

September, 2008

Report to the Membership 2007-08 Activities

An Important Legislative Year

Six Bills Already Signed by Governor

By Bill Chiat, CALAFCO Executive Director and Legislative Chair

2008 has been a successful legislative year for CALAFCO. To date six of the eight bills sponsored or supported by CALAFCO have passed the legislature and were signed by the Governor. Another bill—SB 301—has passed and awaits action by the Governor. The final bill of interest to LAFCoS—SB 375—remains in the legislative process.

CALAFCO also opposed several bills and was successful in working with sponsors to find alternate solutions and prevent the bills from moving out of committee. Among the bills were ones that would change the composition of a LAFCo, allow fire protection districts to independently negotiate property tax exchange agreements, altering the CKH requirements for change of service for a specific district, and alter the definition of an island created by a city annexation or incorporation. Here's a summary of CALAFCO legislation and the effect on LAFCos.

Signed by Governor Laws take effect 1 January 2009

AB 1263 (Caballero). This law makes changes to CKH that were requested by LAFCos. Most importantly it clarifies that LAFCos are authorized to establish both a schedule of fees for applications and a deposit schedule and charge "service charges" against that deposit. Several LAFCos have been challenged on their authority to charge processing fees and/or actual costs. This bill also authorizes LAFCo to process islands created by county boundary changes under the island annexation provisions of CKH. The bill also makes non-substantive language clarifications to §56375 which identify the powers of a LAFCo.

AB 1998 (Silva). This law moves the responsibility for the LAFCo financial disclosure

requirements from LAFCo to the Fair Political Practices Commission. More substantially it places that financial disclosure language in the Political Reform Act. While LAFCos value the financial reporting requirements, they benefit significantly by eliminating the workload of reviewing and processing the disclosure forms and enforcing the requirements. These tasks are now in the hands of the FPPC.

AB 2484 (Caballero). This law clarifies and improves the process for special districts to add or remove powers. It includes within the definition of "change of organization" a proposal for the exercise of new or different functions or classes of services, or the divestiture of the power to provide functions or classes of services, within all or part of the jurisdictional boundaries of a special district. In addition the law requires a special district to include in its proposal a plan for financing the service and prohibits the approval of proposals where LAFCo determines that the district will not have sufficient revenues to carry out the proposed services. The law requires LAFCo to take the same actions for a proposal for a new or different function or class of services, or a divestiture of a power with regard to written protests as it does for an annexation or formation.

AB 3047 (Assembly Local Government Committee). This is the CALAFCO Omnibus Bill which makes non-substantive changes to CKH as requested by member LAFCos. Several of the components have substantial benefit to LAFCos, including the elimination of the requirement for duplicate mailings to registered voters and landowners, making several changes to number of days for actions to occur so there is consistency throughout the Act.

SB 1458 (Senate Local Government Committee). This law makes significant improvements to the 1950s-era County Service Area law. The formation and powers of CSAs have long been a problem for LAFCos and the community. This law makes the forma-

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The Sphere

CALAFCO Journal

September, 2008

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

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California Association of
Local Agency Formation
Commissions **CALAFCO**

To the Members:

The CALAFCO Board of Directors is proud to report that the Association has accomplished much in the past year towards achieving its strategic objectives. This included improving its financial management policies and procedures, education services, legislative services, and administrative services, while ending the year on solid financial ground.

Our accomplishments would not have been possible without the strong leadership of our Executive Director, Bill Chiat, the efforts of LAFCo executive officers and staff, and the support of Associate Members. In particular the Board thanks the many volunteer LAFCo staff who have stepped forward to host events, serve as speakers and on planning committees, and serve as CALAFCO staff officers. **Thank You** to the Commissions that have supported their staff as they have served in educational and advocacy roles for all LAFCos.

FINANCIAL MANAGEMENT

The Board adopted a series of financial management policies that were put into operation this year. That includes placing all CALAFCO financial records and accounting into Quickbooks and establishing clear protocols for managing and reporting financials. The quarterly financial reports to the Board have been improved and provide a much clearer picture of the financial resources. CALAFCO has continued to submit timely filings to maintain its 501(c)(3) classification with state and federal regulatory agencies.

Significant additions were made to the Association's fund reserve this year which will help support member services in uncertain economic times and avoid the need to tap members for additional funds. These resulted from financially successful

conferences and prudent management of the Association's resources. Several uncertainties exist in 2008-09 with the need to move the CALAFCO office, but the Executive Director is working closely with our current landlord to manage costs. The Board has created a prudent reserve of approximately 34% (\$78,345) of the annual operations budget outside of the conference and workshops. The Association has qualified and opened an account with the Local Agency Investment Fund (LAIF) and has significantly increased interest income.

EDUCATIONAL SERVICES

Staff Workshop and Annual Conference

CALAFCO continued its tradition of quality, educational programs with organizing and carrying out the Staff Workshop in San Jose in April and planning the annual conference in Los Angeles. These important events would not be possible without the outstanding efforts of the volunteer staff and commissioners from the host committees. Thank you to **Los Angeles LAFCo** for hosting the 2008 conference and **Santa Clara LAFCo** for hosting the 2008 workshop.

CALAFCO University

Four new CALAFCO U courses were offered this past year with over 125 participants. Courses included the Workshop for Clerks, Water Determinations, Delta Decisions, and Agriculture and Open Space Policies and Mitigation. For members unable to attend the courses, materials for most classes are available on the website. These courses were attended by both commission staff and associate members and provided important information and opportunities for dialogue on critical LAFCo issues.

AICP Credit

For the certified planners, CALAFCO has been accredited as a provider of continuing education credits for the

Report to the Membership 2007-08 Activities

American Institute of Certified Planners. Planners may now earn credit towards their professional certification through most CALAFCO courses, workshops and conferences.

Website

Additions were made to the website, including expansion of educational and resource materials and increased use by members for posting job announcements and proposal requests. Two new pages include the *Special District Resource* page and the *LAFCo Court Decisions and Attorney General Opinion* page. Our website is well-used; we average 6,500 visits per week.

CALAFCO continues to maintain list-serves for staff and counsel which fosters the sharing of information and resources. In addition CALAFCO maintains an up-to-the-minute legislative posting in the members section of the website.

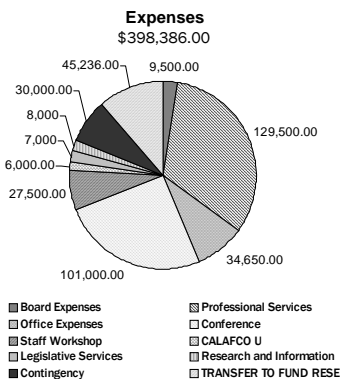
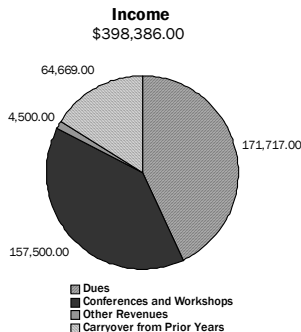
Publications

Published the quarterly journal, *The Sphere*, now with a circulation of over 800. Published the annual *Membership Directory* with regular updates of the on-line version. CALAFCO also began distributing the annual update of Cortese-Knox-Hertzberg Act, at a reduced cost, on behalf of Assembly Publications at the request of Association members.

