



## **NOTICE AND AGENDA FOR REGULAR MEETING**

DATE/TIME: Wednesday, October 14, 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.**

## October 14, 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 September 9, 2015 regular LAFCO meeting
6. **Informational Presentation** – Contra Costa Transportation Authority – Update on Measure J, Growth Management Program, and Urban Limit Line activities

### SPHERE OF INFLUENCE/BOUNDARY CHANGES

7. **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 - Continued from September 9, 2015 Meeting**
8. **LAFCO 14-05 – Reorganization 186 (Magee Ranch/Summerhill): Annexations to CCCSD and EBMUD** - proposed reorganization submitted by CCCSD including annexations to CCCSD and EBMUD and related CEQA actions. The area comprises 410± acres (10 parcels) located on the south side of Diablo and Blackhawk Roads in the Town of Danville. Consider removing this item from the Commission calendar pending notification from the project applicant that the environmental review has been completed and the project is ready to proceed. **Public Hearing – Continued from September 9, 2015 Meeting**

### MUNICIPAL SERVICE REVIEWS (MSRs)/SPHERE OF INFLUENCE (SOI) UPDATES

9. **Reclamation Services MSR/SOI Updates (2<sup>nd</sup> Round)** - receive an overview of the Public Review Draft MSR report, along with public comments. The MSR covers 13 reclamation districts and one municipal improvement district. **Public Hearing**

### BUSINESS ITEMS

10. **LAFCO Fee Schedule Update** – consider approving proposed fee updates and increases. **Public Hearing**
11. **Agricultural & Open Space Preservation Policy Update** - the LAFCO Policies & Procedures Subcommittee will provide an update on activities relating to developing an Agricultural & Open Space Preservation Policy.
12. **Legislative Policy** – consider approving a legislative policy as submitted by the LAFCO Policies & Procedures Subcommittee.
13. **2016 LAFCO Meeting Schedule** – consider approving the 2016 LAFCO meeting schedule.
14. **FY 2015-16 First Quarter Budget**– receive the first quarter budget report for FY 2015-16.

### CORRESPONDENCE

15. Correspondence from Contra Costa County Employees' Retirement Association (CCCERA)
16. Correspondence from CALAFCO

### INFORMATIONAL ITEMS

17. Commissioner Comments and Announcements
18. Staff Announcements
  - CALAFCO Updates
  - Pending Projects
  - Newspaper Articles

### ADJOURNMENT

Next regular LAFCO meeting – November 18, 2015 at 1:30 p.m.

LAFCO STAFF REPORTS AVAILABLE AT [http://www.contracostalafco.org/meeting\\_archive.htm](http://www.contracostalafco.org/meeting_archive.htm)

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MINUTES OF MEETING

September 9, 2015

Board of Supervisors Chambers  
Martinez, CA

October 14, 2015  
Agenda Item 5

1. Chair Rob Schroder called the meeting to order at 1:30 p.m.
2. The Pledge of Allegiance was recited.
3. Roll was called. A quorum was present of the following Commissioners:

City Members Rob Schroder and Alternate Tom Butt.  
Special District Members Mike McGill and Igor Skaredoff and Alternate Stanley Caldwell.  
Public Members Don Blubaugh and Alternate Sharon Burke.s (absent)

Present were Executive Officer Lou Ann Texeira, Legal Counsel Mary Ann Mason, and Clerk Kate Sibley.

4. Approval of the Agenda

Upon motion of Blubaugh, second by McGill, Commissioners, by a vote of 5-0, adopted the agenda.

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

5. Public Comments

There were no public comments.

6. Approval of August 12, 2015 Meeting Minutes

Upon motion of McGill, second by Blubaugh, the minutes were approved by a vote of 4-0.

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

7. Informational Presentation - Town of Moraga - South Camino Pablo Annexation

The Executive Officer reported that the Town of Moraga is processing a development project that involves a potential annexation to the Town. Ellen Clark, Moraga Planning Director, stated that the Town's concern is that the proposed annexation might be considered to create an island next to the annexation area. Ms. Clark introduced Ben Noble, a consulting planner on the South Camino Pablo project, who presented an outline of the project and maps showing the area in question, which proposes a 13-unit single-family development as well as 16 acres of preserved open space east of the development. The project developer has indicated his preference for working with the Town rather than with the County, and the Town prefers to have more control over the project and the process by annexing the area before the development proceeds.

Commissioners expressed numerous concerns, especially the creation of a "semi-island" and the lack of interest in annexing Sky View, a development in an adjacent unincorporated area. Annexations to both Central Contra Costa Sanitary District and East Bay Municipal Utility District would be needed for this project to go forward. There seemed strong interest on the part of Commissioners in seeing a more orderly boundary proposed (with a concurrent annexation of the Sky View development).

**DRAFT**

Mark Armstrong, representing the developer, stated that the Carr family, which owns a swath of property east of the proposed annexation area used for ranching activities, has no interest in participating in the annexation. Further, he indicated that if Commissioners wished for the Town to annex the Sky View development, perhaps which could be done as a follow-up to the South Camino Pablo annexation.

Commissioners agreed that this is currently not a project before them for action, but expressed their concerns about LAFCO's mission to create more logical, orderly boundaries in relation to this particular project. The Commission encouraged the Town to reach out to the Sky View community.

8. Informational Presentation – Town of Discovery Bay Community Services District – Drought Management Efforts

The Executive Officer introduced Rick Howard, General Manager of the Town of Discovery Bay Community Services District (TODBCSD), who has been with the District since 2010. His prior experience includes serving in executive level positions for the North County Transit District (Oceanside, CA); City of Mission Viejo, CA; and the City of Poway, CA.

Mr. Howard began by noting that the TODBCSD was designated a District of Distinction by the Special District Leadership Foundation. With 14,000 residents and 5,800 households, only 2,100 water connections are metered, leaving about 64% yet to be metered, which is scheduled to be finished by mid-2017. Despite this, TODBCSD has exceeded its State-mandated conservation level of 32% through a strong public relations and education campaign, coupled with gentle enforcement. In June 2013, TODBCSD residents consumed 145 million gallons (MG) of water, or 338 gallons of water per capita per day. In June of 2015, consumption was 87 MG, a reduction of 40%. The District is now beginning to reclaim water as well, with an estimated savings of 20 MG per year.

Commissioners provided comments, noting that TODBCSD has done well, encouraging the District to get the meters installed, and thanked Mr. Howard for his presentation. (TODBCSD presentation available on the LAFCO website)

9. LAFCO 08-30 – West County Wastewater District Annexation 312

The Executive Officer introduced this proposal to annex to West County Wastewater District (WCWD) two residential parcels located on Sobrante Avenue in unincorporated El Sobrante, both within the District's SOI and the Urban Limit Line. Staff noted that 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. Of the six 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. This annexation proposal has 100% landowner consent, is uninhabited, and has been deemed categorically exempt.

Commissioners questioned the appropriateness of creating an island with this action. Staff responded that this is more of an issue with cities, and that traditionally water and wastewater districts supply services as needed.

Ken Deibert, WCWD Engineer, spoke on behalf of the District and confirmed staff's statement regarding the District's method of supplying wastewater services as needed by residents within their boundary.

Darrel DeBoer, landowner of the parcels in question, affirmed that he is applying only for his own property and has been awaiting this service for some time.

After further discussion of their preference to see the entire area annexed, upon motion of McGill, second by Blubaugh, Commissioners unanimously, by a 5-0 vote, continued the hearing to the October 14, 2015 meeting, and directed LAFCO staff to work with WCWD staff to determine what it would take to annex the island area, including the District's interest and the viability of such an expanded annexation.

AYES: Blubaugh, Butt (A), McGill, Schroder, Skaredoff  
NOES: none  
ABSENT: Glover (M), Piepho (M), Tatzin (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 August 12, 2015 meeting. There has not yet been a decision from the Court of Appeals, which scheduled oral arguments on August 4, starting the 90-day clock for the court to issue a decision. The staff report was updated to include additional information responding to the August 6<sup>th</sup> email and letter from MaryAnn Cella of SOS –Danville requesting a boundary reduction to the proposal.

Upon motion of Blubaugh, second by McGill, Commissioners, by a 5-0 vote, kept the public hearing open and continued it to the October 14, 2015 meeting.

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

11. Award Contract – EMS/Fire Municipal Service Review (MSR)

The Executive Officer updated the Commission on the status of second round MSRs, including that the 2<sup>nd</sup> round Reclamation Services MSR was released for public review on September 3 and will be presented at the October 14, 2015 meeting. Further, following the distribution of an RFP for the EMS/ Fire Services MSR, staff received four proposals from Emergency Services Consulting International, Harvey M. Rose Associates, Municipal Resource Group & Berkson Associates, and Policy Consulting Associates and E. Mulberg & Associates.

A selection committee composed of a fire chief (David Rocha, Fire Chief, Alameda County Fire Dept.), labor representative (Kevin Brown, Firefighter/Paramedic, City of Vallejo and Board Member, Local 1186 Solano County), and public manager (Theresa Smith Rude, Analyst with the Alameda County Administrator’s Office) assisted with review of the written proposals and interviews of the four firms.

The committee unanimously selected Municipal Resource Group & Berkson Associates, which offers some advantages in that they have significant experience in government organization and finances, have experience preparing MSRs and LAFCO studies, have a fire expert on their team, and are local and familiar with the issues in Contra Costa County.

Commissioners suggested including additional information (e.g., scores, profiles, etc.) in future staff reports.

Upon motion of Blubaugh, second by McGill, Commissioners unanimously, by a 5-0 vote, authorized staff to execute a contract with Municipal Resource Group, LLC and Berkson Associates to prepare the 2<sup>nd</sup> round EMS/Fire Services MSR/SOI updates for the term of October 1, 2015 through September 30, 2016 in an amount not to exceed \$80,000.

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

12. Special District Risk Management Authority (SDRMA) Special Acknowledgment Awards

The Executive Officer noted that Contra Costa LAFCO has received President’s Awards from SDRMA for its outstanding track records in filing no claims to either workers comp or property/liability insurance.

13. Correspondence from CCCERA

There were no comments on this item.

14. Commissioner Comments and Announcements

Commissioner Burke reported that she and the LAFCO Executive Officer attended the Concord City Council meeting on Tuesday, September 8. After much discussion and input from the public, the Council adopted, on a 4-1 vote, a non-binding resolution of intent to annex, by 2030, the Ayers Ranch island. Commissioner Burke felt that Supervisor Karen Mitchoff's comments were particularly helpful.

Commissioner McGill reported that the CALAFCO Board elected its new officers, essentially reelecting them to their same offices; there will be a full rotation of officers in 2016. Two new Board members (public and city) were elected for the Coastal Region, both from Alameda LAFCO.

Commissioner Skaredoff stated that he will be developing some ideas and suggestions for the open space aspects of LAFCO's proposed ag & open space preservation policy.

Commissioner Schroder announced that Contra Costa LAFCO's entries in the beer and wine competition took silver medals in each category. The winning beer entry came from Martinez's Rock Steady Brewery (Creek Monkey Tap House) and the winning wine was a white wine from Martinez's Climbing Monkey Winery. He is having the medals engraved and will present them to the owners.

15. Staff Announcements

The Executive Officer reported that there were almost 300 attendees, guests, and speakers at the just-finished CALAFCO Annual Conference. A number of good sessions were presented, including one on broadband services. Eighty-five people were in attendance at the LAFCO 101 session, which was moderated by Contra Costa's Executive Officer. All session materials are now on the CALAFCO website. Special awards of note went to a study of Dublin-San Ramon Services District, Zone 7, and the cities of Dublin, Livermore and San Ramon on the possibilities of collaboration and consolidation among the three agencies; and the Commissioner of the Year award to Matt Beekman, Mayor of Hughson, CA. The 2016 CALAFCO Annual Conference is scheduled for late October next year.

The meeting adjourned at 3:23 p.m.

Final Minutes Approved by the Commission October 14, 2015.

AYES:

NOES:

ABSTAIN:

ABSENT:

By \_\_\_\_\_

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>

October 14, 2015 (Agenda)

October 14, 2015  
Agenda Item 6

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

**Informational Presentation – Contra Costa Transportation Authority Update**

Dear Members of the Commission:

The Measure J Transportation Sales Tax Expenditure Plan was approved by the voters of Contra Costa in November 2004. It includes funding for transportation improvements through a half-percent sales tax provision. Measure J also includes an innovative Growth Management Program that requires each local jurisdiction to adopt a voter-approved an Urban Limit Line (ULL).

Martin Engelmann, Deputy Executive Director of Planning at the Contra Costa Transportation Authority (CCTA) will provide an overview of the existing ULL provisions in Measure J.

Welcome Martin!

Sincerely,

LOU ANN TEXEIRA  
EXECUTIVE OFFICER

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

October 14, 2015  
Agenda Item 7

October 14, 2015 (Agenda)

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 WCWD proposes to annex 2.57± acres (APNs 430-122-030 /031) located on El Sobrante Ave in unincorporated El Sobrante as shown on Attachment 1.

This item was continued from the September 9, 2015 LAFCO meeting, and the public hearing remains open.

In September, the Commission discussed the proposal and expressed concern regarding the annexation boundary and creation of an island. Staff noted that 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 are typically based on the need for service. See discussion under **#12 - Boundaries and Lines of Assessment** below.

The Commission asked that LAFCO staff work with WCWD staff to evaluate the potential of also annexing the island area. District staff has contacted the residents in the island areas, and they do not wish to be annexed at this time. Further, due to development potential in the island area, annexation of this area does not qualify for a categorical exemption under the California Environmental Quality Act (CEQA). Consequently, in order to proceed with annexation of the island area, the District would need to prepare an Initial Study and corresponding environmental document (e.g., Negative Declaration, EIR) pursuant to CEQA.

District staff indicated that they previously discussed with their Board a possible island clean-up effort; however, this is cost prohibitive for the District, primarily due to the CEQA requirements.

Regarding the two properties proposed for annexation, one contains a 1,162 square foot studio/residential structure and WCWD lift station and easement, and the other parcel is vacant. The property owner indicates that he is unable to obtain a Certificate of Occupancy from the County as on-site septic systems are no longer permitted in this area as it is designated as a septic tank moratorium area by the County. For these reasons, the District and the property owner request that the Commission approve annexation of the two parcels as submitted.

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 two 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 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 (This section has been updated):**

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.

According to County Planning, there are currently no pending development applications in the island area. A summary of development potential is presented below:

- APN 430-200-007 contains an EBMUD reservoir.
- APNs 430-200-009 and -010 are owned by the same property owner and appear to be developed with single-family residences.
- APN 430-200-018 is developed with a single-family residence and second unit.
- APN 430-200-020 (6.33 acres) appears to be undeveloped.
- All of APNs -007 and -009, and significant portions of -010 and -018 have a County General Plan designation of Open Space. No significant development can occur in areas with this land use designation.
- Most of APN -020 and 1.6± acres of -010 are designated Single-Family Medium Density. While this could theoretically accommodate up to 28 units, the topography precludes that many units.

Due to development potential, annexation of the island would not qualify for a categorical exemption under CEQA. Consequently, in order to proceed with annexation of the island area, the District would need to prepare an Initial Study pursuant to CEQA.

According to County Environmental Health (EH), the island area has a slope in excess of 30%, so on-site septic systems would likely not be allowed. Also, in the area to the east on Sobrante Ave and Circle Drive, there are septic systems that have had issues in recent years.

Due to development potential and topography, future development of this area may necessitate annexation to WCWD.

## 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 as proposed.

- 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

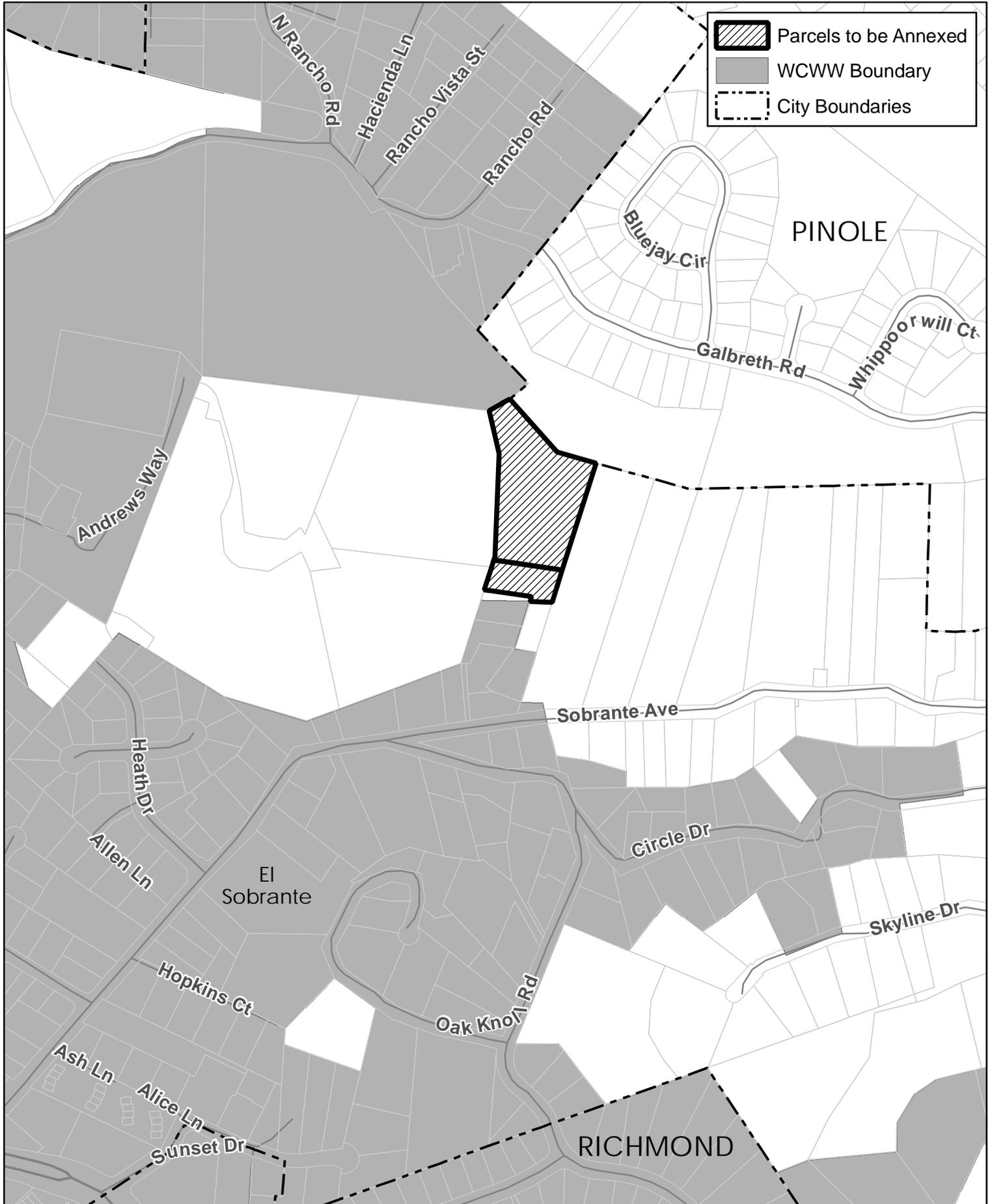
Exhibits

A – WCWD Annexation Map

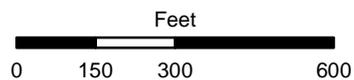
B – Draft LAFCO Resolution 08-30

c: Distribution

LAFCO No. 08-30: West County Wastewater District Annexation #312 (Sobranite Ave) Attachment 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 and continued to October 14, 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 14<sup>th</sup> day of October 2015, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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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: October 14, 2015

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Lou Ann Texeira, Executive Officer

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

October 14, 2015 (Agenda)

October 14, 2015  
Agenda Item 8

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.

