As long as we get that, I'm not as concerned about the money."

"But if we don't get full coverage, we're off the reservation."

The task force plans to next meet Sept. 22, after Carman presents the station 16 study to his board.

Though the Contra Costa County Fire Protection District announced that it will consider reopening Lafayette fire station 16, city officials and emergency services task force members refrained from patting each other on the back just yet.

"It's been a long time. Financially, 16 is viable and we're behind it," said task force co-chair and Lafayette vice mayor Traci Reilly. But she told the fire district board of directors Aug. 18 that the city wanted assurance that station 16 would not be the first station shut down during the district's next financial crisis. "We're tired of temporary solutions," she said.

The city of Lafayette threatened to detach from ConFire and possibly join the Moraga-Orinda Fire District if the district did not improve delivery of its fire and emergency medical service, claiming that the city did not receive its fair share for its \$9 million annual payment. City manager Steve Falk