LEGISLATIVE SERVICES

Legislative Policy and Committee

For the first time in over a dozen years the CALAFCO Board thoroughly reviewed and adopted a new set of Legislative Policies to guide the Association. The policies were developed with the input of the Legislative Committee and Association members. It provided a foundation to pursue specific legislative initiatives to clarify LAFCo authority on a number of issues raised by Association



2008-09 Fund Reserve \$78,345.00

CALAFCO Adopted FY 2008-09 Budget

members, and to respond to issues that emerged during the year at the Legislature and State regulatory agencies. The Board also established a formal Legislative Committee that met regularly throughout the session to propose and review legislation which affects LAFCos.

The positive results of the Committee's efforts in producing new legislation and avoiding bad legislation would have been impossible without the strong leadership of Bill Chiat as the Committee Chair and his representation of CALAFCO as an important stakeholder in the legislative process. The volunteer efforts of LAFCo staff, counsel and board members have been critical to providing recommendations to the Board on legislative issues and in supporting Bill's efforts in the legislative process.

Legislative Agenda

CALAFCO had a broad legislative agenda, sponsoring or supporting eight bills. Please see the separate summary of 2007-08 legislation. In addition, CALAFCO worked to keep several bills that would have adversely affected LAFCo from being heard. Most CALAFCO bills enjoyed bipartisan support.

Legislature Education

Due to our efforts to help solve problems and resolve issues constructively, CALAFCO continues to be a sought-after resource to legislative committees, members and staff. Those activities included CALAFCO representatives on the County Service Area rewrite work group and the stakeholders who crafted SB 375. We expect that there will be significant legislative activity this year as a follow up to SB 375 that will demand CALAFCO's continuing attention.

ADMINISTRATIVE SERVICES

Administrative Support for CALAFCO and Events

The Association retained administrative support services which now allows it to provide centralized event registration, dues payments and all other financial activities. This removes a huge burden from volunteer LAFCo staff who are hosting a conference or workshop, and eliminates confusion on where to send registrations or dues. CALAFCO has partnered with CSAC to acquire an event registration system which creates a single database for CALAFCO members and eliminates the need to start from scratch for each event. CALAFCO is now able to invoice directly for member dues, which again eliminates a significant time burden from the volunteer staff.

Sincerely,
CALAFCO Board of Directors

TRACKS Around the State



AMADOR

Amador LAFCo has completed a county-wide Municipal Service Review (MSR) with in depth analysis

of water, wastewater and fire services, as well as analysis of all other services. An aggressive sphere review program will keep the Commission busy through the beginning of 2009, with adoption of an original sphere of influence for many agencies. The MSR is already generating discussions about friendly reorganizations and willing dissolutions of some agencies. The MSR requirements are challenging for most rural small counties. Amador LAFCo was able to facilitate a voluntary cooperative funding effort among the cities, the Amador Water Agency, the County to get this big job done.

NAPA

LAFCo of Napa County is pleased to announce the hiring of **Brendon Freeman** as the agency's new analyst. Brendon was raised in Napa and recently graduated from the University of California at Davis with a degree in economics. Brendon will be responsible for helping to prepare the agency's second round of municipal service reviews along with overseeing the implementation of an electronic document management system.

Napa's Approach to Municipal Service Reviews and Sphere of Influence Updates

In October 2001, LAFCo of Napa County adopted a study schedule to prepare its first round of municipal service reviews (MSR) and sphere of influence (SOI) updates for all local agencies under its jurisdiction by January 2006. The inaugural study schedule was ambitious in design to include both agency-specific and service-specific MSRs with the goal of analyzing local agencies in the context of several studies. The adoption of the inaugural study schedule also coincided with LAFCo's establishing a full time analyst position to prepare the majority of the reports in-house.

Almost seven years and three analysts later, LAFCo is inching closer to completing its inaugural study schedule with only SOI updates for two cemetery districts remaining. Several important lessons have been learned in the course of preparing this first round of MSRs and SOI updates – most of which are positive with the exception of a few agonizing missteps along the way. In terms of positives, as intended, LAFCo has measurably improved its decision-making by developing a better

understanding of the level and range of governmental services in the region and in relationship to local conditions and needs. LAFCo has also leveraged the process to address other important issues, including educating cities and special districts of the Commission's role in approving out-of-agency agreements involving new and extended services. Finally, the process has enhanced local governance, particularly for many of the small special districts that benefit from LAFCo's third-party analysis of their services and structures.

As for challenges, LAFCo certainly underestimated the amount of time needed to collect and analyze information necessary to prepare the first round of MSRs, often resulting in stale information being presented in the reports. LAFCo also did not adequately focus the MSRs to consider the relationship between the state's housing allocation process with land and use and service planning. Further, LAFCo missed an opportunity to incorporate terms and conditions into the SOI updates to help guide future annexation proposals.

Drawing on lessons learned, LAFCo recently adopted a new study schedule to prepare a second round of MSRs and SOI updates over the next five years. Markedly, the second round will include the preparation of mostly agency-specific MSRs allowing LAFCo to concentrate on the breadth of services provided by each agency as part of a single report. The second round of MSRs will focus more on the influence of the State's housing allocation process on land use and service planning issues as well as address the increasing role of non-public contractors providing key local governmental services, such as garbage collection and public transportation.

LAFCo's decision to prepare a second round of MSRs and SOI updates reflects its belief the process of reviewing and re-reviewing local services and agencies has value. LAFCo is also fortunate that its funding agencies see the value in this process, at least as measured by supporting the Commission's decision to continue to fund a fulltime analyst position. Time will tell how effective LAFCo has been in preparing and using MSRs and SOI updates to coordinate logical growth and development, but it is certainly off to a good start.

Submitted by: Keene Simonds, Napa LAFCo Executive Officer

ORANGE

Hey, it's summer in the OC and despite the *outside* draw of near perfect weather, white sand beaches and endless waves, the OCLAFCo staff have been hard at work *inside* their offices crafting a new strategic plan for FY 2008-2009. We would like to share three of the plan's key projects we will be focusing on during the next twelve months:

(1) MSRs – A “Best Practices” Approach to the Municipal Service Review Process

I know, I know. Not another approach to MSRs! I’ll be brief. OCLAFCO will be working on a plan that looks at the interdependent relationships between agencies providing similar services. We will be using MSRs to highlight individual agency “best practices” and hopefully develop some standardized “benchmarks” for evaluating services countywide and possibly statewide. You can chart our progress on our MSR webpage that should be up in the next few months on OCLAFCO’s website (www.oclafco.org).

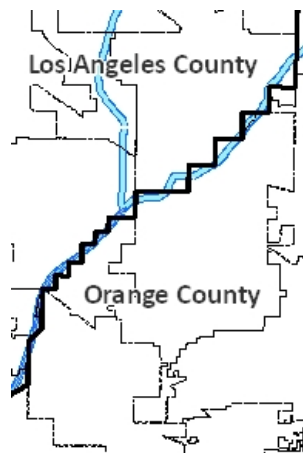
(2) Islands – New Tools to Successfully Annex Remaining Islands

OCLAFCO has developed one of the most successful island annexation programs statewide. (As you know, modesty has never been an OCLAFCO strength.) Over the last five years, 35 small islands have been annexed to adjacent cities. These residents are now enjoying a higher level of municipal services and the other benefits of living within a city.

The remaining 35 islands in OC present some unique challenges, but we have recently increased our “arsenal” of tools to further encourage cities to consider island annexations. Our Commission’s Islands Incentive Program (which is being offered for two years) includes waiving application fees, LAFCo staff preparation of all application materials, fast tracking of island applications, staff-sponsored workshops, and funding of fiscal analyses for targeted islands.

(3) County Boundaries – Who’s Watching the Borders?