DISCUSSION: This item was first presented to the Commission in January 2015. Due to pending litigation, the item was continued to the February, May, August and September 2015 LAFCO meetings, and the public hearing currently remains open.

On September 11, 2015, the Court of Appeal issued its decision (attached) which affirms the trial court judgment in part and reverses it in part. The Court of Appeal affirms the trial court's finding that defendants (Town of Danville) violated the California Environmental Quality Act by failing to determine whether the Project's impact on bicycle safety was significant. The Court of Appeal also affirms the trial court's determination that "underlying zoning," as that term is used in the General Plan, refers to a property's prior zoning. However, the Court of Appeal reverses the trial court's determination that defendants violated the Planning and Zoning Law.

As a result of the court's ruling, there is no certified EIR. The Town of Danville will not be able to proceed with project approvals unless and until corrective action is taken and a final environmental document is approved. Regarding the zoning issue, if the project proceeds, the project design should not be an issue as the Court found that the development density and clustering is consistent with the Town's General Plan and does not violate the Town's Measure S.

LAFCO staff consulted with the applicant (CCCSD) and affected parties (i.e., Town of Danville, EBMUD, developer), and the parties agree that LAFCO should remove this item from its calendar.

RECOMMENDATION: Direct LAFCO staff to remove this item from the Commission's calendar pending notification from the project applicant that environmental review has been completed and the project is ready to proceed. Future calendaring of this matter will be subject to re-noticing and a new public hearing.

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

Attachment - Court of Appeal Decision – September 11, 2015

c: Distribution

Filed 9/11/15 SOS-Danville Group v. Town of Danville CA1/1

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

SOS-DANVILLE GROUP,

Plaintiff and Appellant,

v.

TOWN OF DANVILLE et al.,

Defendants and Appellants;

SUMMERHILL HOMES, LLC, et al.,

Real Parties in Interest and  
Appellants.

A143010

(Contra Costa County  
Super. Ct. No. MSN13-1151)

This case concerns the Town of Danville's (Town) approval of the Magee Ranch Residential Project (Project), which would develop 69 single-family homes in an agricultural area south of Diablo Road in Danville. SOS-Danville Group (plaintiff) filed a petition for a peremptory writ of mandate and complaint for declaratory relief challenging the approval, as well as the Town's certification of the final environmental impact report (EIR) for the Project.

The petition was granted in part and denied in part. The trial court found for plaintiff on two issues. First, it concluded the EIR failed to properly address the Project's impacts on bicycle safety in violation of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.; CEQA). Second, it held the proposed development was inconsistent with the Town's general plan in violation of the Planning and Zoning Law (Gov. Code, § 65000 et seq.). The resulting judgment enjoined the

Town as well as the real parties in interest (Real Parties)<sup>1</sup> from issuing any development permits or undertaking any construction activities in connection with the Project.

The Town and Real Parties (collectively defendants) now appeal, arguing the trial court’s findings regarding CEQA and the Planning and Zoning Law were in error. Plaintiff has filed a cross-appeal, arguing the trial court erred in rejecting its claim that, in approving the project, the Town improperly determined the zoning density of the parcels at issue. We affirm the trial court’s judgment as to plaintiff’s CEQA claim, but reverse as to the Planning and Zoning Law claim. We also find unavailing plaintiff’s cross-appeal.

## **I. BACKGROUND**

### ***A. The General Plan***

The Project is governed by Danville’s 2010 General Plan (General Plan). The General Plan includes a land use map, which indicates four basic land use types for areas within Danville: residential, commercial, public, and open space. The General Plan further breaks down each of these land use types into more specific designations. For example, open space includes general open space areas, agricultural open space areas, and parks and recreation areas. Descriptions of the specific designations in the General Plan set forth the range of permitted densities, consistent zoning districts, and narratives addressing general characteristics, among other things. According to the General Plan, “Specific zoning districts must correspond with land use map designations and the geographic extent of these designations on the land use map, even if they vary from actual existing conditions.”

The General Plan also describes 14 special concern areas, one of which—the Magee Ranch—encompasses the Project site. According to the General Plan: “The Special Concern Areas require consideration of planning issues that are unique to a particular geographic area within the Town. The Special Concern Areas text presented

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<sup>1</sup> The real parties are SummerHill Homes LLC, the project developer (SummerHill Homes), and Magee Investment Company and Teardrop Partners, L.P., who own the Project site.

[in the General Plan] identifies land use policies not shown on the Land Use Map or reflected in other parts of the General Plan.”

In 1999, after the operative General Plan was adopted, a Danville citizen’s group circulated an initiative petition for its amendment, which became known as Measure R. Measure R would have required voter approval for a wide range of rezonings and land use approvals affecting open space and agricultural land, including conversion of two or more acres of contiguous open space to any nonopen space use. The Town’s council introduced a competing petition, Measure S, which provides open space land use designations may only be amended by (1) a vote of the people, or (2) a 4/5 vote of the Town’s council if the council finds the amendment is required by state or federal law or is necessary to avoid an unconstitutional taking. Unlike Measure R, Measure S does not require voter approval to authorize zoning changes consistent with the General Plan. Both measures were approved by the voters, but because Measure S received more votes, it was enacted while Measure R was not.

***B. The Project Site***

The Project site is about 410 acres and is located on a portion of the Magee Ranch that has been subdivided several times over the last 60 years. The property is generally characterized by open grass-covered hills with scattered trees. It is currently used for beef cattle operations and horse ranches, and is surrounded by single-family residential neighborhoods. Public and private open space areas are also located in the vicinity.

About 201 acres of the site has been designated rural residential and zoned A-2 (general agriculture). According to the General Plan, the density for rural residential areas is one unit per five acres, and the designation is used for “transitional areas between lower density single family development and significant agricultural or open space resources.” While the rural residential designation “permits large lot, ‘ranchette’ type development,” the General Plan states “clustering is encouraged to permit the development of suitable building sites and preservation of open space areas.” According to the General Plan, the rural residential designation is consistent with A-2 and P-1 (planned unit development district) zoning. Lots zoned A-2 must be no smaller than five

acres. According to the General Plan, P-1 zoning “allows flexible development standards which are created and implemented on a project-by-project and site-by-site basis,” and “may allow for the retention of a greater portion of the land as open space and create more flexible project designs that would not otherwise be permitted by conventional zoning.”

Another 199 acres of the site has been designated agricultural open space in the General Plan. The agricultural open space designation is applied to land currently under Williamson Act<sup>2</sup> contract or in agricultural use, and thus the General Plan does not set forth a density range for these areas. In the event a Williamson Act contract is not renewed, the General Plan encourages continued agricultural use and states the underlying zoning density—either one unit per 20 acres or one unit per five acres—would apply. While the General Plan lists only A-2 zoning as consistent with the agricultural open space designation, the agricultural open space within the Project site is currently zoned A-4, which allows for densities of one unit per 20 acres.<sup>3</sup>

As noted above, the General Plan designates the Magee Ranch as a special concern area. According to the General Plan, the Magee Ranch special concern area “contains some of the most spectacular and unique scenery in Danville,” and the General Plan “strongly supports retention of this character and protection of the views and vistas from the road.” The Plan also states: “Despite the A-2 (General Agricultural) zoning on much of the site, subdivision of this Special Concern Area into five-acre ‘ranchette’ sites . . . is strongly discouraged. Such development . . . could substantially diminish the

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<sup>2</sup> The Williamson Act establishes a mechanism for saving agricultural land by allowing counties to create agricultural preserves and then to enter into contracts with landowners within those preserves. (Gov. Code, § 51200 et seq.) A Williamson Act contract obligates the landowner to maintain the land as agricultural for 10 or more years, with resulting tax benefits. (Gov. Code, §§ 51240–51244.) Absent contrary action, each year the contract renews for an additional year, so that the use restrictions are always in place for the next nine to 10 years. (*Id.*, § 51244.)

<sup>3</sup> As to the remaining 10 acres of the Project site, five have been designated general open space and zoned P-1, and the other five have been designated “Residential - Single Family - Low Density” and zoned A-2.

visual qualities of the area. On the other hand, transferring allowable densities to a limited number of areas within the ranch would enable the bulk of the site to be set aside as permanent open space.”

### ***C. Project Review and Approval***

SummerHill Homes submitted its application to develop the Project in 2010. The initial application proposed the development of 85 single-family lots, most of which would range from 10,000 to 22,000 square feet. The homes would be clustered on the flatter portions of the site, preserving approximately 291 acres as permanent open space. The application proposed rezoning the Project site from A-4 (agricultural preserve) and A-2 (general agriculture) to P-1 (planned unit development district). During the review period, the Project was reduced from 85 to 69 units and the amount of land preserved as open space was increased to 373 acres (91 percent of the Project site).

SummerHill Homes asserted a General Plan amendment was unnecessary because its proposal was consistent with the General Plan’s description of the Magee Ranch special concern area. Likewise, the Town maintained the Project did not trigger the approval requirements of Measure S, asserting Measure S did not apply to rezonings or other land use decisions that are consistent with the General Plan. The Town explained that P-1 zoning “permits density under the base zoning (in this instance one unit per five acres) to be clustered or located to the least sensitive areas of the property,” and that the General Plan’s discussion of the Magee Ranch special concern areas specifically encouraged such development.

The final EIR for the Project was submitted in April 2013. The EIR dismissed concerns the Project would pose increased traffic hazards to bicyclists along Diablo Road. The report explained that while the Project would add traffic to the road, it would not change existing conditions for cyclists, and physical constraints limited the feasibility of widening for future bicycle facilities. Those constraints included narrow roadways and shoulders, existing drainages, and the close proximity of trees and telephone poles.

In June 2013, the Town’s council unanimously certified the final EIR and approved the Project, including the request to rezone the site to P-1.

#### ***D. Procedural History***

About a month after the project was approved, plaintiff filed a petition for writ of mandate and complaint for declaratory relief alleging three causes of action. First, plaintiff asserted the Town violated CEQA, arguing the EIR was inadequate because, among other things, it failed to disclose or adequately mitigate the Project's significant bicycle safety impacts. Second, plaintiff asserted the Town violated the Planning and Zoning Law because the Project was inconsistent with the General Plan. According to plaintiff, the Project called for the rezoning of the entire Project site to P-1, but P-1 is not an allowable zoning for land designated as agricultural open space under the General Plan. Third, plaintiff sought a judicial declaration of the allowable zoning classification on land designated as agricultural open space in the General Plan. According to the complaint, there was a disagreement among the parties about how such property should be zoned upon the expiration of a Williamson Act contract. Plaintiff asserted the land should revert to A-4 zoning if that zoning had been applied, but was ineffective while the contract was in operation. The Town claimed the zoning should revert to whatever had been in effect prior to the establishment of the contract, even if the property had since been rezoned.

Defendants demurred to the third cause of action for declaratory relief, and the trial court sustained the demurrer with leave to amend. Plaintiff filed an amended petition, and defendants again demurred. The trial court then severed the CEQA and Planning and Zoning Law causes of action for a separate trial. On June 25, 2014, the trial court tried the CEQA and Planning and Zoning Law causes of action and heard oral argument on the demurrer on the claim for declaratory relief.

The trial court later issued an order regarding the first two claims for relief. The trial court rejected all of plaintiff's CEQA claims, except the one dealing with bicycle safety. The court also found for plaintiff on its Planning and Zoning Law claim, concluding the Project was inconsistent with the General Plan. The trial court reasoned that, in approving the Project, the Town changed the General Plan's description of agricultural open space to include P-1 zoning as a consistent zoning category, and it did

so without putting the issue to a popular vote as required by Measure S. The trial court also issued a separate order sustaining the Town's demurrer to plaintiff's remaining claim for declaratory relief without leave to amend.

The trial court entered judgment, issuing a peremptory writ of mandate ordering the Town to rescind its actions in approving the Project and certifying the EIR. The court also permanently enjoined defendants from undertaking any construction activities or issuing any construction or development permits in connection with the Project.

## II. DISCUSSION

### A. CEQA

"CEQA requires an EIR whenever a public agency proposes to approve or to carry out a project that may have a significant effect on the environment." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390.) The EIR is "the heart of CEQA" (Cal. Code Regs., tit. 14, § 15003, subd. (a)), and its purpose is "to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project" (Pub. Resources Code, § 21061).

In this case, plaintiff asserted the Town violated CEQA because its analysis of the Project's traffic impacts was inadequate in several respects. The trial court rejected all of plaintiff's CEQA claims except those pertaining to bicycle safety. The court stated: "The [EIR] appears to be based on the assumption that because the existing conditions are dangerous for bicycles, any added danger would not be a significant impact; but it does not provide any statistics about actual or projected numbers, or severity, of accidents. Nor does the response mention the possibility of any mitigation measure, other than a vague reference to the 'limit[ed] feasibility' of widening the road to create a bicycle lane. It should have explained the extent to which that feasibility is limited, not just *why* it is limited. The response also should have addressed at least some of the mitigation possibilities raised in the comments."

Defendants argue the trial court erred in finding the Project would have a significant impact on bicycle safety because there was substantial evidence to the contrary.<sup>4</sup> They also challenge the trial court’s finding that the Town failed to adequately respond to public comments regarding bicycle safety. In a CEQA action, our inquiry “shall extend only to whether there was a prejudicial abuse of discretion,” which is established “if the [Town] has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.” (Pub. Resources Code, § 21168.5.) We review the Town’s action, not the trial court’s decision, and in that sense we conduct an independent review. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 427.) We conclude substantial evidence does not support the Town’s finding that the Project would have no significant impact on bicycle safety, and we therefore need not and do not address whether the Town adequately responded to public comments on the issue.<sup>5</sup>

An agency must find a project may have a significant effect on the environment where, among other things, “[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.” (Cal. Code Regs., tit. 14, § 15065, subd. (a)(4).) A project’s environmental effects are determined by comparison to existing baseline conditions. (Cal. Code Regs., tit. 14, § 15125, subd. (a).)

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<sup>4</sup> Defendants also argue CEQA imposes no categorical requirement that an EIR analyze and discuss potential project impacts on bicycle safety. However, their own draft EIR states a project impact would be considered significant if the Project caused unsafe conditions for pedestrians and cyclists. Thus, the EIR itself accepts the premise that bicycle safety is a “reasonably foreseeable indirect physical changes in the environment which may be caused by the project.” (Cal. Code Regs., tit. 14, § 15064, subd. (d).) Moreover CEQA requires an agency to find a project may have a significant impact where there is substantial evidence the project will cause substantial adverse effects on human beings. (Cal. Code Regs., tit. 14, § 15065, subd. (a)(4).)

<sup>5</sup> Defendants argue plaintiff waived its substantial evidence challenge by failing to lay out all of the evidence favorable to the Town in its response brief. But defendants’ authority merely requires an “appellant” challenging an EIR to disclose evidence favorable to the other side. (*Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1266.) In this case, plaintiff is the respondent. In any event, we find plaintiff’s discussion of the evidence sufficient.

When an agency concludes a particular environmental effect of a project is not significant, the EIR must contain a brief statement indicating the reasons for that conclusion. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112–1113 (*Amador*)). However, a detailed analysis is not necessary. (*Ibid.*)

Notwithstanding the above requirements, “the agency’s conclusion that a particular effect of a project will not be significant can be challenged as an abuse of discretion on the ground the conclusion was not supported by substantial evidence in the administrative record.” (*Amador, supra*, 116 Cal.App.4th at p. 1113.) In the CEQA context, substantial evidence means “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.” (Cal. Code Regs., tit. 14, § 15384, subd. (a).)

In this case, the final EIR addressed the significance of the Project’s impacts on bicycle safety in response to various comments submitted by the public. Specifically, the EIR stated: “Diablo/Blackhawk Road is a popular route used by bicyclists. However, portions of the roadway are narrow and do not have bike lanes. This route is not a designated Bike Route in the Town’s General Plan. Given the narrow right-of-way along Diablo/Blackhawk, both vehicles and bicyclists should use caution. While the project would add traffic to Diablo/Blackhawk Road, it would not significantly change existing conditions for cyclists. In addition, the physical constraints along Diablo/Blackhawk Road (i.e., narrow roadways and shoulders, existing drainages, the close proximity of trees and telephone poles) limit the feasibility of widening for future bicycle facilities.”

Relying on *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, defendants contend the final EIR's short discussion of bicycle safety alone constitutes substantial evidence the Project would not have a significant impact. But the EIR in *Clover Valley Foundation v. City of Rocklin* contained factual statements addressing why the impacts at issue were not significant. (*Id.* at p. 244.) Here, the only pertinent facts set forth in the final EIR are that the roadways at issue are already dangerous for cyclists, the Project would increase traffic on those roadways, and widening the roadways would be difficult. While the final EIR concludes the Project would not change existing conditions, it does not explain why or point to any facts or evidence that would support the conclusion.

Defendants further argue the draft EIR's discussion of traffic impacts and the traffic study on which that discussion is based provide additional support for the finding of no significance. Again we disagree. The underlying traffic study does not offer any conclusions regarding the impact of the Project on bicycle safety. It merely notes Diablo and Blackhawk Roads have narrow shoulders and higher vehicle speeds and thus should be used only by advanced cyclists. The study does state the Project would result in approximately one additional bike trip during the "AM, school PM, and PM peak hours," but it does not discuss the impact of increased traffic on cyclists who already use the roads, including the thousands of recreational cyclists who use Diablo Road to access Mount Diablo. The study also states the General Plan calls for public access easements to be provided where appropriate and the Project's plan includes a paved trail that connects portions of the site. However, as defendants concede, even with these trails, cyclists would still need to use portions of Diablo and Blackhawk Roads.

Nor does the draft EIR offer substantial evidence concerning the Project's impacts on bicycle safety. Defendants argue we should infer the draft EIR concludes the Project would not have a significant impact on bicycle safety. They point out the draft EIR states the Project's main entrance had the potential to provide an unsafe condition for pedestrians, but it does not contain a similar finding with respect to cyclists. Defendants are essentially arguing the EIR's failure to discuss an impact constitutes substantial

evidence that impact is not significant. The position is untenable, especially since the EIR is intended “to demonstrate to an apprehensive citizenry that the agency has in fact analyzed and considered the ecological implications of its action.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 86.) For similar reasons, we find unpersuasive defendants’ contention that their consultants would have called out bicycle safety issues in their traffic study if they had observed them during their onsite observations.<sup>6</sup>

A finding of no significant impact is further undermined by public comments concerning bicycle safety on Diablo Road. For example, an executive board member of the Valley Spokesmen Bicycle Club stated the road is a major attraction for cyclists because it is a route to Mount Diablo State Park. He also observed the road is narrow with many curves and is therefore a safety concern for bicycle travel, and concluded “adding additional traffic to this inadequate road will have significant impact on the safety of bicycle travel.” A local planning commissioner expressed similar concerns. Defendants dismiss these comments, arguing increased accident rates and the effect of automobile traffic on bicycle safety are not matters susceptible to proof by lay observation. But the comments were relevant to establish baseline conditions on Diablo Road, and it is logical to assume additional traffic caused by the Project has the potential to make these conditions worse.

Defendants argue plaintiff has not offered studies or expert testimony concerning the effect of the Project on bicycle safety. But defendants have pointed to no authority requiring a CEQA petitioner to introduce such evidence in this context. The pertinent question is whether substantial evidence supports a finding of no significant impact.

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<sup>6</sup> In their reply brief, defendants also rely on the testimony of Tai Williams, the Town’s community development director, at a city council hearing. Williams stated the traffic consultants conducted field observations, during which they investigated bicycle safety issues, and “the conclusion was that no additional studies were warranted.” In other words, Williams asserted if there had been something worth studying, the consultants would have studied it. However, as discussed above, CEQA requires something more than an absence of discussion to support a finding of no significant impact.

While an EIR need not analyze speculative impacts (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 876–877), the record indicates the Project’s potential impacts on bicycle safety rise above conjecture. Cycling conditions on Diablo Road are already problematic, and it is undisputed the Project would add more traffic. Moreover, there is no indication the Town has conducted a “thorough investigation” or determined that impacts on cyclists are “too speculative for evaluation.” (Cal. Code Regs., tit. 14, § 15145.)

Defendants further argue no prejudice resulted from the EIR’s discussion, or lack thereof, of the Project’s impacts on bicycle safety. “An omission in an EIR’s significant impacts analysis is deemed prejudicial if it deprived the public and decision makers of substantial relevant information about the project’s likely adverse impacts. . . . Insubstantial or merely technical omissions are not grounds for relief.” (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 463.) Notwithstanding the contents of the EIR, defendants argue the Town and the public had ample opportunity to consider the Project’s impacts on bicycle safety. Defendants assert various individuals aired their concerns regarding bicycle safety and potential mitigation measures at public hearings on the Project and, as a result, any additional discussion of bicycle safety would not have added significantly to the public’s understanding. We disagree. That members of the public raised the issue of bicycle safety at public hearings does not excuse the Town’s failure to determine whether the Project might have a significant impact on cyclists. Moreover, it is unclear how the Town could have made a considered judgment regarding the feasibility of various mitigation options when it declined to examine the scope or severity of the underlying bicycle safety problem.

Accordingly, we affirm the trial court’s determination that the Town violated CEQA by failing to adequately investigate bicycle safety and discuss it in the EIR.

### **B. *Planning and Zoning Law***

Defendants claim the trial court erred in finding the Project is inconsistent with the General Plan in violation of the Planning and Zoning Law. We agree.

The Planning and Zoning Law provides every city and county must adopt a “comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency’s judgment bears relation to its planning.” (Gov. Code, § 65300.) A general plan is essentially the “ ‘constitution for all future developments’ ” within a city or county. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570.) Its elements must comprise “an integrated, internally consistent and compatible statement of policies.” (Gov. Code, § 65300.5.)

The propriety of local decisions affecting land use and development depends on their consistency with the general plan. (*Citizens of Goleta Valley v. Board of Supervisors, supra*, 52 Cal.3d at p. 570.) “[A] governing body’s conclusion that a particular project is consistent with the relevant general plan carries a strong presumption of regularity that can be overcome only by a showing of abuse of discretion.” (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 357.) Courts will find an abuse of discretion if a governing body “did not proceed legally, or if the determination is not supported by findings, or if the findings are not supported by substantial evidence. [Citation.] As for this substantial evidence prong, it has been said that a determination of general plan consistency will be reversed only if, based on the evidence before the local governing body, ‘ . . . a reasonable person could not have reached the same conclusion.’ ” (*Families Unafraid to Uphold Rural etc. County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1338.)

“Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan’s policies when applying them, and it has broad discretion to construe its policies in light of the plan’s purposes. [Citations.] A reviewing court’s role ‘is simply to decide whether the city officials considered the applicable policies and the extent to which the proposed project conforms with those policies.’ ” (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 142.) “Moreover, state law does not require precise conformity of a proposed project with the land use designation for a site, or an

exact match between the project and the applicable general plan. [Citations.] Instead, a finding of consistency requires only that the proposed project be ‘*compatible* with the objectives, policies, general land uses, and programs specified in’ the applicable plan. (Gov. Code, § 66473.5, italics added.) The courts have interpreted this provision as requiring that a project be ‘ “in agreement or harmony with” ’ the terms of the applicable plan, not in rigid conformity with every detail thereof.” (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 678.) Because the question of substantial compliance with a general plan is one of law, we need not give deference to the conclusion of the trial court on this issue. (*Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App.3d 90, 96.)

In this case, the trial court held the Project was inconsistent with the General Plan. The court’s focus was on the 199 acres of agricultural open space on the Project site which would be rezoned from A-4 to P-1 to accommodate the Project’s cluster development. The court acknowledged the General Plan’s discussion of the Magee Ranch special concern area encouraged transferring densities and cluster development on the Project site, but stated: “[I]t is unclear whether such transferring and clustering should (or could) occur on the agricultural-designated portion of the site. . . . So the language of the [special concern area section] can be interpreted reasonably to mean that the non-agricultural portions of the site should be cluster developed, leaving the agricultural portion as open space.” The court then held: “The Town, in effect, changed the [General Plan]’s designation and description of agricultural land to add P-1 as a consistent zoning category. And it did so without complying with Measure S—either by putting the issue to a popular vote, or by the Council voting (at least 4/5) to make the change.” Even if Measure S did not exist, reasoned the court, the agricultural open space land use designation could not be changed without completing a comprehensive planning study and then amending the General Plan. The court concluded the Town should have first changed the land use designation for the Project site to some other category that expressly allows P-1 zoning.

We agree with the trial court that the General Plan's description of agricultural open space, specifically its failure to list P-1 zoning as a consistent zoning district, is problematic for the Town. The General Plan states "zoning districts must correspond with land use map designations." Here, 199 acres of the Project site have been designated agricultural open space, a designation which, according to one section of the General Plan, is consistent with only one type of zoning district: A-2. Yet the Town is trying to rezone the area to P-1 to allow for cluster development. We also agree with the trial court that the General Plan's description of the Magee Ranch special concern area is ambiguous. The General Plan's discussion of the Magee Ranch could reasonably be construed to mean that any cluster development in the area should be concentrated only on land designated as rural residential, which is consistent with P-1 zoning, and not on land designated as agricultural open space, which is not.

However, because the Planning and Zoning Law does not require the Project to be in precise conformity with the General Plan, and since the Town's actions are reviewed under the deferential abuse of discretion standard, we find the trial court's decision was in error. Ultimately, this case turns on the tension between the General Plan's description of agricultural open space and its more specific guidance on the development of the Magee Ranch special concern area. The former ostensibly prohibits P-1 zoning on the 199 acres of agricultural open space on the Project site, while the latter arguably allows it. There are various ways to harmonize these two sections. As we must review the Town's decisions for an abuse of discretion, we need not determine which construction is the most reasonable. Rather, we need only determine whether a reasonable person could agree with the Town's proposed construction. Here, we cannot say that the Town's interpretation of the General Plan is unreasonable.

As an initial matter, we observe the Project effectuates many of the policies described in the General Plan's discussion of the Magee Ranch special concern area. This portion of the General Plan supports retention of the scenic character of the Magee Ranch, encourages development proposals that transfer the allowable number of homes to the least sensitive and obtrusive parts of the site, discourages subdivision of the area into

five-acre ranchette sites, and promotes the conservation of open space and the development of wildlife corridors. The administrative record indicates the Project would have minimal impacts on the views from surrounding roads, all homes proposed by the Project would be clustered in flat and unobtrusive portions of the site, and 91 percent of the Project's 410 acres would be preserved as open space, which would include trail connections to other open space areas and preserve wildlife corridors through the site.

Further, the General Plan states, "The Special Concern Areas text . . . identifies land use polices not shown on the Land Use Map or reflected in other parts of the General Plan," suggesting we should defer to the more specific guidance set forth in the special concern area text. Plaintiff argues this statement is irrelevant since nothing in the special concern area section calls for the provisions of that section to overrule other parts of the General Plan. Plaintiff further argues the special concern area policies are akin to a zoning overlay district, which should be applied in addition to more general zoning requirements. Defendants counter plaintiff's position is contradicted by the plain text of the General Plan, including its statement that the development of special concern areas "may result 'in more specific land use designations or policies that are specifically directed at these areas.'" Neither party's position is entirely without merit. Ultimately, the General Plan is ambiguous as to whether the special concern area policies should prevail over or merely augment other General Plan requirements, including those set forth in the land use map. Since we review the Town's decisions for an abuse of discretion, we must defer to its interpretation of the General Plan on this point. (See *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles* (1986) 177 Cal.App.3d 300, 310 [review of land use map insufficient to determine consistency with general plan where local area wide plan provided extensions and refinement of county wide policy].)

The parties also disagree about whether the General Plan's special concern area guidance actually encourages cluster development on agricultural open space in the Magee Ranch. The guidance states: "The [General] Plan designates a majority of Magee Ranch, including most of the hillside areas, for agricultural use. Application of the Williamson Act to retain these areas for grazing is strongly supported. . . . [N]early half

of the site has been designated for rural residential uses, with maximum densities of one unit per five acres. . . . [P]roposals which transfer the allowable number of homes to the least sensitive and obtrusive parts of the site are encouraged. . . . [¶] . . . Despite the A-2 (General Agricultural) zoning on much of the site, subdivision of this Special Concern Area into five-acre ‘ranchette’ sites . . . is strongly discouraged. . . . On the other hand, transferring allowable densities to a limited number of areas within the ranch would enable the bulk of the site to be set aside as a permanent open space.”

Plaintiff focuses on the statement that much of the Magee Ranch has been zoned A-2. Plaintiff argues it is this area that the caution against subdivision into five-acre lots and a preference for clustering is aimed. Plaintiff asserts development on the A-2 land is consistent with the General Plan since this land has been designated rural residential, a land use designation for which P-1 zoning is also allowed. On the other hand, the portion of the Magee Ranch designated as agricultural open space is zoned A-4. Plaintiff contends division of this 199-acre area into five-acre ranchettes would have hardly been expected since the General Plan states these lands should remain under Williamson Act contract.

Defendants counter the General Plan encourages cluster development on agricultural open space within the Magee Ranch, pointing out the text at issue also generally refers to areas designated for agricultural use. Defendants contend the only way to implement the special concern area policies is to develop on agricultural open space since this designation has been applied to all of the flattest, least obtrusive portions of the Magee Ranch. According to defendants, the remainder of the property, including substantially all of the lands designated as rural residential, consists of steeply sloped and environmentally sensitive lands on which the General Plan discourages development. As to the fact that 199 acres of the Project site is zoned A-4, the Town argues this land could be rezoned to A-2 without change to the General Plan since this zoning district is consistent with the agricultural open space designation. Indeed, as defendants point out, the General Plan lists A-2 as the only allowable zoning for land designated as agricultural open space.

Again, we find neither plaintiff's nor defendants' interpretation is unreasonable. The text of the General Plan does not expressly state whether cluster development should be limited to those areas of the Magee Ranch that have been designated rural residential. As the trial court acknowledged, the language at issue is ambiguous. The ambiguity appears to be the result of an attempt to satisfy competing interests. The General Plan discourages proposals that would increase the development of the Magee Ranch and supports retention of areas for grazing and agricultural use, but at the same time, it encourages development proposals that would cluster development on flat and unobtrusive areas, almost all of which appear to have been designated agricultural open space. As the case law makes clear, balancing such competing interests is the province of the local governing body. (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors, supra*, 87 Cal.App.4th at p. 142.) As the Town's interpretation of the special concern area text is not unreasonable, we decline to second-guess it.

In sum, the General Plan's discussion of the Magee Ranch special concern area suggests defendants are correct and the entire Project site, including the areas designated as agricultural open space, may be cluster developed and zoned P-1. We concede the General Plan is not a model of clarity, and as a result, it is reasonably susceptible to other interpretations. However, as the Town has broad discretion to construe the terms of the General Plan, we need not determine whether an alternative interpretation is more reasonable. Accordingly, we cannot agree with the trial court's determination that the Project is inconsistent with the General Plan, and we reverse the court's judgment in favor of plaintiff on the Planning and Zoning Law claim.

### ***C. Plaintiff's Cross-appeal***

Plaintiff's cross-appeal is somewhat convoluted but it appears to concern a disagreement about the maximum development potential for the areas of the Project site previously bound by a Williamson Act contract. Defendants maintain the maximum density allowed in these areas is one unit per five acres, which may be clustered to allow a smaller area of higher density residential development while leaving a larger contiguous area as undeveloped open space. Clustering aside, plaintiff argues the maximum density

should be limited to one unit per 20 acres. The trial court found for the Town on this issue. So do we.<sup>7</sup>

The General Plan states that in the event a Williamson Act contract is not renewed, “the underlying zoning density (one unit per 20 acres or one unit per five acres) would apply upon contract expiration.” According to defendants, this provision reflects an intent to place property in the position it held prior to the commencement of a Williamson Act contract. Thus, the Town uses the density permitted under the zoning that was in effect before the Williamson Act contract was entered to determine the maximum potential density of a property. In this case, the Town found that, before it was bound by a Williamson Act contract, 199 acres of agricultural land on the Project site was zoned A-2, allowing for densities of up to one unit per five acres. Plaintiff counters the meaning of “underlying zoning density” is the density the current zoning would entail if a Williamson Act contract was not in effect. Since the property was zoned A-4 prior to the termination of the Williamson Act contracts, plaintiff contends the density allowed for the property is one unit per 20 acres, the maximum density permitted under A-4 zoning.

We defer to the Town’s interpretation. As discussed in more detail above, the Town’s reading of its own General Plan is entitled to a “strong presumption of regularity,” and will only be set aside upon a showing of abuse of discretion. (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors, supra*, 91 Cal.App.4th at p. 357.) We will not disturb the Town’s interpretation, so long as it is reasonable, even if plaintiff’s interpretation is more reasonable. (See *Families Unafraid to Uphold Rural etc. County v. Board of Supervisors, supra*, 62 Cal.App.4th at p. 1338.) The term “underlying zoning” is ambiguous and thus susceptible to more than one reasonable interpretation. We cannot conclude no reasonable person would agree with

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<sup>7</sup> As defendants point out, plaintiff’s standing to bring a cross-appeal is questionable since the trial court granted plaintiff all the relief it sought. However, plaintiff’s cross-appeal can also be construed as an alternative ground for affirming the judgment in its favor on the Planning and Zoning Law claim. If we were to affirm this aspect of the judgment, plaintiff’s cross-appeal would be moot. As we reverse, we address the additional arguments raised in plaintiff’s cross-appeal.

the Town's assertion that the "underlying zoning" for a Williamson Act property is its previous zoning.

Plaintiff argues the current printed version of the General Plan does not reflect the drafter's intent. Specifically, it contends the reference to "one unit per five acres" was illegally added to the General Plan without public discussion or a vote by the Town's council. The argument is unpersuasive. As an initial matter, the allegedly unauthorized amendments to the General Plan are included in both the formatted version of the plan used today, as well as the unformatted version circulated immediately after the plan's adoption in 1999. Contrary to plaintiff's suggestion, the Town need not prove the current text is consistent with the legislative history. As a matter of law, we must presume the General Plan is valid and that its text reflects the intent of the Town's council. (See Evid. Code, § 664.) The burden is on plaintiff to prove facts establishing its invalidity. (*City of Corona v. Corona etc. Independent* (1953) 115 Cal.App.2d 382, 384.) Plaintiff has fallen far short of meeting its burden here. Its contentions are based on a few ambiguous excerpts from the Town council's summary of actions, in addition to speculation about whether certain proposed revisions to the General Plan were rejected or adopted by the Town's council.<sup>8</sup>

As defendants point out, plaintiff's argument also fails on procedural grounds. Because plaintiff declined to raise this issue during the administrative process, defendants were denied an opportunity to present testimony rebutting plaintiff's allegations of impropriety. Further, this case was brought over a decade after the expiration of the 90-day statute of limitations for actions attacking a legislative body's decision to adopt or

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<sup>8</sup> To the extent plaintiff is contending the Town's interpretation of the General Plan is inconsistent with the legislative history, its argument also fails. Courts refer to legislative history only where statutory text is ambiguous and its plain meaning does not resolve a question of statutory interpretation. (*Long Beach Police Officers Assn. v. City of Long Beach* (1988) 46 Cal.3d 736, 741.) In this case, we need not look to the legislative history since we must defer to the Town's reasonable interpretation of ambiguous provisions of the General Plan. (See *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors, supra*, 87 Cal.App.4th at p. 142.)

amend a general plan (Gov. Code, § 65009, subd. (c)(1)(A)), and plaintiff has yet to point to any authority which would permit the tolling of the statute of limitations.

Plaintiff also contends that, even if the current language of the General Plan was approved by the Town council, it is illogical and self-contradictory. Plaintiff asserts that if, as defendants have argued in the past, A-4 zoning applies only to land currently bound by a Williamson Act contract, then A-4 zoning—and the one-unit-per-20-acre density with which it is associated—would never apply upon the termination of a Williamson Act contract. According to plaintiff, this would render superfluous the reference to “one unit per 20 acres” in the General Plan’s statement that “ ‘the underlying zoning density (one unit per 20 acres or one unit per five acres) would apply upon [Williamson Act] contract expiration.’ ” But the General Plan indicates A-4 zoning may apply to more than land bound by Williamson Act contract. In fact, it states A-2 is the only zoning consistent with the agricultural open space designation, which is generally used for Williamson Act land. Moreover, since Williamson Act contracts can run for decades (the parcels at issue here were placed under contract over 45 years ago), it is entirely possible that historical zoning districts, other than A-4, required a one-unit-per-20-acre density.

### **III. DISPOSITION**

The trial court’s judgment is affirmed in part and reversed in part. We affirm as to the trial court’s finding that defendants violated CEQA by failing to determine whether the Project’s impacts on bicycle safety were significant. We also affirm the trial court’s determination that “underlying zoning,” as that term is used in the General Plan, refers to a property’s prior zoning. However, we reverse as to the trial court’s determination that defendants violated the Planning and Zoning Law. The parties shall bear their own costs on appeal.