Historically, the northwest boundary between Orange and Los Angeles counties was determined by the natural course of the Coyote Creek. On the west side of the creek was Los Angeles County; on the east side, Orange County. Over the last 100 years or so, the course of the river was dramatically altered due to encroaching urbanization and flood control improvements. Unfortunately, corresponding county boundary adjustments were not made to reflect the changed course of the river. This has resulted in parts of neighborhoods within several cities split by outdated county boundaries. In some cases, there are portions of Orange County cities actually located in Los Angeles County. (At least these folks are well represented – they have a city council, the OC Board of Supervisors and the LA Board of Supervisors to complain to!)



OCLAFCO staff recently completed a *County Boundary Report* which identifies potential boundary issues between the two counties. Although LAFCos have no authority to change county boundaries (this is done by joint action of the respective boards of supervisors), someone had to step up and identify the issue. (I told you OCLAFCO is not shy.) The report was presented by LAFCo staff to the OC Board of Supervisors and hopefully will be presented to the LA County Board in the near future. If we get the go-ahead, OCLAFCO will play a facilitating role in getting the affected cities and counties to amend the county boundary line to match current conditions. Respective city annexations and detachments would occur subsequently.

Rossmoor Incorporation News

A final update – On May 22, 2008, Orange LAFCo approved the incorporation of Rossmoor, a residential community of about 10,500 residents sandwiched between the cities of Seal Beach and Los Alamitos. With annexation to either city a long-shot (that’s another story for a future column), and the County desirous of getting out of the municipal service delivery business, Rossmoor’s long-term governance options are limited. To proactively address the issue, the Rossmoor Community Services District filed an application for incorporation. The kicker? Rossmoor is all residential with the exception of a single shopping center anchored by two small restaurants and a Blockbuster video rental store.

To make up for the lack of sales tax revenue, the applicant has proposed a utility user tax (UUT) for Rossmoor residents on three utilities: natural gas, electricity, and water. Both the incorporation measure and two alternative utility user tax options (7% and 9%) will be on the November 4, 2008 ballot. The incorporation measure and at least one of the utility user tax measures must pass for the incorporation to be successful. To our knowledge, this is the first incorporation in the state that would require a UUT to be approved concurrently with incorporation. Will the Rossmoor residents support incorporation? What about a UUT? Stay tuned.

Submitted by: Bob Aldrich, Orange LAFCo

SAN DIEGO

LAFCo’s Role within California’s Diminishing Water Supply Landscape

The San Diego region imports the majority of its domestic water from the Metropolitan Water District of Southern California. Since 1991, the San Diego region has reduced its dependence on imported water from 95% to 76%; however, the Colorado River basin has been experiencing increasing drought conditions for the last 8 years, and the San Diego region has experienced its driest two-year weather period since record keeping began in 1801. In June 2008, the Governor issued Executive Order S-06-08 declaring a statewide drought, which directed state agencies and



Governor Schwarzenegger Declares Statewide Drought in June, 2008

departments to take immediate action to address the serious drought conditions and water delivery reductions in California. Accordingly, the San Diego LAFCo has made it a priority as to whether an adequate regional

water supply exists to support anticipated water needs in proposed annexation areas.

Due to the worsening drought conditions affecting the State, the Metropolitan Water District of Southern California has begun withdrawing water from storage to meet its current-year demands. This situation has caused the San Diego County Water Authority to activate Stage 1 of its Drought Management Plan, which initiates actions and programs to address water supply limitations due to drought or other conditions. Stage 1 involves voluntary supply management and has directly impacted the agricultural producers in San Diego County who receive discounted water rates in exchange for participation in the voluntary water restriction program. Local agricultural producers have experienced 30% mandatory reductions to their water supply and some growers are stumping avocado trees and pulling out citrus trees due to water shortages.

As the timing of a jurisdictional change proposal is directly related to the ability of the annexing entity to provide needed public services, San Diego LAFCo has responded to these drought conditions by requiring jurisdictional change proposals to submit updated water availability letters and additional water supply information from the providing agencies.

Acquiring this service-related information early on in the proposal analysis process allows for specific acknowledgement of any supply-related deficiencies that may delay the proposal's ability to be heard by the Commission. In addition, the San Diego LAFCo has recognized the importance of the availability of sewer treatment capacity to serve proposal areas.

By implementing supplemental disclosure requirements in regards to water supply, available sewer treatment capacity, and the ability to provide timely sewer service, the San Diego LAFCo has placed greater emphasis on the condition and adequacy of regional infrastructure systems. It is hoped that the increased scrutiny devoted to this matter will result in more informed LAFCo decisions.

Submitted by: Robert Barry, San Diego LAFCo



SANTA BARBARA
Controversy in Santa Barbara County

Santa Barbara LAFCo found itself embroiled in a controversy in the last few months that generated significant public interest and strong feelings. Some of the underlying issues may be relevant to other LAFCos.

Does a CSD Preserve or Damage Agriculture?

Forty years ago the "Lakeview Estates" subdivision was created by its owner without reliance on the Subdivision Map Act. The 1,590 acre subdivision is comprised of 39 parcels each of which is 40 acres in size. The terrain is steep. The nearest county-maintained road is one-third mile away via a recorded easement across a neighbor's property.

The tract is part of the Santa Rita Hills that has been shown to be an excellent wine growing region with award winning pinot noir grapes and other varieties being cultivated, as well as commercial lavender and cattle grazing.

Located about eight miles from the City of Lompoc, the subdivision was formed in anticipation of the construction of a dam that would form a lake on the Santa Ynez River; the dam was never built yet the name of the subdivision remains.

The numerous owners have been unsuccessful in trying to organize themselves to privately fund and maintain an adequate road system to allow year-round access to their parcels. Due to the lack of dependable access, the County Fire Department imposed a moratorium on permits for structures such as homes and barns.

During part of the year the owners cannot access their land to feed and care for their livestock or crops and vineyards. Due to the moratorium on structures, landowners are only able to construct 12' by 15' sheds, too small to house needed equipment to service their 40 acres.

Since the Board of Supervisors does not want to become involved creating and operating a County-governed district, a petition to create a Community Services District to construct and maintain roads and possibly underground electrical utilities was submitted to the Commission.

Opponents, including the Santa Barbara Citizens Action Network, argued that forming the CSD will lead to "urban sprawl" by allowing parcels owners to construct homes and lead to the ruination of the area. Proponents concede some homes might result from better access, either primary homes or caretaker dwellings, but contend that adequate roads are essential for agriculture to be successful. And they note any change to allow smaller lots will require a General Plan Amendment and rezoning, actions that no one has been suggesting.

LAFCo found itself in a difficult position, with strong views on all sides of the issue, so you can probably appreciate the news headline the day after the Commission approved the formation, which read "Ag Land: Preserved or Doomed. Santa Rita Hills Service District Approved."

Submitted by: Cathy Schlottmann, Chair and Bob Braitman, Executive Officer, Santa Barbara LAFCo

SUPREME COURT STRIKES DOWN OPEN SPACE ASSESSMENT UNDER PROP. 218

By Michael G. Colantuono

On July 14, 2008, the California Supreme Court decided its first substantive case under the assessment provisions of 1996's Prop. 218, "The Taxpayers Right to Vote Act." In doing so, it struck down an open-space assessment on the ground it did not demonstrate special benefit to the assessed property either as required by Proposition 218 or Proposition 13 and because the amounts assessed were not proportional to the special benefits conferred. The unanimous decision written by the Court's most conservative member, Justice Chin, sets out a new, more demanding standard of judicial review of local government assessment decisions and has significant implications for assessment financing in California.