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Margulies, J.

We concur:

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Humes, P.J.

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Dondero, J.



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

October 14, 2015 (Agenda)

October 14, 2015  
 Agenda Item 9

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

**Countywide Reclamation Services Municipal Service Review and  
 Sphere of Influence Updates (2<sup>nd</sup> Round) – Public Review Draft**

Dear Commissioners:

**BACKGROUND**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires that not less than every five years, LAFCO prepare municipal service reviews (MSRs) prior to or in conjunction with sphere of influence (SOI) updates.

MSRs provide an assessment of the range and adequacy of municipal services provided in the County, and serve as an important tool for LAFCO in fulfilling its legislative mandate to coordinate the efficient and logical development of local government agencies and services. The MSR serves as a basis for SOI updates and future boundary changes.

In April 2013, Contra Costa LAFCO completed its inaugural MSRs/SOI updates covering 19 cities and 74 special districts. The first round MSRs included a combination of service-specific (countywide), sub-regional, and agency-specific reviews. In 2014, LAFCO completed its first 2<sup>nd</sup> round MSR covering water and wastewater services. In December 2014, LAFCO embarked on its 2<sup>nd</sup> round MSR covering reclamation services as discussed below.

**SUMMARY**

The 2<sup>nd</sup> round reclamation services MSR covers 14 special districts. A consulting team comprising Project Resource Specialists, Aldrich and Associates, and E. Mullberg & Associates were hired to prepare the MSR report.

**The MSR Process** - The MSR process involved distribution of an initial Request for Information (RFI) by LAFCO staff which focused on significant changes (e.g., regulatory, infrastructure, fiscal, governance, etc.) since the last MSR in 2009, along with requests for updates on agency specific issues as identified in the inaugural MSR.

Following the initial RFI, the project team coordinated with the local agencies to verify information and provide each agency with preliminary findings and individual draft agency reports to facilitate an inclusive and cooperative process.

The Public Review Draft MSR was released on September 2<sup>nd</sup>. The report was posted on the LAFCO website ([www.contracostalafco.org](http://www.contracostalafco.org)), and agencies/interested parties were notified of the availability of the report and comment period, which ended on September 29<sup>th</sup>. A number of agencies responded. A summary of the comments received and responses to comments is attached (Attachment 1).

The October 14<sup>th</sup> hearing is the first of two public hearings on the reclamation services MSR; no final action on the Draft MSR report will be taken at this hearing. Following a presentation by the consultant, the project team will receive comments from the public and the Commission. A copy of the PowerPoint presentation is attached (Attachment 2).

The Commission will be asked to set a public hearing for November 18, 2015 at which time the Commission will consider accepting the Final MSR report, adopting the required determinations, and updating the SOIs for a number of the special districts covered in the MSR.

## **DISCUSSION**

***Municipal Service Review*** - The 2nd round reclamation services MSR covers 14 special districts, and focuses on physical improvements since 2009, changes in fiscal viability, and identifies potential resource sharing and funding opportunities that may assist these districts in maintaining and improving their levee systems. In sum, the MSR includes the following components:

- Overview of the Sacramento/San Joaquin Delta
- Overview of reclamation districts and their challenges
- Discussion of funding opportunities
- Individual description of each of the 14 districts covered in the MSR
- Recommended MSR determinations as required by the CKH ACT
- Governance and SOI recommendations

***Sphere of Influence Updates*** – The MSR process does not require LAFCO to initiate changes of organization based on MSR findings; it only requires that LAFCO make determinations regarding the provision of service and update SOIs, as necessary. The MSR serves as a basis for SOI updates and future boundary changes.

A full discussion of governance and SOI options is included in the MSR report. LAFCO staff will provide its SOI recommendations to the Commission in November, at which time the Commission will be asked to accept the Final MSR report, make the required determinations, and update the SOIs.

## **RECOMMENDATIONS**

1. Receive the LAFCO staff report and consultants' report,
2. Accept public comments and provide Commission comments, and
3. Direct staff to set a public hearing for November 18, 2015, at which time the Commission will be asked to accept the Final MSR, make the required determinations, and update SOIs.

Sincerely,

LOU ANN TEXEIRA  
EXECUTIVE OFFICER

Attachment 1 – Comment Log  
Attachment 2 – PowerPoint Presentation

c: Distribution

## Contra Costa Reclamation Districts MSR (2nd Round) - Public Review Comments

Comment #	Date Received	Agency	Contact Person	Summary of Comments	Consultant Response
1	9/3/2015	RDs 2025 and 2026	Dave Forkel	Table 6-1 (Page 39): state that RD 2025 has an annual budget; reference that RD 2026 shares ferry service with RD 2059.	Public Review Draft revised.
2				Change text and table references in text to Webb "Tract."	Public Review Draft revised.
3				Table 6-17, (Page 97): correct agency address.	Public Review Draft revised.
4				Table 6-20, (Page 106): correct incorrect reference (RD 2090) to RD 2026.	Public Review Draft revised.
5				Table 6-20 (Page 106) and Pages 110 and 111: add statement that RD 2026 shares ferry service with RD 2026.	Public Review Draft revised.
6				Table 6-20 (Page 106): clarify that Board of Directors for RD 2028 and RD 756 operate independently.	Public Review Draft revised.
7	9/9/2015	RD 2122	Robert Calone	Table 6-37 (Page 156), insert revised FY 2011-12, FY 2012-13 expenditure figures.	Public Review Draft revised.
8				Table 6-38 (Page 158), revise FY 2012-13, FY 2013-14 revenue/expenditure figures.	Public Review Draft revised.
9				Table 6-39 (Page 160), update Services and Facilities Table with updated data.	Public Review Draft revised.
10	9/24/2015	BIMID	L. Jeff Butzlaff	Pages 42, 46, 47: minor grammatical corrections.	Public Review Draft revised.
11				Pages 48 and 49: minor typographical corrections; change reference to funding sources and local grant matching source.	Public Review Draft revised.

## Contra Costa Reclamation Districts MSR (2nd Round) - Public Review Comments

Comment #	Date Received	Agency	Contact Person	Summary of Comments	Consultant Response
12				Page 51: add sentence to shared facilities discussion: "A FY 2016-17 additional 75% CDBG grant has also been approved for the acquisition and stocking of an Emergency Response Trailer/Mini Command Center."	Public Review Draft revised.
13				Page 53: add sentence clarifying that the Community Facilities District set up by Delta Coves and the County assures that no public taxpayer subsidy will be needed to support the private development.	Public Review Draft revised.
14	9/25/2015	RD 2059	Mia Brown	Table 6-23 (Page 114): update RD office address; update Board of Director names and terms.	Public Review Draft revised.
15				Page 113: delete reference to absence of RFI response.	Public Review Draft revised.
16				Page 116: clarify RD 2059's relationship with Delta Ferry Authority and ferry service costs/revenues.	Public Review Draft revised.
17				Page 116: indicate that consolidation with other RDs infeasible due to unique interests and limited access.	Public Review Draft revised.
18				Page 117: update the District's rehab projects; reference that all District levees meet HMP standards; identify Blake Johnson as the District's consulting engineer.	Public Review Draft revised.
19				Page 118: update District's population estimate.	Public Review Draft revised.
20	9/11/2015	RD 799	Julie Hugel	Page 54: minor spelling correction.	Public Review Draft revised.
21				Table 6-5 (Page 55): update Board of Directors - replace Kevin Houde with Karla Fratus.	Public Review Draft revised.
22				Page 57: update LAIF account balance.	Public Review Draft revised.
23				Page 60: delete reference to shared escavator with BIMID.	Public Review Draft revised.

## Contra Costa Reclamation Districts MSR (2nd Round) - Public Review Comments

Comment #	Date Received	Agency	Contact Person	Summary of Comments	Consultant Response
24	10/2/2015	LAFCO	Commissioner Sharon Burke	Page 1: add Consulting Team reference.	Public Review Draft revised.
25				Various typographical edits throughout.	Public Review Draft revised.
26				Correct references to SOI boundaries throughout.	Public Review Draft revised.
27				Tables 5-1 (Page 28) and 6-1 (Page 39): add RD references for clarification.	Public Review Draft revised.
28	10/1/2015	N/A	Consulting Team	Add "California" water code references throughout.	Public Review Draft revised.
29				Page 37: update status of 2015 Delta Levees Maintenance Subvention Program Grants.	Public Review Draft revised.
30				Page 37: add reference to Special District Funding Map	Public Review Draft revised.
31				Appendix: insert Special District Funding Map	Public Review Draft revised.

**COUNTYWIDE RECLAMATION SERVICES**

**DRAFT Municipal Service Review and  
Sphere of Influence Study Update  
(2<sup>nd</sup> Round)**

Project Resource Specialists (PRS)  
Harry Ehrlich, Principal  
Bob Aldrich, Project Manager  
Elliot Mulberg, Services & Technical Specialist

Contra Costa LAFCO  
October 14, 2015

## Municipal Service Reviews:

2

- Required (Gov't. Code §56430) for all cities and special districts
- Purpose: evaluate current services and potential impacts on those services from projected future growth
- Identify opportunities to improve services through identification of alternative service structures/providers
- Must be completed prior to, or concurrent with, Sphere of Influence updates

## What We'll Cover:

3

- Municipal Service Review (MSR) requirements
- Opportunities for Comment
- Agencies Reviewed/MSR Study Area
- Reclamation District Updates
- Comparative Overview
- Next Steps

## 14 Agencies Reviewed:

4

- Bethel Island Municipal Improvement District
- Reclamation District 799 (Hotchkiss Tract)
- Reclamation District 800 (Byron Tract)
- Reclamation District 830 (Jersey Island)
- Reclamation District 2024 (Orwood and Palm Tracts)
- Reclamation District 2025 (Holland Tract)
- Reclamation District 2026 (Webb Island)
- Reclamation District 2059 (Bradford Island)
- Reclamation District 2065 (Veale Tract)
- Reclamation District 2090 (Quimby Island)
- Reclamation District 2117 (Coney Island)
- Reclamation District 2121 (Bixler Tract)
- Reclamation District 2122 (Winters Island)
- Reclamation District 2137 (Dutch Slough)

## Process and Opportunities for Comment:

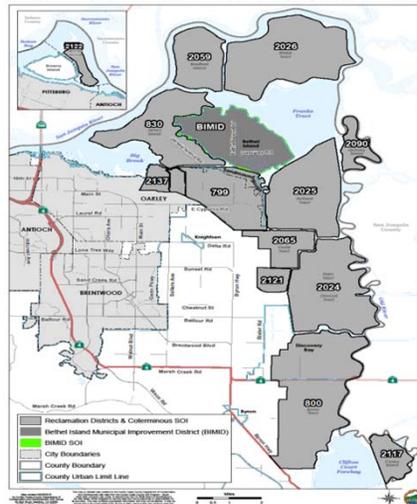
5

- **November 2014** – Request for Information Survey sent to agencies
- **March 2015** – Draft agency snapshots released to agencies for review & comment
- **July 2015** – Draft agency MSR chapters released to agencies for review & comment
- **September 2015** – Public Review Draft of MSR released
- **October 2015** – LAFCO public hearing

## MSR/SOI Study Area:

6

Contra Costa County Reclamation Districts and Bethel Island Municipal Improvement District and SOIs



## Reclamation Districts - Overview

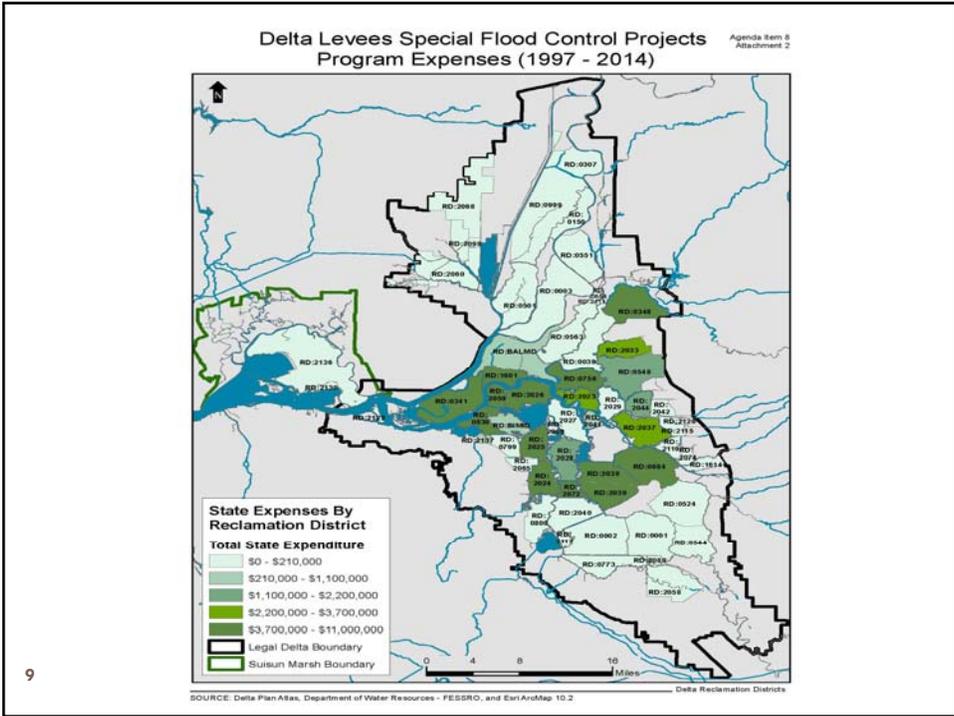
7

- Reclamation Districts (RD's) have been authorized by the State Water Code for over 100 years; since 1963, the responsibility to establish service boundaries and SOI's for RD's came under LAFCO.
- Most RD's are small, but provide important service benefits for maintaining levees and drainage control to island properties.
- Most RD services are provided by contract with another service provider.
- Many RD's have limited operating and capital budgets.
- The emerging importance of the Bay-Delta, the effects of the recent drought on water supply, and climate change impacts have brought renewed attention to the function and importance of RD's.
- Contra Costa County is one of 16 counties in California that has Reclamation Districts.

## Reclamation Districts Overview...

8

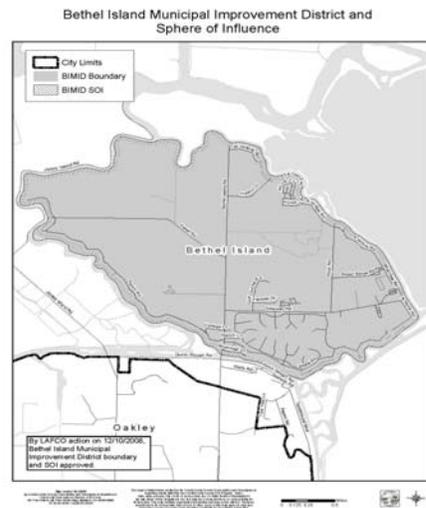
- Levee systems and related infrastructure are distinct to each island making shared facilities, in many cases, infeasible.
- There is shared interest among all RD's to ensure the integrity of the RD's are maintained.
- Six islands in Contra Costa County have been identified by DWR as critical to control of salinity in the Delta: Bethel Island, Bradford Island, Holland Tract, Hotchkiss Tract, Jersey Island and Webb Tract.



## Bethel Island Municipal Protection District

10

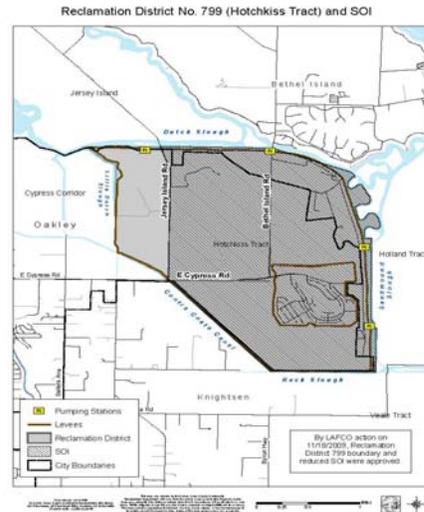
- Acreage: 3,500
- Population: 2,137
- Land Use: Residential/marina/recreation
- Proposed Delta Coves project, if built, could double population
- August 2015 – Assessment Fee approved
- Special Project Funding:
  - 50% of \$1.6 mil for levee imp.
  - \$3.5 mil – Horseshoe Bend levee imp.
- SOI Recommendation:
  - Reconfirm existing SOI



## RD 799 (Hotchkiss Tract)

11

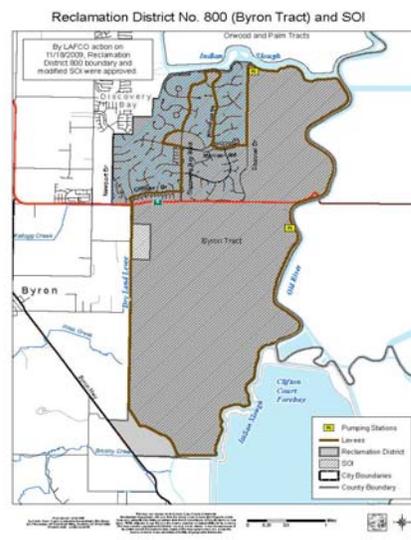
- Acreage: 3,100 acres (City of Oakley)
- Population: 969
- Land Use: Ag/residential/recreation
- Special Project Funding:
  - DWR advance of \$127,528 for levee improvement projects
- Levee status unchanged since 2010
- District assessments insufficient to provide adequate levee maintenance
- SOI Recommendation:
  - Reconfirm existing SOI



## RD 800 (Byron Tract)

12

- Acreage: 6,933
- Population: 7,656
- Land Use: Town of Discovery Bay, ag, public facilities
- Special Project Funding: \$3.6 million
- Upgrade of 9.7 miles of ag levees to PL 84-99 standards completed in 2001
- All urban levees upgraded received FEMA accreditation
- SOI Recommendation:
  - Expand SOI to include Pantages Bay development



## RD 830 (Jersey Island)

13

- Acreage: 3,561
- Population: 3
- Land Use: Habitat preservation
- Ownership: Ironhouse Sanitary District
- Special Project Funding:
  - Cooperative agreements securing \$6 million for levee and regional habitat improvement
  - \$3.6 million in Special Project Grant funding
- SOI Recommendation: Reconfirm existing SOI



## RD 2024 (Orwood and Palm Tracts)

14

- Acreage: 6,574
- Population: 40
- Land Use: agriculture
- Important utility and government facilities located within the RD
- Special Project Funding:
  - Since 2009, \$18 million in levee improvements
- All 14.6 miles of levee meet PL 84-99 standard
- SOI Recommendation: Reconfirm existing SOI



## RD 2025 (Holland Tract)

15

- Acreage: 4,090
- Population: 27
- Land Use: Agriculture/recreation
- Special Project Funding: \$5 million
- All 11 miles of levee meet PL 84-99 standard
- SOI Recommendation:  
Reconfirm existing SOI



## RD 2026 (Webb Tract)

16

- Acreage: 5,500
- Population: 0
- Land Use: Agriculture
- Special Project Funding:  
\$9 million in Special Project grants;  
\$4.7 million spent to date
- All 13 miles of levee meet HMP standard;  
6.25 miles meet PL 84-99 standard
- SOI Recommendation:  
Reconfirm existing SOI



## RD 2059 (Bradford Island)

17

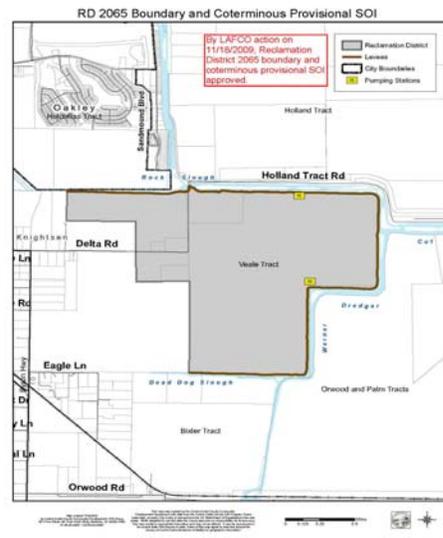
- Acreage: 2,200
- Population: 63
- Land Use: Ag, commercial, residential, gas extraction
- Special Project Funding: \$7.5 million
- Absence of infrastructure-related data
- 7 miles of earthen levees (2009)
- SOI Recommendation: Reconfirm existing SOI



## RD 2065 (Veale Tract)

18

- Acreage: 1,365
- Population: 14
- Land Use: Agriculture
- Special Project Funding: Potential \$2.2 million levee rehab grant with DWR
- Levee status unchanged since 2009
- SOI Recommendation: Reconfirm existing SOI



## RD 2090 (Quimby Island)

19

- Acreage: 789
- Population: 1
- Land Use: Agriculture
- Special Project Funding:
  - None
- All 7 miles of levee meet HMP standards
- SOI Recommendation:
  - Reconfirm existing SOI



## RD 2117 (Coney Island)

20

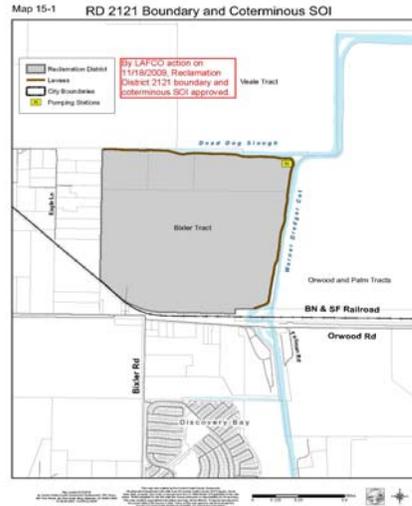
- Acreage: 935
- Population: 4
- Land Use: Agriculture
- Special Project Funding:
  - Seeking \$2.2 million grant through DWR
- 75% of levee meet PL 84-99 standards
- SOI Recommendation:
  - Reconfirm existing SOI



## RD 2121 (Bixler Tract)

21

- Acreage: 584
- Population: 5
- Land Use: Agriculture
- Not functioning as a gov't agency
- State Levee Subvention or Special Project Funding unavailable
- SOI Recommendation:  
 Adopt a "zero" SOI for RD 2121 which indicates that the agency should be considered to be "reorganized" (e.g., dissolved, consolidated, etc.) and that an alternative governance structure may be desired at some point in the future.



## RD 2122 (Winters Island)

22

- Acreage: 428
- Population: 0
- Land Use: Marshland, duck club
- Accessible only by boat
- Special Project Funding: None
- 5 miles of levees:  
 1.5 miles meet HMP standards;  
 3.5 miles do not meet HMP standards
- SOI Recommendation:  
 Reconfirm existing SOI



## RD 2137 (Dutch Slough)

23

- Acreage: 785 (City of Oakley)
- Population: 2
- Land Use: Open space/habitat
- Comprises the majority of the Dutch Slough Restoration Project Site
- Special Project Funding:
  - \$9.4 million for DWR to rehabilitate the entire levee system
- 3.8 miles of levees:
  - 3 miles meet HMP standards; unchanged since 2009

SOI Recommendation:

Reconfirm existing SOI



### Contra Costa Reclamation Districts – Comparative Overview

Reclamation Districts	Current Budget/Audit	Infrastructure Investments	Levee Improvements	Expanded Cooperative Programs/ Shared Services	Website	5-Year Plan (Complete/Not Completed)	Overall Assessment (Improved, Same or Lower Capability of overall Levee System)
BIMID	Budget - Yes Audits - Yes	Yes - \$2.1 M project in process; \$3.5 M pending	Yes - Annually	Yes - CC Public Works contract for drainage maintenance	Yes	Completed	<b>Improved</b> (financial status has been of concern for future operations & projects; assessment district approved by voters for next 10 years)
RD 799	Budget - Yes Audits - No	Yes - \$127,000	Yes - Annually	No	No	Not Completed	<b>Same</b>
RD 800	Budget - Yes Audits - Yes	Yes - \$3.0 M Dry Land levee - \$634.5 K	Yes - Annually	No	Yes	Completed	<b>Improved</b>
RD 830	Budget - Yes Audits - Yes	Yes - \$2.07 M	Yes - Annually	Yes - Ironhouse SD/Habitat	Yes	Completed	<b>Improved</b>
RD 2024	Budget - No Audits - Yes	Yes - \$8 M	Yes - Annually	No	No	Completed	<b>Improved</b>
RD 2025	Budget - No Audits - Yes	Yes - \$3.8 M	Yes - Annually	No	No	Completed	<b>Improved</b>
RD 2026	Budget - Yes Audits - Yes	Yes - \$9 M; \$4.7 spent to date	Yes - Annually	No	No	Completed	<b>Improved</b>

24

Contra Costa Reclamation Districts – Comparative Overview (cont.)

RD 2059	No Response to RFI	Yes - \$7 M	Yes - Annually	Provides ferry service	Yes	Completed	<i>Unknown</i> Insufficient information; SC Reports show annual assessments and subventions revenues of approximately \$650K
RD 2065	Budget - No Audits - Yes	No – plan for DWR Grant project to upgrade at \$2.2 M	Yes – Annually	No	No	Completed	<i>Same</i>
RD 2090	Budget - No Audits - Yes	No	Yes – Annually	Equipment sharing with Ellis Farms	No	Completed	<i>Same</i>
RD 2117	Budget - No Audits - Yes	No – Seeking \$2.22 M Grant	Yes - Annually at minimum amount	No	No	Completed	<i>Lower Capability</i> (pending grant funds for improvements)
RD 2121 (inactive)	Budget - No Audits - No	No	NR	No	No	Not Completed	<i>Same</i> (considered inactive)
RD 2122	Budget - No Audits - NR	No – 5 Year Plan prepared	Yes – Annually at minimum amount	No	No	Completed	<i>Same</i> (single landowner; seeking grant funds but matching funds a challenge)
RD 2137	Budget - Yes Audit – 2014 only	Yes – 2 Special Projects - \$9.4 M	Yes - Annually	Yes – Dutch Slough Project	No	Completed	<i>Improved</i>

25

## Next Steps

26

- Incorporate Commission/public/agency comments into Draft MSR document
- Schedule Final MSR for LAFCO public hearing on November 18, 2015
- Consider MSR and SOI adoptions on November 18, 2015



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>
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 Sharon Burke  
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 Tom Butt  
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 Stanley Caldwell  
*Special District Member*

October 14, 2015 (Agenda)

October 14, 2015  
 Agenda Item 10

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

**LAFCO Fee Schedule Update**

Dear Members of the Commission:

**BACKGROUND**

Local Agency Formation Commissions are authorized to establish fee schedules for costs associated with administering their regulatory and planning duties under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH). This includes, most commonly, processing applications for various boundary changes. State law specifies that LAFCO’s fees shall not exceed the “estimated reasonable costs” of LAFCO proceedings.

Contra Costa LAFCO’s fee schedule (Attachment 1) was last comprehensively reviewed in January 2007, and previously in 2001 in conjunction with LAFCO’s new responsibilities enacted under the CKH. Prior fee adjustments were modest to moderate.

On June 10, 2015, LAFCO provided the Commission with some initial information regarding LAFCO fees and fee methodologies. The Commission provided staff with input and direction regarding potential fee increases.

On August 12, 2015, the Commission held a noticed public hearing at which time staff provided the Commission with additional analysis including a comparative study of 13 other LAFCO fee schedules (Bay Area and urban). Staff also presented proposed revisions to the LAFCO fee schedule.

The Commission reviewed the proposed revisions; directed staff to circulate the proposed fee schedule to all local agencies and interested parties; and set October 14, 2015 as the date and time for a noticed public hearing to consider adoption of the revised Contra Costa LAFCO Schedule of Processing Fees.

Following the August LAFCO meeting, staff circulated the proposed fee revisions to all local agencies and interested parties (Attachment 2). As of this writing, no comments have been received.

## DISCUSSION

This public hearing today is for the Commission to adopt revisions to the LAFCO fee schedule. This hearing follows the LAFCO hearing on August 12, 2015, as well as a 60-day public review period.

The proposed fee schedule presented today is identical to that which was presented at the August 12<sup>th</sup> hearing, and includes the following revisions:

- **Fee increases** - annexation/detachment, district formation, other district actions, reorganization, addition/deletion of powers for districts, incorporation/disincorporation, SOI changes, review of lead agency's CEQA document, review of map/legal by County Surveyor
- **Additions** - distinguish between applications requiring a protest hearing and applications not requiring a protest hearing, request for extension of time to complete proceedings, deposit for Municipal Service Review
- **Deletions** - annexation to CSA L-100 (as explained above)
- **Clarifications** - Out of agency service review (per LAFCO's new policy/procedures), environmental review

Staff believes the proposed fee changes are fair and reasonable, provide additional clarification, will modestly enhance cost recovery, and will bring the Contra Costa LAFCO fees closer to the median fees adopted by Bay Area and other urban LAFCOs.

Pursuant to Government Code §66016, the proposed fee schedule will be adopted by resolution.

## RECOMMENDATION

Staff recommends that the Commission approve the attached resolution (Attachment 2) adopting the proposed fee updates and revisions to be effective October 15, 2015.

Sincerely,

LOU ANN TEXEIRA  
EXECUTIVE OFFICER

## Attachments

Attachment 1 – Current Contra Costa LAFCO Schedule of Processing Fees

Attachment 2 – Proposed Schedule of Processing Fees and Deposits

Attachment 3 - Draft Resolution to Adopt Updated Schedule of Processing Fees and Deposits

**CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION (LAFCO)**  
**SCHEDULE OF PROCESSING FEES AND DEPOSITS**  
*(Effective September 12, 2007 with slight modification March 15, 2013)*

<b><u>Change of Organization:</u></b> (annexation to, or detachment from, a city or district)	\$2,765
<b><u>Annexation to County Service Area L-100:</u></b> (no longer applicable, 3/15/13)	\$1,575
<b><u>District Formation:</u></b>	\$7,800
<b><u>District Dissolution/Merger/Consolidation/Establishing Subsidiary District:</u></b>	\$4,750
<b><u>Reorganization:</u></b>	\$3,885
<b><u>Addition/Deletion of Powers for Special District:</u></b>	\$2,765
<b><u>Incorporation/Disincorporation:</u></b>	\$8,000
<b><u>Concurrent review of relevant sphere(s) with change of organization or reorganization:</u></b>	\$1,500
<b><u>Sphere of Influence Amendment/Revision:</u></b>	\$4,500
<b><u>Transfer of Jurisdiction to another LAFCO:</u></b> (payable to principal LAFCO)	\$ 300
<b><u>Request for Reconsideration:</u></b>	\$2,500
<b><u>Out-of-Agency Service Review:</u></b>	\$3,400
<b>OTHER FEES</b>	
<b><u>Environmental Review</u></b>	
<i>Categorical Exemption</i>	\$ 200
<i>Negative Declaration</i>	Actual Cost with advance deposit of \$ 500
<i>EIR Preparation</i>	Actual Cost with advance deposit of \$2,500
<i>Review Lead Agency's EIR</i>	\$1,000
<i>Review Lead Agency's Negative Declaration</i>	\$ 750
<b><u>Special Meeting/Workshop Fee:</u></b>	Actual Cost
<b><u>Special Study Fee</u></b>	Actual Cost
<b><u>Outside/Special Consultant Fee:</u></b>	Actual Cost
<b><u>Outside/Special Legal Fee:</u></b>	Actual Cost
<b><u>Hearing Notice Fee</u></b> (mailing and publication pursuant to Gov. Code 56157):	Actual Cost
<b><u>Notices of Determination per Public Resources Code 21089 &amp; Fish &amp; Game Code 711.4</u></b> (filed with County Clerk):	
<i>Filing as a Responsible Agency * (required of most LAFCO actions)</i>	\$ 50
<i>For specific information regarding filing fees for Negative Declarations or Environmental Impact Reports, please refer to California Department of Fish &amp; Wildlife</i>	

**SCHEDULE OF PROCESSING FEES (Effective September 12, 2007) – Page two**

<b><u>Deposit to Review map and legal description:</u></b>	(Check payable to County Surveyor)	\$1,100
<b><u>Comprehensive Fiscal Analysis:</u></b>	Actual Cost with advance deposit of	\$5,000
<b><u>State Controller’s Review of Comprehensive Fiscal Analysis:</u></b>		Actual Cost
<b><u>Municipal Service Reviews</u></b>		Actual Cost
<b><u>Annual Mail List Fee:</u></b>		\$ 50
<b><u>Duplication of Meeting Record (i.e., tape, CD, transcription)</u></b>		Actual Cost
<b><u>Document Copying:</u></b>	(less than 20 pages \$.25/page)	\$ 25
<b><u>County Registrar of Elections fees to review petitions:</u></b>		Per the County Election Division’s Fee Schedule
<b><u>State Board of Equalization (SBE) Fee:</u></b>		Per the SBE Fee Schedule

**Payments & Refunds:** Fees are due with application submittal. No application shall be deemed filed until processing fees are deposited. Application processing fees are typically non-refundable.

Checks made payable to Contra Costa LAFCO and/or County offices must be business checks or money orders; personal checks will not be accepted.

**Waiver Provision:** The Commission may waive or alter fees in special circumstances [Gov. Code §56383(d)]. A proposal previously denied and resubmitted shall be accompanied by new fees unless changes are determined to be minor.

**\*Previously Paid Fees:** If any fee requirement has been previously met, please submit a copy of the appropriate documentation (e.g., fee receipt from County Clerk’s Office)

*The fee schedule is administered in accordance with Government Code §56383.*

**CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION (LAFCO)**  
**SCHEDULE OF PROCESSING FEES AND DEPOSITS**  
*(Effective October 15, 2015)*

**Annexation/Detachment:**

-Does not require protest proceeding	\$3,915
-Requires, or may require, protest proceeding	\$6,530

**District Formation:** \$8,470

**Other District Actions (i.e., dissolution/merger/consolidation/establishing subsidiary district:** \$5,690

**Reorganization:** (two or more changes of organization within a single proposal) Change of Organization fee plus 20%

**Addition/Deletion of Power(s) for Special District:** \$3,380

**Incorporation/Disincorporation:** \$25,000

**Concurrent review of corresponding sphere(s) with change of organization or reorganization:** \$2,060

**Sphere of Influence Amendment/Revision:** \$4,810

**Transfer of Jurisdiction to another LAFCO:** (payable to principal LAFCO) \$300

**Request for Reconsideration:** \$2,500

**Request for Extension of Time to Complete Proceedings** \$770

**Out-of-Agency Service Review:** \$3,400  
 Requests for out-of-agency service approval in anticipation of a future annexation may be assessed additional fees per LAFCO policy

**OTHER FEES****Environmental Review (LAFCO as Lead Agency)**

<i>Categorical Exemption</i>		\$ 200
<i>Negative Declaration</i>	<i>Actual Cost with advance deposit of</i>	\$ 500
<i>EIR Preparation</i>	<i>Actual Cost with advance deposit of</i>	\$2,500

*Review Lead Agency's EIR* \$3,000

*Review Lead Agency's Negative Declaration* \$1,500

**Special Meeting/Workshop Fee:** Actual Cost

**Special Study Fee** Actual Cost

**Outside/Special Consultant Fee:** Actual Cost

**SCHEDULE OF PROCESSING FEES (Effective October 15, 2015) – Page two**

<b><u>Outside/Special Legal Fee:</u></b>		Actual Cost
<b><u>Hearing Notice Fee</u></b> (mailing and publication pursuant to Gov. Code 56157):		Actual Cost
<b><u>Notices of Determination per Public Resources Code 21089 &amp; Fish &amp; Game Code 711.4</u></b> (filed with Contra Costa County Clerk)**:		
<i>Filing as a Responsible Agency (required of most LAFCO actions)</i>		\$ 50
<i>For specific information regarding filing fees for Negative Declarations or Environmental Impact Reports, please refer to California Department of Fish &amp; Wildlife</i>		
<b><u>**Deposit to Review map and legal description:</u></b> (Check payable to Contra Costa County Surveyor)		\$1,200
<b><u>Comprehensive Fiscal Analysis:</u></b>	<i>Actual Cost with advance deposit of</i>	\$5,000
<b><u>State Controller’s Review of Comprehensive Fiscal Analysis:</u></b>		Actual Cost
<b><u>Municipal Service Review</u></b>	<i>Actual cost with advance deposit of</i>	\$5,000
<b><u>Duplication of Meeting Record</u></b> (i.e., CD, transcription)		Actual Cost
LAFCO meeting records and audio recordings of meeting are available online		
<b><u>Document Copying:</u></b> (less than 20 pages \$.25/page)		\$ 25
LAFCO records are available electronically at no cost		
<b><u>**Contra Costa County Elections fees (i.e., review petitions, provide voter lists, etc.):</u></b>		Per the County Election Division’s Fee Schedule
<b><u>**State Board of Equalization (SBE) Fee:</u></b>		Per the SBE Fee Schedule

**Payments & Refunds:** Fees are due with application submittal. No application shall be deemed filed until processing fees are deposited. Application processing fees are typically non-refundable.

Checks made payable to Contra Costa LAFCO and/or Contra Costa County offices must be business checks or money orders; personal checks will not be accepted. \*\*Fees paid to entities other than Contra Costa LAFCO.

**Waiver Provision:** The Commission may waive or alter fees in special circumstances [Gov. Code §56383(d)]. A proposal previously denied and resubmitted shall be accompanied by new fees unless changes, as determined by LAFCO staff, are minor.