The case is *Silicon Valley Taxpayers Association v. Santa Clara County Open Space Authority*. The Authority imposed an assessment to fund future, regional, open-space acquisitions which applied throughout the District (which has a population of 1.2 million) and was \$20 per year for all single-family residential parcels. Because the acquisitions were prospective and the Authority did not want to reveal to landowners exactly how much it might pay for a given site, the engineer had an unusual task in demonstrating special benefit to private property from unspecified, future acquisitions and calculating the proportionate benefit from such acquisitions attributed to each property. The San Jose Court of Appeal found, over a lengthy dissent by a well-respected, moderately conservative Justice, that open space acquisitions sufficiently benefited property to justify assessment and that the spread of benefit was properly determined.

This case was the California Supreme Court's first opportunity to consider the assessment provisions of Proposition 218 since glancing reference in the *Richmond* case in 2004 which held that water connection charges were not assessments and a 2001 decision that the Ventura Harbor District could not impose assessments to pay off a judgment lien because doing so did not benefit property.

Implications of the Case

So, what does the case mean in practical terms? A full answer to that question will develop as lower courts apply the case, but we offer a few initial observations: First, open space assessments, regional park assessments and other assessments that provide broad and diffuse benefit to a large area and that benefit all members of society – tenants, landowners and visitors alike – have always been difficult to justify as conferring special benefit sufficient to be assessments and not special taxes (for which 2/3-voter approval is required). This case makes that burden harder still. Thus, great care will now be required in drafting engineer's reports for such assessments and legal review of those reports is essential. For some programs of this type, local governments may wish to consider special taxes, general taxes (which require majority voter approval), or non-property-related fees such as inspection and service fees (which do not require voter or property-owner approval but generally do not raise the substantial sums need for capital improvements).

Second, the newly heightened standard of judicial review means that care must be taken to prepare a solid engineer's report and a good record to support the decision that a program confers special benefit and the assessment is apportioned among properties in proportion to that benefit. Some general benefit will exist with virtually every assessment regime, and that general benefit must be accounted for and funded from non-assessment revenues.

Third, the proportionality requirement remains poorly defined. This case simply tells us that the engineer's report in issue did not attempt an analysis that is now required, but we are told little about what that analysis must be. Some level of judicial deference on proportionality judgments may be inevitable, notwithstanding the heightened standard stated in this case because line-drawing exercises are, by their nature, arbitrary at the margin. Whether a given class of property should bear 20% of the benefit and cost of a program or 22% is not a question that lends itself to a black-and-white answer; a discretionary judgment is required. If local governments exercise that discretion responsibly and develop good records to support those judgments, courts will likely uphold them.

Michael G. Colantuono is a partner at Colantuono & Levin, P.C., counsel for several LAFCos, and a CALAFCO Gold Associate Member.

Visit www.calafco.org/Court_Decisions for complete information and links to decisions on court cases and Attorney General decisions which affect LAFCos.



California Supreme Court

PHILISTINE RETREATS, WATER GETS CHEAPER

By Pat McCormick, Executive Officer, Santa Cruz LAFCo

The Setting

In the August 2007 Sphere article titled “*David vs. Goliath in the Redwoods*,” I described a fight by a group of water customers (“David”) in the community of Felton to transfer the ownership and operation of the local water system from a large private water company (“Goliath”) to a county water district. In this edition, I report on the conclusion of that battle.

Felton is one of a series of small unincorporated communities along the San Lorenzo River Valley north of Santa Cruz. The water system in Felton, which has been owned and operated since 2001 by the California-American Water Company, contains about 1300 water connections serving 3400 people.

The Story

The story started in 1965 when the fledgling San Lorenzo Valley Water District (SLVWD) decided that the valley’s series of small funky water systems should be fixed up and interconnected. Felton and several of the other valley towns were served by separate systems. The SLVWD prepared to sell bonds to purchase the systems including using eminent domain to acquire the systems owned by the Citizens Water Company. The majority of the people in Felton liked their small water company and feared that the water district’s plans would result in costly water. So, by mutual consensus, Felton was left out of the district boundary and the assessment. Using eminent domain, the district completed the public acquisition of the other systems.

Thus began a 40+ year experiment to compare whether a private or public operator provided better cost-effective

water service in the San Lorenzo Valley. The hilly service areas, the water sources, and the infrastructure needs were similar in Felton and the other valley communities. This as close to a perfect “apples to apples” comparison as could be designed outside of a test tube.

In 1985, when LAFCo drew the first water agency spheres of influence in the San Lorenzo Valley, it excluded Felton from any public agency’s sphere. LAFCo was protecting the turf of the Citizens Water Company. The Felton system was sold to a large American water corporation in 2001, and sold the next year to a larger European corporation. The new owners proceeded to make a series of operational changes and filed for large rate hikes with the California Public Utilities Commission (PUC). The residents organized to contest the rate hikes and the lack of any local control over the water system. They were confounded why water service in Felton should cost a lot more than the four other communities in the valley that had virtually the same water sources and service geography.

A group of Feltonians slung into action, organized a non-profit, and lobbied the county and water district to help argue their position with the PUC. The water company’s position was that the Felton system wasn’t for sale, and that they would continue to file for rate increases as permitted under the PUC’s rules.

After not being able to get a sympathetic ear with the PUC, the Feltonians convinced LAFCo to amend the water district’s sphere to include Felton, and convinced the Board of Supervisors to call an election on an assessment to buy the

Felton water system and convey it to the SLVWD for operation. Their theory was that with public ownership of the system, their property tax bills would go up and their water bills would go down. They expected their total water costs would eventually be lower under public ownership.

In 2005 the Felton property owners passed a Mello-Roos assessment to authorize up to \$11,000,000 in bonds to cover the acquisition process and purchase price. The projected maximum cost to a typical homeowner was \$696 per year for 30 years. The first \$1 million in bonds were sold, and the water district hired special counsel to proceed with acquisition process, which resulted in the district filing an eminent domain petition in Superior Court.

As a result of mediation, the California-American Water Company and the SLVWD came to a transfer agreement one working day before the jury trial was to begin to set the acquisition price.

On July 26, 2008, the Felton community held a celebration party. The transfer is scheduled to be completed in August 2008 at which time the SLVWD will begin operating the Felton system.

In calculations done by the Felton customers’ group, the



total bi-monthly water cost (water bill + acquisition assessment) for a typical residential customer in Felton will drop from \$177 under the California-American Water Company to \$175 under the SLVWD. When the acquisition occurred, Cal-Am had a rate application pending at the PUC to increase water rates 54% in 2009, 6% in 2010, and 6% in 2011.

The Felton customers also believe that they will benefit in non-monetary ways from being able to participate in the political processes of a locally elected water district board.

Points for LAFCo's to Ponder

- ◆ The company water rate regulation by the California PUC resulted in much higher water rates in Felton than in the nearby non-regulated communities served by the water district.
- ◆ Rate cases before the PUC are conducted as administrative law hearings, and effective representation of the customers can require hiring an attorney with special expertise in PUC law and regulations.
- ◆ Over 40+ years, the imperfect checks and balances available though a locally elected water board did a better job in balancing improvement needs and water rates than the PUC did in regulating the water company. In the district, if rates went up too fast, or if water supply or quality became inadequate due to underinvestment or mismanagement, the electoral process tended to detect and correct bad decisions.
- ◆ The Felton type of water system transfer would not be available to other California communities if Proposition 98 had passed in June 2008. That proposition would have prohibited the use of eminent domain for a public entity to acquire a private asset (e.g., a water company) if the public entity was going to use the

asset for a substantially similar purpose (e.g. delivering domestic water). As future proposals are brought forth to limit the use of eminent domain in California, efforts should be made to assure that any community could continue to use eminent domain as a last-chance option to switch between which monopoly operates the water system.

- ◆ LAFCo's should not presume that the PUC regulation of private water companies results in lower costs than the costs for publicly operated systems. In performing municipal service reviews and reviewing spheres of influence, LAFCo's should consider public alternatives in selective situations where private company water costs or other major operational issues appear out of line.

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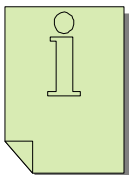
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Thank You!

Business Continuity Planning and Management of Records

By Hedy Aref, President, Incrementum Document Solutions

Living in the Information Age constitutes a whole series of expectations placed upon us as individuals as well as groups both in the public and private sectors. Information accessibility and delivery is the single most critical aspect of our operations.



On a normal business day, we access current and historical records to make everyday decisions. In times of disaster – natural or man-made – information and its delivery becomes a vital part of saving lives and infrastructure. Information also plays a major role in post-disaster operations – getting organizations back up and running.

Many entities today realize the importance of business continuity planning and disaster recovery. After all, within the last several years, we have either been a part of local emergencies or witnessed disasters in other states and regions – many of which resulted in paralyzation of communities, towns, and cities.

While many see the urgency of safeguarding information in case of a disaster, most point to better protection of their electronic information which can be achieved through electronic replication, virtualization / fail over technology, and a whole host of other methods. Quite often, paper records are overlooked in business continuity planning. While a major percentage of information in all organizations still resides in filing cabinets and storage boxes, protecting this information in a progressive way has not always been a top priority.

Unfortunately, once paper-based records are gone, they are gone for good. If copying and storing duplicates offsite has been one way of addressing this issue, that needs to be reassessed – from a cost and accessibility perspective, as well as vulnerability to the same types of disasters because of the physical state the records are in.

The best, most efficient, and cost-effective way to store and protect paper-based records is to digitize them into a standard unalterable format – acceptable in the court of law (i.e.: TIFF Group IV). Once digitized, indexing them so they can be searched, and incorporating them into the organization's overall disaster recovery and business continuity planning is the most progressive way to manage this information. When digitized, these records are also more portable and can be better disseminated to constituents and other agencies in real time.

Remember, preventive measures taken will protect one of your most valuable assets – your records.

Incrementum Document Solutions is a new CALAFCO Associate Member. They are also members of the Santa Monica Organizations Active in Disasters.

Budget Model Assists in Plans to Meet Fire Service Needs

By Dawn Mittleman, Senior Consultant, ESCi

What a fire season this has been! The average citizen need only look up at the hazy sky, filled with smoke and ash to realize the magnitude of the situation. Fire districts and departments across the state have been strained to the maximum. Usually our mutual aid system allows resources to be sent to a community with a large incident. This year with hundreds of fires occurring simultaneously across the state, there simply were not enough resources to go around.

LAFcos can play a vital role to help fire agencies plan for the future. Updating Municipal Service Reviews provides the opportunity for a comprehensive review of fire agencies in the county. More fire districts will look to co-operative arrangements as a means of maintaining service levels with fewer resources.

ESCi has been involved in over 80% of fire co-operative arrangements across the country. These arrangements include consolidations, reorganizations, joint powers authorities and contracts for service. Our extensive knowledge of fire service and local government allows us to design options to meet the needs of a variety of situations.

An example of a unique approach to meet local needs was the formation of the Fontana Fire Protection District. San Bernardino LAFco played a significant role by facilitating continued meetings and negotiations among fire agencies and stakeholders. Throughout the process ESCi used its computer driven budget modeling to advise the City of Fontana of actual public costs of service options. Our team developed a draft contract for services which included a transition plan, detailed scope of services to be provided and service level criteria. In order to assure that parties complied with long term plans,



LAFco used its authority to include terms and conditions as part of the Commission's actions.

The City of Pacifica employed ESCi to conduct an analysis of options for fire service and analyze their fire assessment tax. Through our role as a neutral party, we were able to dispel perceptions regarding the use of the existing tax. Budget modeling provided actual short and long-term costs of the various options for service. In addition revenue forecasts were combined with service trends to project the City's ability to fund future fire service demands. GIS mapping was used to visually show topographically risks, population demographics, apparatus and personnel response capability, as well as the ability of neighboring agencies to respond to need. This level of comprehensive analysis allows communities to realistically plan for their future fire service demands.

ESCi is a CALAFCO Associate Member.

Incorporation of a New City Does Not Require an Environmental Impact Report

By Julie Hayward Biggs, Burke, Williams & Sorensen, LLP

In our encounters over the last decade or so with incorporation of new cities, the question arises of whether review of a potential incorporation under the California Environmental Quality Act is required. The question has not been resolved in large part because proponents of new cities generally wish to avoid protracted litigation over the issue and instead comply with LAFCo directives to do environmental review. Generally speaking, the review is limited to an Initial Study and a Negative Declaration. That was the case, for example, in cities we assisted in the incorporation effort such as Laguna Woods (1999), Goleta (2002), and more recently, Wildomar (2008).

When a full Environmental Impact Report (EIR) is required, however, the cost factor is huge and proponents sometimes are willing to go to court rather than comply with such a requirement. That is what happened recently in Carmel Valley – and the proponents of cityhood won in a ruling that has implications for future new cities. The Superior Court in Monterey County recently ruled in favor of proponents of the new Town of Carmel Valley in their challenge to the Monterey County LAFCo's determination that an EIR was required prior to the question of incorporation being submitted to the electorate. This ruling is significant for proponents of new cities who are generally charged with the cost of preparation of all documents necessary to complete the incorporation application process.

Proponents for the Town of Carmel Valley filed their initial application for incorporation in 2002. After years of working with the Monterey LAFCo, the Commission determined in January, 2005 that incorporation of a new city was a "project" under the California Environmental Quality Act (CEQA). Based on that determination, which was opposed by the proponents, LAFCo circulated an Initial Study and determined that a Negative Declaration would need to be prepared and approved for the project.

The Negative Declaration was prepared and circulated for comment in the fall of 2005. In December LAFCo took action to approve the Negative Declaration. Following that action, proponents of cityhood successfully negotiated a Revenue Neutrality Agreement with the county, and completed and updated the Comprehensive Fiscal Analysis demonstrating the viability of the new city. LAFCo staff prepared the required report for the Commission recommending approval of incorporation and the scheduling of the election for June, 2007. The matter came before LAFCo for hearing on October 18, 2006.

At that hearing, the Commission determined, without any change to the Initial Study or new evidence submitted, that a full EIR would be required. Essentially, LAFCo ordered the proponents to start over.

Rather than do that, the proponents chose to challenge the determination that a full EIR was required. In the

ruling that was issued by the Superior Court on May 2, 2008, Judge Lydia Villareal made the following determinations:



1. Incorporation of a new city alone does not constitute a project under CEQA; and
2. Even if incorporation did constitute a project under CEQA, there was no substantial evidence in this case of any foreseeable physical impact on the environment that would warrant an EIR.

The rationale for these determinations is worth noting. LAFCo had contended that the incorporation would result in traffic and housing impacts. LAFCo relied in part on the Office of Planning and Research opinion that "incorporations are projects subject to CEQA review." The court rejected that opinion and noted that it was not binding on the court. The court looked to Section 15378 of the CEQA Guidelines and determined that the language there controls – "(b) Project does not include: (5) Organizational or administrative activities of governments that will not result indirect or indirect physical changes in the environment."