**Previously Paid Fees:** If any fee requirement has been previously met, please submit a copy of the appropriate documentation (e.g., fee receipt from Contra Costa County Clerk’s Office)

*The fee schedule is administered in accordance with Government Code §56383.*

**RESOLUTION NO. 2015-02**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
ADOPTING AN UPDATED LAFCO SCHEDULE OF PROCESSING FEES AND DEPOSITS**

**WHEREAS**, the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code) authorizes the Contra Costa Local Agency Formation Commission to adopt a schedule of fees and deposits; and

**WHEREAS**, State law specifies that LAFCO’s fees shall not exceed the estimated reasonable costs of LAFCO proceedings; and

**WHEREAS**, the Commission has an adopted fee schedule as provided by law; and

**WHEREAS**, the LAFCO fee schedule was last updated in 2007; and

**WHEREAS**, at a noticed public hearing on August 12, 2015, the Commission reviewed and considered an updated fee schedule to improve cost recovery; and

**WHEREAS**, following a 60-day public review period, the Commission held a second noticed public hearing on October 14, 2015 to consider adopting the updated fee schedule; and

**WHEREAS**, the Commission has heard and considered all oral and written comments provided on the proposed updated fee schedule; and

**WHEREAS**, the adoption and setting of fees are not projects under the California Environmental Quality Act under Regulations Code Section 15273(a).

**NOW, THEREFORE, the COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

1. The proposed updated fee schedule shown as Attachment 1 is hereby approved.
2. The effective date of the updated LAFCO fee schedule is October 15, 2015.

\*\*\*\*\*

PASSED AND ADOPTED THIS 14<sup>th</sup> day of October 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: October 14, 2015

\_\_\_\_\_  
Lou Ann Teixeira, 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  
*County Member*  
 Sharon Burke  
*Public Member*  
 Tom Butt  
*City Member*  
 Stanley Caldwell  
*Special District Member*

October 14, 2015 (Agenda)

October 14, 2015  
 Agenda Item 11

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

**LAFCO Agricultural & Open Space Preservation Policy Discussion - Update**

Dear Commissioners:

**BACKGROUND**

This is an update from LAFCO Policies & Procedures Subcommittee regarding activities relating to developing a LAFCO Agricultural & Open Space Preservation Policy (AOSPP).

On July 8, 2015, Contra Costa LAFCO hosted an Agricultural & Open Space Preservation Workshop. The purpose of the workshop was to engage stakeholders and begin a discussion as to whether or not Contra Costa LAFCO should develop a local AOSPP, like other LAFCOs around the State; and if so, what should the Contra Costa LAFCO policy address.

On August 12, 2015, the LAFCO Policies & Procedures Subcommittee initiated a discussion with the Commission as to what type of AOSPP Commissioners want, if any. The subcommittee presented a decision tree to help guide the conversation.

Following input from the Commission and members of the public, including representatives from various environmental groups, the agricultural community, and the building industry, the Commission recommended that the subcommittee conduct outreach to various groups including the Contra Costa County Transportation, Water & Infrastructure Committee (TWIC), Contra Costa Transportation Authority (CCTA) Planning Committee, Contra Costa Public Managers Association (PMA), and Contra Costa Special Districts Association (CCSDA).

**DISCUSSION**

In accordance with the Commission’s direction, the Policies & Procedures Subcommittee has scheduled the following presentations:

- ❖ October 7 - CCTA Planning Committee. A verbal report will be provided to the Commission on October 14th.
- ❖ October 8 - PMA. A verbal report will be provided to the Commission on October 14th.
- ❖ October 19 - CCSDA. A verbal report will be provided to the Commission at the LAFCO meeting on November 18th.

Due to various scheduling challenging and TWIC meeting cancellations, the LAFCO Policies & Procedures Subcommittee will schedule individual meetings with members of the TWIC (County Supervisors Andersen and Piepho) to discuss what input, if any, the TWIC would like to provide on a local LAFCO policy.

Also, the LAFCO Executive Officer will attend the County Planning Directors' meeting on October 9<sup>th</sup> and will provide an update to the group.

Another update will be provided to the Commission at the November 18<sup>th</sup> LAFCO meeting.

**RECOMMENDATION:**

Receive update and provide input.

Respectfully submitted,

*Sharon Burke and Don Tatzin*

c: Distribution



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>
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 Tom Butt  
*City Member*  
 Stanley Caldwell  
*Special District Member*

October 14, 2015  
 Agenda Item 12

October 14, 2015 (Agenda)

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

**Proposed Adoption of a Legislative Policy**

Dear Members of the Commission:

This is a report from the LAFCO Policies & Procedures Subcommittee.

**Background** - Contra Costa LAFCO regularly receives reports on pending legislation affecting LAFCOs, and often takes positions on legislation by a vote of the Commission. The Commission then directs the LAFCO Executive Officer to send a letter stating LAFCO’s position. Most of the position letters are sent in response to requests from CALAFCO.

Recent legislative sessions have resulted in an unprecedented number of requests from CALAFCO to send letters to our legislators and the Governor – sometimes with less than 24-hours’ notice. This is due to an increase in “11<sup>th</sup> hour bills,” “dark of night bills,” and “gut and amend bills” resulting in the need for stakeholders to act quickly. Also, in the last several years, there has been a growing number of bills intended to circumvent the LAFCO process, assign LAFCO new (unfunded) duties, along with several bills focusing on a single LAFCO, to which CALAFCO is generally opposed. Therefore, it would be useful for the Commission to have some flexibility to respond to legislation that affects LAFCO.

This report provides a discussion of two issues: adopting the CALAFCO Legislative Policies as a basis for a Contra Costa LAFCO legislative platform, and adopting a local policy that would allow the LAFCO Executive Officer, in consultation with the Chair or Vice Chair, to communicate the Commission’s position on a bill subject if the position is consistent with the adopted legislative policies of the Commission, and when the Commission’s meeting schedule precludes a timely response.

**CALAFCO Legislative Policies** - CALAFCO’s Legislative Policies (Attachment 1) support legislation that enhances LAFCO’s authority to carry out the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 based on local conditions. CALAFCO’s Legislative Policies also serve as a guide for its Legislative Committee and the work of CALAFCO staff during the legislative session. Commissioner McGill and your Executive Officer currently serve as members of the CALAFCO Legislative Committee, which meets six to eight times each year. The Legislative

Committee acts on behalf of the CALAFCO Board in developing and taking positions on legislation based on the Board's legislative policies and priorities. The Legislative Committee also participates in the annual review of the CALAFCO Legislative Policies and makes recommendations to the Board regarding policy modifications.

The CALAFCO legislative procedures call for the CALAFCO Board's annual review and adoption of the policies, as recommended by the CALAFCO Legislative Committee. The CALAFCO Legislative Priorities and Policies were last reviewed and adopted in May 2015 (Attachment 1).

The CALAFCO Legislative Policies are comprehensive and cover a range of issues including *LAFCO Purpose and Authority*, *LAFCO Organization*, *Agricultural and Open Space Protection*, *Orderly Growth*, *Service Deliver* and *Local Agency Effectiveness* and *Legislative Priorities*.

Contra Costa LAFCO does not currently have adopted legislative policies and could adopt CALAFO's policies as a basis for a Contra Costa LAFCO legislative platform and to provide guidance in evaluating legislation.

**Draft Contra Costa LAFCO Legislative Policy** - As noted above, there has been an increasing number of requests from CALAFCO for position letters on legislation affecting LAFCO. The Legislative process can move quickly; consequently, many of CALAFCO's requests are "urgent." Timely input from LAFCOs around the state can help Legislators make more informed decisions. A local policy that would enable Contra Costa LAFCO to respond to legislative matters quickly would be useful.

The following policy is proposed and is comparable to other LAFCO policies and practices:

## **1.4 RULES AND PROCEDURES**

### **J. Legislative Policy**

- 1) The Commission shall consider adoption of a Legislative Policy annually, or as needed.
- 2) In situations when proposed legislation affecting LAFCO cannot be considered by the full Commission due to timing, the Executive Officer, in consultation with the LAFCO Chair (or Vice Chair in the absence of the Chair), is authorized to provide written or email comments communicating the Commission's position if the position is consistent with the adopted legislative policies of the Commission.
- 3) The Chair or Vice Chair would review the letter or email prior to it being submitted.
- 4) The Executive Officer will forward the email or letter to the Commission as soon as possible.
- 5) The item will be placed on the next regular LAFCO meeting agenda as either "informational" or for discussion purposes.

### **RECOMMENDATIONS**

1. Review and adopt the CALAFCO Legislative Policies (Attachment 1) as a basis for a Contra Costa LAFCO legislative platform; and
2. Review and adopt a local policy as presented above, or as modified by the Commission.



# CALAFCO 2015 Legislative Policies

*As adopted by the Board of Directors on 8 May 2015*

## 1. LAFCo Purpose and Authority

- 1.1. Support legislation which enhances LAFCo authority and powers to carry out the legislative findings and authority in Government Code §56000 et seq.
- 1.2. Support authority for each LAFCo to establish local policies to apply Government Code §56000 et seq. based on local needs and conditions, and oppose any limitations to that authority.
- 1.3. Oppose additional LAFCo responsibilities which require expansion of current local funding sources. Oppose unrelated responsibilities which dilute LAFCo ability to meet its primary mission.
- 1.4. Support alignment of responsibilities and authority of LAFCo and regional agencies which may have overlapping responsibilities in orderly growth, preservation, and service delivery, and oppose legislation or policies which create conflicts or hamper those responsibilities.
- 1.5. Oppose grants of special status to any individual agency or proposal to circumvent the LAFCo process.
- 1.6. Support individual commissioner responsibility that allows each commissioner to independently vote his or her conscience on issues affecting his or her own jurisdiction.

## 2. LAFCo Organization

- 2.1. Support the independence of LAFCo from local agencies.
- 2.2. Oppose the re-composition of any LAFCo to create special seats and recognize the importance of balanced representation provided by cities, the county, the public, and special districts in advancing the public interest.

- 2.3. Support representation of special districts on all LAFCos in counties with independent districts and oppose removal of special districts from any LAFCo.
- 2.4. Support communication and collaborative decision-making among neighboring LAFCos when growth pressures and multicounty agencies extend beyond a LAFCo's boundaries.

## 3. Agricultural and Open Space Protection

- 3.1. Support legislation which clarifies LAFCo authority to identify, encourage and insure the preservation of agricultural and open space lands.
- 3.2. Encourage a consistent definition of agricultural and open space lands.
- 3.3. Support policies which encourage cities, counties and special districts to direct development away from prime agricultural lands.
- 3.4. Support policies and tools which protect prime agricultural and open space lands.
- 3.5. Support the continuance of the Williamson Act and restoration of program funding through State subvention payments.

## 4. Orderly Growth

- 4.1. Support the recognition and use of spheres of influence as a management tool to provide better planning of growth and development, and to preserve agricultural, and open space lands.
- 4.2. Support recognition of LAFCo spheres of influence by other agencies involved in determining and developing long-term growth and infrastructure plans.

- 4.3. Support orderly boundaries of local agencies and the elimination of islands within the boundaries of agencies.
- 4.4. Support communication among cities, counties, and special districts through a collaborative process that resolves service, housing, land use, and fiscal issues prior to application to LAFCo.
- 4.5. Support cooperation between counties and cities on decisions related to development within the city’s designated sphere of influence.

staff and facilities to provide more efficient and cost effective services. Support legislation which provides LAFCo with additional opportunities to encourage shared services.

**5. Service Delivery and Local Agency Effectiveness**

- 5.1. Support the use of LAFCo resources to review Regional Transportation Plans, including sustainable communities strategies and other growth plans to ensure reliable services, orderly growth, sustainable communities, and conformity with LAFCo’s legislative mandates. Support efforts that enhance meaningful collaboration between LAFCos and regional planning agencies.
- 5.2. Support LAFCo authority and tools which provide communities with local governance and efficient service delivery options, including the authority to impose conditions that assure a proposal’s conformity with LAFCo’s legislative mandates.
- 5.3. Support the creation or reorganization of local governments in a deliberative, open process which will fairly evaluate the proposed new or successor agency’s long-term financial viability, governance structure and ability to efficiently deliver proposed services.
- 5.4. Support the availability of tools for LAFCo to insure equitable distribution of revenues to local government agencies consistent with their service delivery responsibilities.
- 5.5. Support collaborative efforts among agencies and LAFCOs that encourage opportunities for sharing of services,

**2015 Legislative Priorities**

**Primary Issues**

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<b>Authority of LAFCo</b>	Support legislation that maintains or enhances LAFCo’s authority to condition proposals to address any or all financial, growth, service delivery, and agricultural and open space preservation issues. Support legislation that maintains or enhances LAFCo’s ability to make decisions regarding boundaries and formations, as well as to enact recommendations related to the delivery of services and the agencies providing them, including consolidations, reorganizations or dissolutions.
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<b>Agriculture and Open Space Protection</b>	Preserve prime agriculture and open space lands. Support policies that recognize LAFCo’s mission to protect and mitigate the loss of prime agricultural and open space lands and that encourage other agencies to coordinate with local LAFCos on land preservation and orderly growth. Support efforts that encourage the creation of habitat conservation plans.
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<b>Water Availability</b>	Promote adequate water supplies and infrastructure planning for current and planned growth as well as to support the sustainability of agriculture. Support policies that assist LAFCo in obtaining accurate and reliable water supply information to evaluate current and cumulative water demands for service expansions and boundary changes including impacts of expanding water company service areas on orderly growth, and the impacts of consolidation or dissolution of water companies providing services. Support policies that promote an integrated
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approach to water availability and management.

**Viability of Local Services**

Support legislation that maintains or enhances LAFCo's ability to review and act to determine the efficient and sustainable delivery of local services and the financial viability of agencies providing those services to meet current and future needs including those identified in regional planning efforts such as sustainable communities strategies. Support legislation which provides LAFCo and local communities with options for local governance and service delivery, including incorporation as a city, formation as a special district, or reorganizations or dissolutions to ensure efficient, effective, and quality service delivery. Support efforts which provide tools to local agencies to address aging infrastructure, fiscal challenges and the maintenance of services.

decisions involving new funds for levee repair and maintenance. Support efforts that encourage the creation of habitat conservation plans.

**Adequate Municipal Services in Inhabited Territory**

Expedited processes for inhabited annexations should be consistent with LAFCo law and be fiscally viable. To promote environmental justice for underserved inhabited communities, funding sources should be identified for extension of municipal services, including options for annexation of contiguous disadvantaged unincorporated communities. Promote the delivery of adequate, sustainable, efficient, and effective levels of service through periodic updates of Municipal Service reviews, Spheres of Influence, and other studies.

**Issues of Interest**

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**Housing**

Provision of territory and services to support housing plans consistent with regional land use plans and local LAFCo policies.

**Transportation**

Effects of Regional Transportation Plans and expansion of transportation systems on future urban growth and service delivery needs, and the ability of local agencies to provide those services.

**Flood Control**

The ability and effectiveness of local agencies to maintain and improve levees and protect current infrastructure. Carefully consider the value of uninhabited territory, and the impact to public safety of proposed annexation to urban areas of uninhabited territory which is at risk for flooding. Support legislation that includes assessment of agency viability in



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

October 14, 2015 (Agenda)

October 14, 2015  
 Agenda Item 13

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

**2016 LAFCO Meeting Schedule**

Dear Commissioners:

The Commissioner’s Handbook states that regular meetings of the Commission are held on the second Wednesday of each month commencing at 1:30 p.m. in the Board of Supervisors Chambers, 651 Pine Street in Martinez.

The proposed 2016 meeting schedule is as follows. Following approval, the meeting schedule will be posted on the LAFCO website.

<b>January 13</b>	<b>April 13</b>	<b>July 13</b>	<b>October 12</b>
<b>February 10</b>	<b>May 11</b>	<b>August 10</b>	<b>November 9</b>
<b>March 9</b>	<b>June 8</b>	<b>September 14</b>	<b>December 14</b>

RECOMMENDATION

It is recommended the Commission approve the 2016 LAFCO meeting schedule as proposed.

Sincerely,

LOU ANN TEXEIRA  
 EXECUTIVE OFFICER



Lou Ann Teixeira  
 Executive Officer

**MEMBERS**

Donald A. Blubaugh <i>Public Member</i>	Mary N. Piepho <i>County Member</i>
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 Stanley Caldwell  
*Special District Member*

October 14, 2015

October 14, 2015  
 Agenda Item 14

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

**First Quarter Budget Report - Fiscal Year 2015-16**

Dear Members of the Commission:

This is the first quarter budget report for FY 2015-16, which compares adopted and actual expenses and revenues for the period July 1, 2015 through September 30, 2015.

The LAFCO operating budget includes three components: salaries/benefits, services/supplies, and contingency/reserve. The budget is based on the “bottom line,” which allows for variation within line item accounts as long as the overall balance remains positive. Funds may not be drawn from the contingency/reserve without Commission approval.

LAFCO’s budget is funded primarily by the County, cities and independent special districts, with each group paying one-third of the LAFCO budget. The city and district shares are prorated based on general revenues reported to the State Controller’s Office. LAFCO also receives revenue through application fees and interest earnings.

DISCUSSION

On May 13, 2015, LAFCO adopted its final FY 2015-16 budget with total appropriations of \$813,730, which includes an \$80,000 contingency/reserve fund and an annual contribution of \$40,000 to fund the Other Post-Employment Benefits (OPEB) liability.

With 25% of the fiscal year elapsed, the Commission’s first quarter expenditures are \$122,835 or 15% of total appropriations. The Commission budgeted \$407,253 in *salaries/benefits* for FY 2015-16; at the end of the first quarter, actual expenses total \$65,810 or 17% of the total budgeted amount. The Commission budgeted \$286,477 in *services/supplies*; and at the end of the first quarter, actual expenses total \$57,025 or 20%. The \$40,000 payment toward the OPEB liability will be reflected in the FY 2015-16 second quarter budget report.

The primary sources of revenues are local agency contributions, application fees, and interest earnings. Total revenues received during the first quarter are \$759,955 (including fund balance) or 94% of projected revenues. With the exception of one city and one special district, all local agencies have paid their prorated contributions to the LAFCO budget. LAFCO staff is currently working with the Auditor’s Office to collect appropriations from the remaining agencies.

As for application fees, FY 2015-16 application activity is on par with FY 2014-15 activity. During the first quarter of FY 2015-16, LAFCO received one new application; and one application was received during the first quarter of FY 2014-15.

LAFCO is currently receiving no investment earnings, and awaits the County Treasurer’s notice to resume investment activity based on market conditions.

Finally, when available, we budget fund balance to offset agency contributions. The FY 2015-16 budget includes \$150,000 in budgeted fund balance. See table below for a summary.