Among the decisions the Court relied on was *Simi Valley Recreation and Park District v. LAFCo of Ventura County* (1975) 51 Cal. App. 3d 648, which held that detachment of land from a district was not a project where the activity was only a change of organization or personnel and the only environmental impact was the replacement of one group of managers by others who might hold different views on the future use of the land in question. The court noted,

"LAFCo struggles to point to reasonably foreseeable changes which will occur in the environment. Traffic, housing and boundary changes were determined by LAFCo to be issues after the initial environmental review.

However, any changes in traffic are conjectured. At this point, no one knows if there will be new city hall construction or if the city hall will use leased space. No one knows where it might be located. No one knows how many employees might be hired. No one knows if there will be any new requirements pursuant to a housing elements plan. No one knows what, if any, boundary changes there might be and what impact this might have. Any possible impacts that might occur because of these issues cannot be meaningfully analyzed without more information. Environment review must be "late enough to provide meaningful information for environmental assessment."

The upshot of all of this is that, at least at the trial court level, there is some sentiment to support the proposition that incorporation of a new city is not a project under CEQA. Avoiding needless CEQA review of what is simply a reorganization and change of leadership should permit acceleration of incorporation efforts. Where construction of facilities is directly contemplated as part of the incorporation movement, however, the situation might warrant CEQA review. The key is focusing on reasonably foreseeable physical changes to the environment. Here the court held that newly elected leaders of a new jurisdiction would not, in and by themselves, cause reasonably foreseeable physical impacts on the environment.

Julie Hayward Biggs is a partner at **Burke, Williams & Sorensen, LLP** and a CALAFCo Associate Member

San Luis Obispo Airport Area Annexed (Finally!)

By Paul Hood, Executive Officer, San Luis Obispo LAFCo

One of the first proposals I worked on when I came to San Luis Obispo County in 1980 was the proposed annexation of the San Luis Obispo Airport Area. Even prior to this time, this industrial/commercial area immediately south of the City of San Luis Obispo was developing rapidly in the unincorporated area, using wells, septic tanks and county services such as law enforcement and fire protection.

Although development in this area clearly impacts the city, many property owners resisted annexation because of concerns over potential restrictions on development and increases in fees. This led to a number of “interim or piece-meal annexations” initiated by property owners who wanted services from the city. Many of these properties were already approved for development by the county. From 1996 to 2002, LAFCo approved 15 annexations on the southern boundary of the city for a total of 269 acres. Many of these annexations were small (less than 15 acres). The largest contained 143 acres.

In 2002 the Commission made a decision to end the processing of these interim annexations due to concerns over adequate water supplies to serve the area and comprehensive planning issues. LAFCo directed the city to prepare a comprehensive plan for annexing the entire airport area that included a demonstration of an adequate and sustainable water supply. It was clear that piecing together one interim annexation after another was not facilitating planned or orderly growth within the city or the unincorporated area surrounding the airport. In response specific plans were approved by the city for the Margarita Area

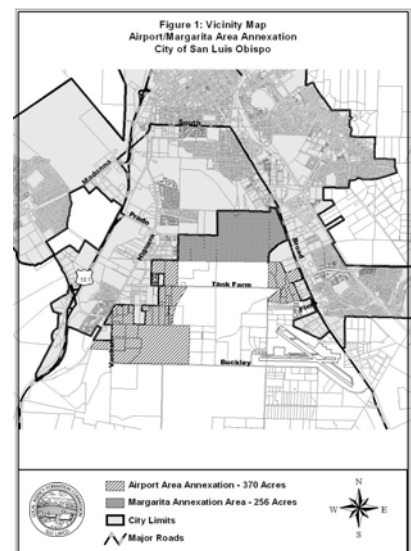
and Airport Area in October 2004 and August 2005, respectively. A Program EIR was also prepared and certified by the city for each area.

The Airport/Margarita Area has been in the city’s sphere of influence (SOI) since 1985. The SOI, which was updated in 2006, reaffirmed and expanded the sphere in this area. The updated sphere determination was based on a Municipal Service Review which concluded that the city is capable of providing services, including water, to the SOI areas. In recent years the city has been active in acquiring a supplemental water supply. Adoption of the updated SOI included development of a Memorandum of Agreement (MOA) between the City of San Luis Obispo and the County of San Luis Obispo. LAFCo staff facilitated the MOA discussions as a means of ensuring cooperation between the two agencies which had been lacking in the past. The City and County agreed on the extent of the city’s SOI, the development standards and the zoning process. The approach was to ensure close coordination and cooperation on future planning and development of the areas within the city’s SOI.

After a comprehensive public outreach program that included numerous presentations and public meetings by city and LAFCo staff, the San Luis Obispo City Council adopted a Resolution of Application to LAFCo to annex the airport area in May, 2007. The city decided to split the annexation into three phases based on several factors, including property owner support. Phase 1A comprised of approximately 626 acres and was approved by the Commission on April 17, 2008. This was

followed by a June 19 protest hearing which was insufficient to terminate proceedings.

This annexation was a long time in the works and the city worked diligently with property owners to assure that being annexed to the city would be a positive experience. The city is not requiring that properties hook-up to city services and is allowing properties to maintain their current water and wastewater systems as long as they’d like. The city entered into several pre-annexation agreements to document these commitments.



I guess the moral of the story is that sometimes good planning takes time. Also there needs to be a strong element of trust and cooperation among agencies, property owners and the public for good planning to succeed. In this case, LAFCo had the important role of facilitating this trust and cooperation to ensure the best possible service to the public. The final outcome after over 30 years of posturing was a successful annexation that serves the public interest by: 1) providing for the effective provision of services; 2) encouraging growth in appropriate areas; and 3) assuring that everybody has input to the process.

Sometimes timing is everything!!

CASE STUDY

San Bernardino Caps Multi-Year Project to Consolidate 26 Fire Districts; 18,000 Square Miles

By Kathleen Rollings-McDonald, Executive Officer, and Michael Tuerpe, LAFCo Analyst, San Bernardino LAFCo

The Local Agency Formation Commission for San Bernardino County spent just under three years processing a reorganization proposal submitted by the County of San Bernardino to restructure the 26 board-governed fire entities within the county into a single board-governed district. The impetus of the proposal was to: (1) simplify the delivery of fire protection services within the county provided by its board-governed special districts; (2) create a more effective and efficient management arrangement for fire protection and emergency medical response services within San Bernardino County, primarily for the unincorporated territory of the county; and (3) maintain the level of fire protection and emergency medical response service at its current level as a result of the reorganization.



Additionally, an alternative proposal was submitted by the City of Fontana to remove the board-governed fire protection district that overlaid the city from consideration and establish it as a subsidiary district of the city. The Commission considered this project over four hearings, six community meetings, three years of application processing and 15 years of discussion.

The entire County and City of Fontana proposals are available on the San Bernardino LAFCo website at www.sbclafco.org. The dedicated page for these proposals contains the resolutions of the Commission's actions, staff reports, maps, and the county's maps of each fire district and regional area.

Board-Governed Fire Service in San Bernardino: 26 Entities – Financial and Efficiency Challenge

A brief history of board-governed fire service in San Bernardino County is provided to illustrate the complexity of this project. The former County Fire was the outgrowth of a prior administrative consolidation of 31 separate budgetary units that encompassed 26 service entities spread throughout the county, not including contract agencies. Actual service was provided by the 26 entities within each of their respective boundaries which consisted of the following: seven county service areas (CSAs), 15 improvement zones of CSAs, and four fire protection districts.