<b>Account</b>	<b>FY 2015-16 Final Budget</b>	<b>First Quarter Actuals</b>
Salaries & Benefits	\$407,253	\$ 65,810
Services & Supplies	386,477	57,025
Contingency/Reserve	80,000	0
OPEB Trust	40,000	0
<b>Total Appropriations</b>	<b>\$813,730</b>	<b>\$122,835</b>
Agency Contributions	\$651,730	\$ 604,269
Application/Other Revenue	12,000	5,686
Interest Earnings	-	0
Fund Balance	150,000	150,000
<b>Total Revenues</b>	<b>\$813,730</b>	<b>\$759,955</b>

No budget adjustments are recommended at this time. LAFCO staff will continue to closely monitor the budget, and keep the Commission apprised.

RECOMMENDATION

It is recommended that the Commission receive the FY 2015-16 first quarter budget report.

Sincerely,

LOU ANN TEXEIRA  
EXECUTIVE OFFICER



October 14, 2015  
Agenda Item 15

**AGENDA**

**RETIREMENT BOARD MEETING**

SECOND MONTHLY MEETING  
September 23, 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 June 10 and July 23, 2015 Board meetings.

*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 on Real Asset commitment pace.
6. Presentation from staff and Aether regarding proposed Aether IV commitment.
7. Consider and take possible action to commit to Aether IV.
8. Presentation from staff and Siguler Guff regarding proposed Siguler Guff DREOF II Co-investment Fund commitment.
9. Consider and take possible action to commit to Siguler Guff DREOF II Co-investment Fund.

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 authorize the CEO to execute a contract with McLagan for an investment compensation study.
11. Consider and take possible action to accept the actuarial valuation of future annual costs of proposed changes to Other Post Employment Benefits as provided by Milliman.
12. Consider authorizing the attendance of Board and/or staff:
  - a. CRCEA Fall Conference, CRCEA, October 19-21, 2015, Stockton, CA.
  - b. Educational Forum, CalPERS, October 26-28, 2015, San Jose, CA.
  - c. SACRS Fall Conference, SACRS, November 17-20, 2015, San Diego, CA.
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.



**AGENDA**

**RETIREMENT BOARD MEETING**

INVESTMENT STRATEGY DEVELOPMENT  
 WORKSHOP – DAY 1  
 September 29, 2015  
 9:00 a.m.

McHale Room  
 Pleasant Hill Community Center  
 320 Civic Drive  
 Pleasant Hill, California

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

1. Pledge of Allegiance.
2. Accept comments from the public.
3. Presentations regarding Investment Strategy Development.

TIME	TOPIC	PRESENTER
9:00 – 9:15	Workshop Overview: Agenda / Objectives / Ground Rules	S. Whalen
9:15 – 10:00	The Board's Role: Understanding Fiduciary Boundaries	H. Leiderman
10:00 – 10:30	The Importance of Guiding Principles: Developing a Statement of Investment Philosophy – Session I	S. Whalen
10:30 – 10:45	Break	
10:45 – 11:45	What Can We Do Better?: Identifying Institutional Investment Best Practices	A. Monk
11:45 – 12:30	Lunch	
12:30 – 1:30	Historical Attribution: Investigating the Sources of CCCERA's Investment Performance	S. Whalen
1:30 – 2:15	Know Thyself: Behavioral Biases and Their Impact on the Investment Decision-Making Process	S. Whalen
2:15 – 2:30	Break	
2:30 – 3:30	It All Starts Here: Clearly Articulating Plan Goals and Constraints	E. Hoffman
3:30 – 4:30	The Importance of Guiding Principles: Developing a Statement of Investment Philosophy – Session II	S. Whalen
4:30 – 4:45	Re-cap of Day 1 / Preview of Day 2	S. Whalen

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.

4. 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.



**AGENDA**

**RETIREMENT BOARD MEETING**

INVESTMENT STRATEGY DEVELOPMENT  
 WORKSHOP – DAY 2  
 September 30, 2015  
 9:00 a.m.

McHale Room  
 Pleasant Hill Community Center  
 320 Civic Drive  
 Pleasant Hill, California

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

1. Pledge of Allegiance.
2. Accept comments from the public.
3. Presentations regarding Investment Strategy Development.

TIME	TOPIC	PRESENTER
9:00 – 9:15	Introduction to Day 2	E. Hoffman
9:15 – 10:15	Understanding the Role of Asset Classes in an Institutional Investment Portfolio	E. Hoffman
10:15 – 10:30	Break	
10:30 – 12:00	Investment Strategy Selection Stage 1: Asset/Liability Study	S. Whalen
12:00 – 12:45	Lunch	
12:45 – 1:45	Investment Strategy Selection Stage 2: Enterprise Risk Tolerance Assessment	S. Whalen
1:45 – 2:00	Break	
2:00 – 3:30	Investment Strategy Selection Stage 3: Model Evaluation	E. Hoffman
3:30 – 4:00	Conclusion and Next Steps	S. Whalen

4. Consider and take possible action to accept new target asset allocation.
5. 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.



October 14, 2015  
Agenda Item 15

**AGENDA**

**RETIREMENT BOARD MEETING**

FIRST MONTHLY MEETING  
October 7, 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. Routine items for October 7, 2015.
  - a. Approve certifications of membership.
  - b. Approve service and disability allowances.
  - c. Accept disability applications and authorize subpoenas as required.
  - d. Approve death benefits.
  - e. Accept Asset Allocation Report

*CLOSED SESSION*

4. The Board will go into closed session under Gov. Code Section 54957 to consider recommendations from the Medical Advisor and/or staff regarding the following disability retirement applications:

	<u>Member</u>	<u>Type Sought</u>	<u>Recommendation</u>
a.	Daniel Williams	Non-service Connected	Non-service Connected
b.	Troy Auzenne	Service Connected	Service Connected

5. The Board will continue in closed session under Gov. Code Section 54957(b)(1) to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee:  
Title: Deputy Retirement Chief Executive Officer
6. The Board will continue in closed session pursuant to Govt. Code Section 54956.9(d)(1) to confer with legal counsel regarding pending litigation:

*In the Matter of the Estate of Margaret O. Richards, Circuit Court of the State of Oregon, Multnomah County, Case No. 14PB01866.*

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.

*OPEN SESSION*

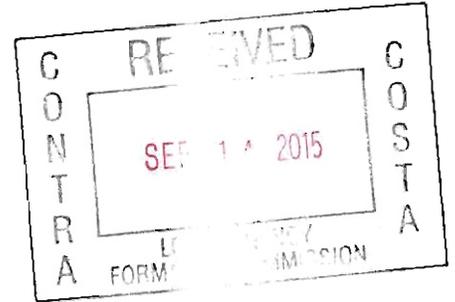
7. Consider and take possible action to accept written acknowledgement that the CEO understands the current and future cost of medical benefit changes for CCCERA employees, as determined by Milliman in its letter of September 18, 2015.
8. Consider and take possible action to adopt the Memorandum of Understanding between Contra Costa County Employees' Retirement Association and United Clerical, Technical & Specialized Employees (AFSCME), Local 2700, for the period of July 1, 2013 through December 31, 2016 with health, dental and vision modifications and authorize Retirement CEO to execute said MOU.
9. Consider and take possible action to adopt Resolution 2015-9 providing for salary and benefits for unrepresented employees of CCCERA effective January 1, 2016.
10. Consider and take possible action to cancel the October 15, 2015 meeting.
11. Consider and take possible action to adopt the CCCERA Procurement of Products and Services policy.
12. 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.

October 14, 2015  
Agenda Item 16

September 10, 2015

Contra Costa LAFCo  
651 Pine Street, 6th Floor  
Martinez, CA 94553



Dear Chair and Commission:

On behalf of the California Association of Local Agency Formation Commissions (CALAFCO), I would like to thank your commission for allowing some of your members and/or staff the opportunity to attend the CALAFCO 2015 annual conference in Sacramento.

We know how lean budgets and resources are and understand that prioritizing expenditures can be difficult. Ensuring you and your staff have access to ongoing professional development and specialized educational opportunities, allows all of you the opportunity to better serve your commission and fulfill the mission of LAFCo. The sharing of information and resources among the LAFCo commissioners and staff statewide serves to strengthen the LAFCo network and creates opportunities for rich and value-added learning that is applied within each LAFCo.

We would also like to thank Commissioner McGill for his dedication and hard work on the CALAFCO Board of Directors.

Thank you again for your participation in the CALAFCO 2015 annual conference, I hope you found it a valuable experience. We truly appreciate your membership and value your involvement in CALAFCO.

Yours sincerely,

Pamela Miller  
Executive Director



## CALAFCO Daily Legislative Report as of Wednesday, October 07, 2015

October 14, 2015  
 Agenda Item 18a

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### [AB 115](#) (Committee on Budget) Water.

**Current Text:** Amended: 6/18/2015 [pdf](#) [html](#)

**Introduced:** 1/9/2015

**Last Amended:** 6/18/2015

**Status:** 9/11/2015-Ordered to inactive file at the request of Senator Mitchell.

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

**Summary:**

Would authorize the State Water Resources Control Board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This bill would authorize the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation.

**Position:** Oppose

**Subject:** Disadvantaged Communities, LAFCo Administration, Special District Consolidations, Water

**CALAFCO Comments:** This bill is the same as SB 88. As amended, AB 115 gives the State Water Resources Control Board (SWRCB) direct authority to mandate either an extension of service or consolidation of water systems, including public and private systems, and individual wells. The bill focuses on disadvantage communities. Prior to ordering the consolidation, the SWRCB must make certain determinations and take certain actions, including conducting a public hearing in the affected territory. They are also required to "consult with and fully consider input from the relevant LAFCo, the PUC, and either the city or county (whichever has land use authority). Entities are allowed 6 months to find workable solutions before the SWRCB mandates the action. Prior to making the order, the SWRCB must make certain determinations. Upon making the order, the SWRCB must make funding available to the receiving water system for capacity building (no operations and maintenance funding is provided, adequately compensate the subsumed system, pay fees to the LAFCo for whatever work they will do (which is as of now undefined) to facilitate the action. The bill also contains certain CEQA exemptions and liability relief for the subsuming water entity, as well as various penalties. Finally, the bill makes legislative findings and declarations as to the reason for the SWRCB to have these powers, which has been taken directly from the legislative findings and declarations of CKH and the reason LAFCos have the powers they do.

CALAFCO has attempted to work with the administration for some time in defining the best possible process for these actions. However, for the most part, amendments proposed have been dismissed. CALAFCO has a number of concerns regarding the proposed process, not the least of which is the language in section 116682 (g) (the way it is worded now, it exempts the entire consolidation process and there is a legal argument that this would divest LAFCO of any authority to complete the consolidation since that authority is solely contained in CKH). Further, we requested indemnification for LAFCo as they implement section 11682(e)(4) which was also dismissed.

### [AB 402](#) ([Dodd D](#)) Local agency services: contracts.

**Current Text:** Chaptered: 10/2/2015 [pdf](#) [html](#)

**Introduced:** 2/19/2015

**Last Amended:** 8/26/2015

**Status:** 10/2/2015-Chaptered by Secretary of State - Chapter 431, Statutes of 2015.

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

**Summary:**

Would establish a pilot program, until January 1, 2021, for the Napa and San Bernardino commissions that would permit those commissions to authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances. This bill contains other related provisions.

**Position:** None at this time

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

**CALAFCO Comments:** This bill creates a 5 year pilot opportunity for Napa and San Bernardino LAFCo Commissions to authorize an extension of services outside boundaries and spheres to support existing or planned uses pending the commission's determination that (1) a service deficiency was identified and evaluated in a MSR; AND (2) the extension of services will not result in adverse impacts on open space or ag lands or have growth inducing impacts.

CALAFCO previously considered (over an extensive period of time) amending GC §56133, and twice (in 2011 and again in 2013) the CALAFCO Board of Directors decided not to pursue those amendments. This is not a CALAFCO sponsored bill. Assembly member Dodd is a former Napa LAFCo Commissioner.

**AB 448 (Brown D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.**

**Current Text:** Introduced: 2/23/2015 [pdf](#) [html](#)

**Introduced:** 2/23/2015

**Status:** 8/27/2015-In committee: Held under submission.

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, and generally provides that each jurisdiction shall be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. This bill would modify these reduction and transfer provisions, for the 2015-16 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

**Attachments:**

[CALAFCO Support Letter March 2015](#)

**Position:** Support

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

**CALAFCO Comments:** As introduced, this bill is identical to AB 1521 (Fox) from last year. 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 2015-16 to include the growth of assessed valuation, including in an annexed area, from FY 2004-05 to FY 2015-16. Beginning in FY 2016-17, the VLF adjustment amount would be the jurisdiction's annual change in the assessed valuation

**AB 851 (Mayes R) Local government: organization: disincorporations.**

**Current Text:** Chaptered: 9/21/2015 [pdf](#) [html](#)

**Introduced:** 2/26/2015

**Last Amended:** 8/18/2015

**Status:** 9/21/2015-Chaptered by Secretary of State - Chapter 304, Statutes of 2015.

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

**Summary:**

Current law authorizes a local agency which is conducting proceedings for the incorporation of a city, formation of a district, change of organization, a reorganization, a change of organization of a city, or a municipal reorganization to propose the adoption of a special tax on behalf of the affected city or district in accordance with this procedure. This bill would additionally authorize a local agency conducting proceedings for the disincorporation of a city to propose the adoption of a special tax on behalf of an affected city in accordance with the above-described procedure.

**Attachments:**

[CALAFCO Letter Requesting Governor Signature](#)

[CALAFCO Support Mar 2015](#)

**Position:** Sponsor

**Subject:** CKH General Procedures, Disincorporation/dissolution

**CALAFCO Comments:** Sponsored by CALAFCO. As amended, this bill addresses the long-outdated statutes relating to disincorporation. Although many other areas of CKH have been updated over the past 52 years, the areas pertaining to disincorporations remain in their original format as written in 1963.

This bill does the following: (1) Clarifies the expectation for assignment of responsibility for debt that will continue in existence after disincorporation; (2) Establishes the parameters and requirements for the submission of the Plan for Service for a disincorporation proposal which outlines existing services, the proponent's plan for the future of those services, and whether or not a bankruptcy proceeding has been undertaken; (3) Establishes the responsibilities of LAFCOs in preparing a Comprehensive Fiscal Analysis for disincorporations, the determination of the transfer of property tax revenues previously received by the proposed disincorporating City, and the determination of the transfer of debt to a successor agency or agencies. Further, the bill retains LAFCOs existing authority to impose terms and conditions on a proposed disincorporation as well as the election requirements necessary for approval of disincorporation. The proposed disincorporation statutory changes use the incorporation provisions as a template to propose changes in the disincorporation process.

**AB 1532 (Committee on Local Government) Local government: omnibus.**

**Current Text:** Chaptered: 7/15/2015 [pdf](#) [html](#)

**Introduced:** 3/23/2015

**Last Amended:** 5/22/2015

**Status:** 7/15/2015-Chaptered by Secretary of State - Chapter 114, Statutes of 2015.

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 formation commission to notify specified state agencies having oversight or regulatory responsibility over, or a contractual relationship with, a local health care district when a proposal is made for any of specified changes of organization affecting that district. This bill would update obsolete references to a "hospital" district and replace outdated references to the State Department of Health Services with references to the State Department of Public

Health and the State Department of Health Care Services.

**Attachments:**

- [CALAFCO Letter Requesting Governor Signature](#)
- [CALAFCO Support Letter March 2015](#)

**Position:** Sponsor

**Subject:** CKH General Procedures

**CALAFCO Comments:** This is the annual Omnibus bill for the Cortese-Knox-Hertzberg Reorganization Act of 2000. This bill makes nonsubstantive technical clean-up corrections to the Act.

**[SB 25](#) (Roth D) Local government finance: property tax revenue allocation: vehicle license fee adjustments.**

**Current Text:** Vetoed: 9/22/2015 [pdf](#) [html](#)

**Introduced:** 12/1/2014

**Last Amended:** 8/28/2015

**Status:** 9/22/2015-Vetoed by the Governor

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

**Summary:**

Would modify specified 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 to Governor Requesting Signature](#)
- [CALAFCO Support March 2015](#)

**Position:** Support

**Subject:** Financial Viability of Agencies

**CALAFCO Comments:** Identical to SB 69 (Roth) from 2014, 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 88](#) (Committee on Budget and Fiscal Review) Water.**

**Current Text:** Chaptered: 6/24/2015 [pdf](#) [html](#)

**Introduced:** 1/9/2015

**Last Amended:** 6/17/2015

**Status:** 6/24/2015-Chaptered by Secretary of State - Chapter 27, Statutes of 2015

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

**Summary:**

Would authorize the State Water Resources Control Board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This bill would authorize the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation.

**Position:** Oppose

**Subject:** Disadvantaged Communities, LAFCo Administration, Special District Consolidations, Water

**CALAFCO Comments:** This bill is the same as AB 115. As amended, SB 88

gives the State Water Resources Control Board (SWRCB) direct authority to mandate either an extension of service or consolidation of water systems, including public and private systems, and individual wells. The bill focuses on disadvantage communities. Prior to ordering the consolidation, the SWRCB must make certain determinations and take certain actions, including conducting a public hearing in the affected territory. They are also required to "consult with and fully consider input from the relevant LAFCo, the PUC, and either the city or county (whichever has land use authority). Entities are allowed 6 months to find workable solutions before the SWRCB mandates the action. Prior to making the order, the SWRCB must make certain determinations. Upon making the order, the SWRCB must make funding available to the receiving water system for capacity building (no operations and maintenance funding is provided, adequately compensate the subsumed system, pay fees to the LAFCo for whatever work they will do (which is as of now undefined) to facilitate the action. The bill also contains certain CEQA exemptions and liability relief for the subsuming water entity, as well as various penalties. Finally, the bill makes legislative findings and declarations as to the reason for the SWRCB to have these powers, which has been taken directly from the legislative findings and declarations of CKH and the reason LAFCos have the powers they do.

CALAFCO has attempted to work with the administration for some time in defining the best possible process for these actions. However, for the most part, amendments proposed have been dismissed. CALAFCO has a number of concerns regarding the proposed process, not the least of which is the language in section 116682 (g) (the way it is worded now, it exempts the entire consolidation process and there is a legal argument that this would divest LAFCO of any authority to complete the consolidation since that authority is solely contained in CKH). Further, we requested indemnification for LAFCo as they implement section 11682(e)(4) which was also dismissed.

**SB 239 (Hertzberg D) Local services: contracts: fire protection services.**

**Current Text:** Enrollment: 9/11/2015 [pdf](#) [html](#)

**Introduced:** 2/17/2015

**Last Amended:** 9/2/2015

**Status:** 9/11/2015-Enrolled and presented to the Governor at 10:45 p.m.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	<b>Vetoed</b>	<b>Chaptered</b>
1st House				2nd House							

**Summary:**

Would, with certain exceptions, permit a public agency to exercise new or extended services outside the public agency's jurisdictional boundaries pursuant to a fire protection contract, as defined, only if the public agency receives written approval from the local agency formation commission in the affected county. This bill contains other related provisions and other existing laws.