As population growth in the county increased dramatically over time, public demand within the unincorporated areas for augmented levels of fire service also increased. As new unincorporated communities were formed, numerous fire protection and emergency medical response service agencies were created, many between 1950 and 1980. Some of these districts were formed under the "self governance" model, where the district is governed by an

independently-elected board of directors. In other areas, the County Board of Supervisors created entities under its jurisdiction for the provision of these services.

Until 1982 the county did not have a single consolidated agency for management of fire protection and emergency medical response. Instead, each of the board-governed fire protection districts was managed by a separate staffing structure that reported through the County Special Districts Department to the Board of Supervisors.

In 1994, the Board of Supervisors initiated an administrative management consolidation that brought all fire protection districts, CSAs and CSA improvement zones, with the exception of CSA 38, under the administrative oversight of a consolidated fire agency, operated under the umbrella of CSA 70. In January 1999, the entirety of all board-governed fire districts and all of CSA 38 and its improvement zones were placed under the auspices of the consolidated fire agency for administration, then identified as "County Fire."

Thus, since 1999, County Fire managed the responsibilities for structural fire response and emergency medical response for most of the unincorporated areas of the county, excluding the independently governed districts and municipalities which provide fire service. In 2002, the Board directed its staff to prepare studies to determine the financial health of the department with accompanying recommendations for improvement. These studies were motivated by a concern regarding the financial stability of a number of the individual districts and improvement zones within County Fire. The findings forecasted that by Fiscal Year 2010/11 fire operations could incur an overall deficit of \$83 million if circumstances remained unchanged. Among the recommendations were the implementation of a number of financing mechanisms (not part of this project) and a reorganization of the current County Fire for greater management efficiencies and effectiveness with the result that this would help extend the financial solvency of the districts.

An 18,353 Square Mile Annexation Proposal

In July 2005, the Board initiated its applications for reorganization of the County Fire Department into a single board-governed district. The new district would be renamed the "San Bernardino County Fire Protection District." In addition, the applications proposed to include an area commonly known as the 'unfunded area' within the San Bernardino County Fire Protection District through annexation.

The county's submission consisted of two applications: sphere expansion (LAFCo 3001) and reorganization (LAFCo 3000). LAFCo 3001 consisted of a municipal service review and sphere of influence expansion to

include an additional 18,353 square miles within Yucca Valley FPD sphere and reduce the spheres for four board-governed fire entities to a zero sphere. The magnitude of the territory included in this SOI change is unprecedented in LAFCo considerations. The proposed expansion encompasses an estimated 11,745,691 acres of the county, or about 18,353 square miles. This area is slightly larger than the combined states of New Jersey, Connecticut and Rhode Island, which comprise a combined total of 15,478 square miles.

San Bernardino County selected the Yucca Valley Fire Protection District (YVFPD) as the agency for expansion of the sphere because it provided the full range of fire protection and emergency services.

LAFCo 3000 consisted of a reorganization of the YVFPD by expanding its jurisdictional boundaries through annexation to encompass the Board-governed fire entities and the unserved territory within the unincorporated area. The reorganization included annexation of 18,361 square miles to Yucca Valley FPD, dissolution of three fire protection districts, dissolution of CSA 38 and its 12 improvement zones; dissolution of three improvement zones of CSA 70; the removal of fire/ambulance/disaster preparedness powers from multi-function agencies; and the formation of four regional service zones. In addition to the four service zones, eight special service zones were established, seven having identical boundaries as those of existing districts where special taxes have been implemented for fire and/or emergency-related services and one which was modified to exclude territory within an independent fire protection district. By law, these entities must continue to have the special tax revenues protected through the establishment of service zones within the new parent district.

Once the applications were submitted to LAFCo, a process for circulation of the proposals for review and comment commenced and all affected and interested agencies and persons were requested to comment on the application. In addition, since the application proposed to annex the territory of two cities (Fontana and Grand Terrace) to the YVFPD, consent for this overlay was required from the respective cities. Consent was received from the Grand Terrace City Council. However, the response of the Fontana City Council was not to consent to the overlay of the YVFPD and to submit an alternative proposal for consideration with LAFCo 3000. That proposal (LAFCo 3000A) requested a modification to do the following:

- ◆ Remove dissolution of the Central Valley Fire Protection District (CVFPD) from the elements of consideration;
- ◆ Detach the territory not currently a part of the City of Fontana or its sphere of influence from the CVFPD and annex them to the Yucca Valley Fire Protection District; and
- ◆ Establish the retained portion of CVFPD as a subsidiary district of the City of Fontana and rename it the Fontana Fire Protection District.

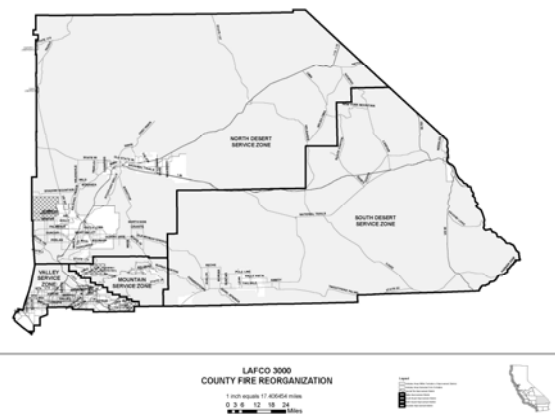
Three-year Staff Effort Processing the Proposals

To inform the general population about the reorganization project, LAFCo and County Fire held a

community meeting in each of the four service zones. Each community meeting was advertised within local newspapers and members of the public and media were invited to attend. At each community meeting, LAFCo and County Fire staffs gave presentations about the project and answered all questions.

Since the proposal spanned the entire county and individual notice would have exceeded 1,000 landowner and registered voters, Commission policy allowed for advertisement in newspapers in lieu of individual mailed notice. In the end, there were 24 advertisements for the community meetings, 14 advertisements for the initial study and notice of hearing and 25 advertisements for the protest hearing.

Just by sheer size alone this was not a typical LAFCo project. This was a very complex reorganization action that consisted of a mix of annexations, dissolutions, removal of fire powers, removal of ambulance powers, removal of disaster preparedness powers and formation of new “service zones” to be managed under the proposed San Bernardino County Fire District. Due to its scale, LAFCo staff spent numerous hours, days, weeks, months and years planning, processing and analyzing these proposals.



Complex Issues Emerged; Were Resolved

As large as the proposal was, in theory it seemed simple – detach and dissolve some entities, remove powers, and expand another with the full range of powers to encompass the former areas. However, the devil is in the details. Some of the issues that LAFCo had to deal with related to the Fontana alternative; transfer of facility assets and employees; establishment of appropriation limits; and distribution of existing property tax to the new fire entities. There were four other interesting issues.

The reorganization overlaid sovereign tribal lands. In order for a LAFCo application to include a determination related to tribal sovereign lands, consent had to be received from the Tribal Council and no opposition from the Bureau of Indian Affairs. Letters were forwarded to the affected tribes and the national and regional Bureau of Indian Affairs offices providing copies of the applications, outlining the process for review, and requesting a determination of the Tribal Council to the overlay of the Yucca Valley FPD. Ultimately, all four provided resolutions consenting to the overlay.

To accomplish the objective of revenue neutrality, as well as to take into account differing service levels based upon development type, the county proposed to establish four regional service zones under the umbrella of the Fire Protection District. These service zones were established to preserve property tax and other local revenue bases of the region to fund expenditures related to that region and to protect those dollars from being spent outside the region. Each zone would have a separate annual budget and be administered within the financial constraints of that budget.

The alternative proposal submitted by the City of Fontana resulted in several meetings with LAFCo staff, county administrative and fire staff, and staff from the city. The result of the meetings recommended that the Commission modify LAFCo 3000 (county proposal) to include the Fontana alternative and continue the proposal's evaluation process.

Among the many dissolutions and detachments proposed, the county's application included the dissolution of a particular service zone (CSA 70 Improvement Zone PM-1) and the formation of a new service zone (Service Zone PM-1). However, the territory of CSA 70 Zone PM-1 overlaid a portion of the independent Crest Forest Fire Protection District and LAFCo laws do not allow for the overlay of two fire protection districts within the same area, which could lead to a duplication of service. The boundaries of the new Service Zone PM-1 had to be modified to exclude the territory within the existing boundaries of the Crest Forest FPD. Further, a condition of approval was put in place to transfer the existing PM-1 special tax (\$17 per parcel) to the Crest Forest FPD for funding its paramedics.

The county annually allocated General Fund support to fire services, with \$8.3 million transferred in FY 2007-08. Originally, LAFCo staff recommended a requirement that this funding be made permanent. However, the Board of Supervisors did not agree with LAFCo's recommendation and held a workshop to discuss the issue. The Board position was that the funds remain discretionary as the County Fire reorganization was intended to establish service zones which could evaluate the level of service to be provided and also provide for elections to fund that level of service. LAFCo staff removed the requirement for permanent transfer as the reorganization and clarification of funding and service relationships as a first step in the process was required.

A Successful Result: 2 Districts Emerge

On January 16, 2008, the Commission approved LAFCo 3000 as modified through adoption of LAFCo Resolution No. 2989. The reconsideration and protest periods passed, and the 34 conditions of approval were successfully completed by the deadline. The new San Bernardino County Fire Protection District will have:

- ◆ An assessed value of \$20.4 billion
- ◆ 91,500 registered voters
- ◆ A service area of approximately 11,750,811 acres or 18,361+/- square miles.



The Fontana Fire Protection District (a city subsidiary district) will have:

- ◆ An assessed value of \$12.2 billion
- ◆ 53,731 registered voters
- ◆ A service area of 33,500 acres or 52.4 square miles



Conclusion

This reorganization project started with discussions in 1993, the administrative consolidation in the mid-1990's, the county's study of fire service in 2004 and ended with numerous Commission meetings and hearings to work through the details resulting in 34 conditions of approval. In the end, this reorganization simplifies the delivery of fire protection services within San Bernardino County provided by its board-governed special districts by reducing the structure from 31 separate budgeting entities down to four manageable service zones. This will result in a more effective and efficient management arrangement for fire protection and emergency medical response services within San Bernardino County for its citizens as well as the three major transportation corridors for goods movement from Southern California ports.

Report to the Membership 2007-08 Activities

CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS
CALAFCO
Sharing information and resources

Annual Business Meeting

Thursday, September 4, 2008
8:30 a.m. to 10:15 a.m.

The Sheraton Universal Hotel Ballroom
333 Universal Hollywood Drive
Universal City, California

AGENDA

1. Call to Order
2. Roll Call of the LAFCos
3. Election of the Board of Directors
 - 3.1. Elections Committee report
 - 3.2. Nomination from the floor
 - 3.3. Candidates Forum
 - 3.4. Initiate voting process
4. Approve Minutes from the August 30, 2007 CALAFCO Business Meeting at the Hyatt Regency at Capital Park, Sacramento, CA.
5. Report from Board of Directors on Board and Association activities in 2008
6. New Business
 - 6.1. Other new business
7. Adjourn to 2009 Business Meeting, Thursday, October 29, 2009, Tenaya Lodge at Yosemite, Fish Camp, CA

The Sphere

CALAFCO Journal

CALIFORNIA ASSOCIATION OF LOCAL AGENCY
FORMATION COMMISSIONS

801 12th Street, Suite 611
Sacramento, CA 95814

www.calafco.org



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

Sharing Information and Resources

Legislation

Continued from front cover

tion and changes of a CSA consistent with LAFCo law and for the most part consistent with the CSD law revised several years ago. **NOTE:** It requires LAFCo and the county to agree on the existing powers of every CSA in the state by 1 January 2009. All other powers become latent and are subject to the CKH process.

SB 1191 (Blakeslee). This law adds broadband services and facilities to the powers of a Community Services District, subject, of course, to LAFCo approval.

Awaiting Governor's Signature

SB 301 (Romero). This bill will remove the VLF subvention sunset for both incorporations and annexations and make the subventions permanent. The bill has passed the Senate and Assembly; however, it went back to the Senate for concurrence since the incorporation sunset provision was removed by amendment of the bill while in the Assembly. The legislation has passed and is being held in Enrollment until a budget is passed. This will avoid an automatic veto by the Governor. There has been no opposition to the bill, and it has enjoyed bipartisan support throughout the process.

At Senate for Concurrence

SB 375 (Steinberg). The bill links the Regional Transportation Plan (RTP) with the Regional Housing Needs Assessment (RHNA) and CEQA. Its authors say it will increase community

sustainability, make it easier to develop within urban footprints, link transportation and housing, reduce greenhouse gases and carbon emissions, increase affordable housing and increase quality of life by reducing congestion and commutes.

The bill does basically five things:

1. Directs the California Air Resources Board (CARB) to establish gas reduction targets for each region of the state. Metropolitan Planning Agencies then prepare transportation and development plans that achieve those reductions (i.e. blueprint plans).
2. Amends the Regional Transportation Plan process to require regions to design a development pattern that reduces commutes, including the preparation of a Sustainable Communities Strategy (SCS) or an Alternative Planning Strategy if the SCS does not achieve the CARB targets for gas reductions. Future transportation funding is linked to the SCS.
3. Through the SCS, it reduces the urban footprint for growth and reduces traffic congestion by fewer vehicle trips traveled. In theory it places the same number of housing units in a smaller footprint.
4. Amends RHNA to align it with the RTP. They will now run on the same 8-year cycle and will be tied together. Both the RTP and RHNA must be internally consistent and achieve the housing, gas reduction and energy conservation goals of the state.
5. Amends CEQA to reward projects that achieve these goals through limits on CEQA review.

On 8 August the CALAFCO Board took a **support** position on the bill.

For LAFCo, the bill requires the SCS to consider the spheres of influence that have been adopted by LAFCos for their region. The authority for local land use decisions remains with the local jurisdiction. While there are incentives for jurisdictions to adhere to the SCS or alternative it remains a voluntary approach. The bill does not diminish LAFCo's role or authority. LAFCo review of proposals could potentially consider consistency with the SCS or alternative under current law (§56668).

SB 375 offers LAFCo the opportunity to reflect on its future roles. This is a first step towards regional approaches to land use planning in California. LAFCos are uniquely situated to play a role in two ways: 1) since special districts are not affected by SB 375 – yet their services and boundaries are often integral to growth – LAFCo is the authority that can ensure district growth is consistent with the SCS or alternative; and 2) while SB 375 leaves ultimate land use authority to local agencies, LAFCo can help assure that proposals are consistent with the SCS and could deny proposals that do not contribute to housing or GHG reduction goals. In other words, LAFCo could continue to fulfill its role as the “legislature’s watchdog.” More to come!