**Attachments:**

[CALAFCO Removal of Opposition to No Position Letter](#)

[CALAFCO OpposeLetter April 2015](#)

**Position:** None at this time

**Subject:** CKH General Procedures, Municipal Services

**CALAFCO Comments:** As amended on June 1, this bill sets forth requirements for the application of service extensions relating to fire protection services. The bill calls for a Fire Protection Contract to be submitted with the application. This is required for applications that (1) Transfer greater than 25% of the service area or (2) Changes the employment status of more than 25% of employees of any affected agencies. Prior to submitting the application for service extension, all affected agency employee unions must approve the request and conduct a public hearing; or, provide at least 30 days notice of the public hearing with such notice being sent to each affected public agency and all affected employee unions and shall include a copy of the proposed agreement. The bill requires

contents of the Contract Plan to include: (1) Cost of providing services to be extended; (2) Cost to customers; (3) an ID of existing service providers; (4) Financing plan; (5) Alternatives to the extension; (6) Enumeration and description of services proposed; (7) level and range of services proposed; (8) Timeline for services to be provided; and (9) improvements or upgrades that would be imposed or required to provide services. Further, it requires a comprehensive Fiscal Analysis to be conducted. It further requires the CFA to include (1) Cost to provide services for three years; (2) Cost comparison; (3) Estimated revenue for three years; and (4) Cost/revenue effects to any affected agency. The bill also outlines determinations the commission must make that include the provider of services for the extension of service will build a "reasonable reserve" during the three years following the effective date of the contract.

The bill sets several precedents. First, it requires a California state agency to apply for, and request LAFCo approval prior to undertaking an action that involves the provision of services outside of a public agency's current service area under contract or agreement. Further, the >25% threshold that triggers this kind of scrutiny appears to be an arbitrary threshold with no data to support it. Next, LAFCos currently have exempted the review and approval of contracts or agreements between two public agencies - this bill would change that provision in certain circumstances. Finally, the bill addresses only one type of service provider, which fails to address the question of why the provision of fire protection services, by contract or agreement, outside of a public agency's boundaries, requires a different level of review than other types of equally vital services or demands a heightened or weighted review from any commenter or affected agency.

Many of CALAFCO's concerns have been removed by amendments, however there are some that remain as noted above. At question for CALAFCO members is whether or not the LAFCo should be reviewing and/or approving contracts/agreements between two public agencies, which is a question for which CALAFCO has received divergent positions. As a result, for now, CALAFCO does not have a position on this bill.

**SB 272 (Hertzberg D) The California Public Records Act: local agencies: inventory.**

**Current Text:** Enrollment: 9/11/2015 [pdf](#) [html](#)

**Introduced:** 2/19/2015

**Last Amended:** 9/2/2015

**Status:** 9/11/2015-Enrolled and presented to the Governor at 5 p.m.

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

**Summary:**

Would require each local agency, except a local educational agency, in implementing the California Public Records Act, to create a catalog of enterprise systems, as defined, to make the catalog publicly available upon request in the office of the person or officer designated by the agency's legislative body, and to post the catalog on the local agency's Internet Web site. This bill contains other related provisions and other existing laws.

**Position:** Watch

**Subject:** LAFCo Administration, Public Records Act

**CALAFCO Comments:** As amended, this bill requires all local agencies (including LAFCo) to create a catalogue of enterprise systems used by that agency and make that catalogue available to the public. For purposes of the bill, the author defines enterprise systems as a software application or computer system that collects, stores, exchanges, and analyzes information that the agency uses that is both: (1) is a multi-departmental system or system containing information collected about the public; AND (2) a system of record for

that agency. Further, the bill defines a system of record as a system that serves as an original source of data within an agency. The bill requires certain pieces of information be disclosed including (1) Current system vendor; (2) Current system product; (3) A brief statement of the system's purpose; (4) A general description of categories, modules, or layers of data; (5) The department that serves as the system's primary custodian; (6) How frequently system data is collected; and (7) How frequently system data is updated. The author has agreed to exclude 911 systems.

**[SB 552](#) (Wolk D) Public water systems: disadvantaged communities: consolidation or extension of service.**

**Current Text:** Amended: 7/7/2015 [pdf](#) [html](#)

**Introduced:** 2/26/2015

**Last Amended:** 7/7/2015

**Status:** 7/17/2015-Failed Deadline pursuant to Rule 61(a)(10). (Last location was RLS. on 7/9/2015)

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

**Summary:**

Current law, for purposes of the California Safe Drinking Water Act, defines "disadvantaged community" to mean a disadvantaged community that is in an unincorporated area or is served by a mutual water company. This bill would allow a community to be a "disadvantaged community" if the community is in a mobilehome park even if it is not in an unincorporated area or served by a mutual water company.

**Position:** Watch

**Subject:** Disadvantaged Communities, Water

**CALAFCO Comments:** This bill is being amended as a vehicle to clean-up the water consolidation legislation [passed through as a budget trailer bill, SB 88/AB 115.

**[AB 3](#) (Williams D) Isla Vista Community Services District.**

**Current Text:** Chaptered: 10/7/2015 [pdf](#) [html](#)

**Introduced:** 12/1/2014

**Last Amended:** 9/9/2015

**Status:** 10/7/2015-Signed by the Governor

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

**Summary:**

Would authorize the establishment of the Isla Vista Community Services District by requiring the Board of Supervisors of the County of Santa Barbara to submit a resolution of application to the Santa Barbara County Local Agency Formation Commission, and, upon direction by the commission, place the questions of whether the district should be established and whether a utility user tax should be imposed on the ballot at the next countywide election following the completion of the review by the commission. By imposing new duties on the County of Santa Barbara, this bill would impose a state-mandated local program.

**Attachments:**

[CALAFCO Oppose Unless Amended Letter April 2015](#)

[CALAFCO Letter of Concern Dec 2014](#)

**Position:** Oppose unless amended

**Subject:** LAFCo Administration, Special District Powers

**CALAFCO Comments:** As amended on July 1, the bill requires the Santa Barbara Board of Supervisors (BOS) on or before 1/5/16 to file a resolution of

application with the Santa Barbara LAFCO to initiate a comprehensive review of the formation of the Isla Vista CSD. The LAFCO will not have the authority to make a final determination as to whether or not the CSD should be formed, but rather only make recommendations as to its formation. (This differs from the last version of the bill which did not include the LAFCO at all.) The final authority of whether or not the district shall be formed will stay with the voters. The bill requires the BOS to pay the appropriate fees for the LAFCO review and recommendations. Further, the bill requires the LAFCO to complete the review and make recommendations within 120 days of the filing of the resolution of application. Finally, because the people are voting on the establishment of the CSD, protest proceedings are being waived.

The bill also requires the BOS to place the formation question on the first ballot after LAFCO completes the review, and should the district be formed, the BOS shall then call for a vote on the funding of the district. Setting a precedent, the bill is calling for a utility user tax to fund the district, which shall be determined by 1/1/23. The bill also calls out the special governing structure of the district board, the boundaries of the proposed CSD and the authorities of the CSD.

**AB 707 (Wood D) Agricultural land: Williamson Act contracts: cancellation.**

**Current Text:** Enrollment: 9/10/2015 [pdf](#) [html](#)

**Introduced:** 2/25/2015

**Last Amended:** 8/24/2015

**Status:** 9/10/2015-Enrolled and presented to the Governor at 4 p.m.

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

**Summary:**

Current law provides for the procedure to cancel a contract entered into under specified provisions of the Williamson Act, and provides that the landowner and the Department of Conservation may agree on the cancellation value of the land. This bill would require the department to provide a preliminary valuation of the land to the county assessor and the city council or board of supervisors at least 60 days prior to the effective date of the agreed upon cancellation valuation if the contract includes an additional cancellation fee, as specified.

**Position:** Watch

**Subject:** Ag Preservation - Williamson

**CALAFCO Comments:** As written, this bill repeals the provision that allows cancellation of the valuation of the land.

**AB 168 (Maienschein R) Local government finance.**

**Current Text:** Introduced: 1/22/2015 [pdf](#) [html](#)

**Introduced:** 1/22/2015

**Status:** 5/15/2015-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 1/22/2015)

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

**Summary:**

Current law requires the county auditor, in the case in which a qualifying city becomes the successor agency to a special district as a result of a merger with that district as described in a specified statute, to additionally allocate to that successor qualifying city that amount of property tax revenue that otherwise would have been allocated to that special district pursuant to general allocation requirements. This bill would make nonsubstantive changes to the provision pertaining to property tax revenue allocations to a qualifying city that merges with a special district.

**Position:** Placeholder - monitor

**Subject:** Tax Allocation

**AB 369** (**Steinorth R**) **Local government.**

**Current Text:** Introduced: 2/17/2015 [pdf](#) [html](#)

**Introduced:** 2/17/2015

**Status:** 5/15/2015-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/17/2015)

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

**Summary:**

The Planning and Zoning Law establishes in each city and county a planning agency with the powers necessary to carry out the purposes of that law. Current law sets forth the Legislature's findings and declarations regarding the availability of affordable housing throughout the state. This bill would make nonsubstantive changes to those findings and declarations.

**Position:** Placeholder - monitor

**AB 541** (**Dahle R**) **Big Valley Watermaster District Act.**

**Current Text:** Introduced: 2/23/2015 [pdf](#) [html](#)

**Introduced:** 2/23/2015

**Status:** 5/1/2015-Failed Deadline pursuant to Rule 61(a)(2). (Last location was L. GOV. on 3/5/2015)

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

**Summary:**

Would create a watermaster district with unspecified boundaries within the Counties of Lassen and Modoc to be known as the Big Valley Watermaster District. The bill would generally specify the powers and purposes of the district. The bill would prescribe the composition of the board of directors of the district. The bill would require the district to provide watermaster service on behalf of water right holders whose place of use under an appointed decree, as defined, is a parcel of real property within the district.

**Position:** Watch

**Subject:** LAFCo Administration, Special District Powers, Water

**AB 568** (**Dodd D**) **Reclamation District No. 108: hydroelectric power.**

**Current Text:** Chaptered: 8/7/2015 [pdf](#) [html](#)

**Introduced:** 2/24/2015

**Last Amended:** 5/14/2015

**Status:** 8/7/2015-Chaptered by Secretary of State - Chapter 134, Statutes of 2015.

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

**Summary:**

Current law authorizes Reclamation District No. 1004, in conjunction with the County of Colusa, to construct, maintain, and operate a plant, transmission lines, and other necessary or appropriate facilities for the generation of hydroelectric power, as prescribed. Current law requires proceeds from the sale of electricity to be utilized to retire any time warrants issued for construction of the facilities and otherwise for the powers and purposes for which the district was formed. This bill would grant the above-described hydroelectric power authority to Reclamation District No. 108 until January 1, 2021.

**Position:** Watch

**Subject:** Special District Powers

**AB 656 (Garcia, Cristina D) Joint powers agreements: mutual water companies.**

**Current Text:** Chaptered: 9/3/2015 [pdf](#) [html](#)

**Introduced:** 2/24/2015

**Last Amended:** 6/22/2015

**Status:** 9/3/2015-Chaptered by Secretary of State - Chapter 250, Statutes of 2015.

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

**Summary:**

Would specifically authorize a mutual water company and a public agency to participate in joint powers agreement for the provision of insurance and risk-pooling, technical support, and other similar services for the purpose of reducing risk liability, as specified.

**Position:** Watch

**Subject:** Other

**CALAFCO Comments:** As amended, the bill gives the ability for a mutual water company to enter into a joint powers agreement with a public water agency for the purposes of either risk-pooling or the provision of technical support, continuing education, safety engineering, operational and managerial advisory assistance to be provided to the members of that joint powers agency.

**SB 13 (Pavley D) Groundwater.**

**Current Text:** Chaptered: 9/3/2015 [pdf](#) [html](#)

**Introduced:** 12/1/2014

**Last Amended:** 7/6/2015

**Status:** 9/3/2015-Chaptered by Secretary of State - Chapter 255, Statutes of 2015.

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

**Summary:**

Would specify that the State Water Resources Control Board is authorized to designate a high- or medium-priority basin as a probationary basin. This bill would provide a local agency or groundwater sustainability agency 90 or 180 days, as prescribed, to remedy certain deficiencies that caused the board to designate the basin as a probationary basin. This bill would authorize the board to develop an interim plan for certain probationary basins one year after the designation of the basin as a probationary basin.

**Position:** Watch

**Subject:** Water

**CALAFCO Comments:** While this bill has no direct affect on LAFcos, the formation of groundwater management agencies and groundwater management is of interest, therefore CALAFCO will watch the bill.

**SB 181 (Committee on Governance and Finance) Validations.**

**Current Text:** Chaptered: 6/1/2015 [pdf](#) [html](#)

**Introduced:** 2/9/2015

**Status:** 6/1/2015-Chaptered by Secretary of State - Chapter No. 4, Statutes of 2015

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 2015, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

**Attachments:**

[CALAFCO Letter of Support Mar 2015](#)

**Position:** Support

**Subject:** Other

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

**[SB 182](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Chaptered: 9/3/2015 [pdf](#) [html](#)

**Introduced:** 2/9/2015

**Status:** 9/3/2015-Chaptered by Secretary of State - Chapter 256, Statutes of 2015.

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

**Summary:**

This bill would enact the Second Validating Act of 2015, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

**Attachments:**

[CALAFCO Letter of Support Mar 2015](#)

**Position:** Support

**Subject:** Other

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

**[SB 183](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Chaptered: 7/2/2015 [pdf](#) [html](#)

**Introduced:** 2/9/2015

**Status:** 7/2/2015-Chaptered by Secretary of State - Chapter 45, Statutes of 2015.

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

**Summary:**

This bill would enact the Third Validating Act of 2015, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Attachments:**

[CALAFCO Letter of Support Mar 2015](#)

**Position:** Support

**Subject:** Other

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

**[SB 184](#) (Committee on Governance and Finance) Local government: omnibus bill.**

**Current Text:** Chaptered: 9/4/2015 [pdf](#) [html](#)

**Introduced:** 2/9/2015

**Last Amended:** 6/15/2015

**Status:** 9/4/2015-Chaptered by Secretary of State. Chapter 269, Statutes of 2015.

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

**Summary:**

Current law authorizes specified local entities, including cities, counties, special districts, and other authorized public corporations, to collect fees, tolls, rates, rentals, or other charges for water, sanitation, storm drainage, or sewerage system services and facilities. Under current law, a local entity may collect these

charges on the property tax roll at the same time and in the same manner as its general property taxes, but is required to file a report on these collected charges. Current law requires the clerk or secretary to annually file the report with the auditor. This bill would define "clerk" to mean the clerk of the legislative body or secretary of the entity.

**Position:** Watch

**Subject:** Other

**CALAFCO Comments:** This bill is the Senate Governance & Finance Committee's annual Omnibus bill. This bill is intended to make technical, non-substantive changes to the Government Code outside of CKH.

**[SB 226](#) ([Pavley D](#)) Sustainable Groundwater Management Act: groundwater adjudication.**

**Current Text:** Enrollment: 9/16/2015 [pdf](#) [html](#)

**Introduced:** 2/13/2015

**Last Amended:** 9/3/2015

**Status:** 9/16/2015-Enrolled and presented to the Governor at 4:45 p.m.

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

**Summary:**

Current law authorizes a court to order a reference to the State Water Resources Control Board, as referee, of any and all issues involved in a suit brought in any court of competent jurisdiction in this state for determination of rights to water. This bill would authorize the state to intervene in a comprehensive adjudication conducted as specified in AB 1390 of the 2015- 16 Regular Session. This bill contains other related provisions and other existing laws.

**Position:** None at this time

**Subject:** Water

**CALAFCO Comments:** As amended this bill addresses groundwater rights and is a follow up to the 2014 groundwater legislative package.

**[SB 393](#) ([Nguyen R](#)) Local agencies.**

**Current Text:** Introduced: 2/25/2015 [pdf](#) [html](#)

**Introduced:** 2/25/2015

**Status:** 5/15/2015-Failed Deadline pursuant to Rule 61(a)(3). (Last location was RLS. on 3/5/2015)

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

**Summary:**

Current law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. This bill would make technical, nonsubstantive changes to the above-described law.

**Position:** Placeholder - monitor

**Subject:** CKH General Procedures

**CALAFCO Comments:** This is a spot bill.

**[SB 422](#) ([Monning D](#)) Santa Clara Valley Open-Space Authority.**

**Current Text:** Chaptered: 7/15/2015 [pdf](#) [html](#)

**Introduced:** 2/25/2015

**Last Amended:** 6/18/2015

**Status:** 7/15/2015-Chaptered by Secretary of State - Chapter 99, Statutes of 2015.

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

**Summary:**

Would authorize the Santa Clara County Open-Space Authority to acquire, but not to take by eminent domain, interests in real property that are without the authority's jurisdiction, necessary to the full exercise of its powers. The bill would also authorize the authority's boundaries to be altered by the annexation of contiguous territory, in the unincorporated area of a neighboring county, as provided. The bill would change the name of the authority to the Santa Clara Valley Open-Space Authority and make conforming changes.

**Subject:** Special District Powers

**[SB 485](#) ([Hernandez D](#)) County of Los Angeles: sanitation districts.**

**Current Text:** Enrollment: 9/3/2015 [pdf](#) [html](#)

**Introduced:** 2/26/2015

**Last Amended:** 8/27/2015

**Status:** 9/3/2015-Enrolled and presented to the Governor at 5:45 p.m.

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

**Summary:**

Would authorize specified sanitation districts in the County of Los Angeles to acquire, construct, operate, maintain, and furnish facilities for the diversion, management, and treatment of stormwater and dry weather runoff, the discharge of the water to the stormwater drainage system, and the beneficial use of the water. This bill contains other related provisions.

**Subject:** Special District Powers

Total Measures: 26

Total Tracking Forms: 26

10/7/2015 3:39:14 PM

**CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
PENDING PROPOSALS – OCTOBER 14, 2015**

October 14, 2015  
Agenda Item 18b

<b>LAFCO APPLICATION</b>	<b>RECEIVED</b>	<b>STATUS</b>
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 9/9/15 meeting to 10/14/15
West County Wastewater District Annexation 314 (Park Avenue)	7/21/15	Under review

# Concord: Council signals intent to annex Ayers Ranch

October 14, 2015  
Agenda Item 18c

By Lisa P. White lwhite@bayareanewsgroup.com  
Posted: 09/09/2015 05:39:06 PM PDT

CONCORD -- The City Council on Tuesday adopted a nonbinding resolution to annex the unincorporated Ayers Ranch area so homeowners with failing septic systems may connect to city sewer lines.

Ayers Ranch, a 190-acre area surrounded by the city and bordering the Concord Naval Weapons Station property, includes about 306 residential parcels. Most of the houses were built with septic systems.

Although the resolution establishes a goal of bringing the entire area into the city by 2030, residents will have an opportunity to oppose the move. Councilman Dan Helix voted against the resolution because he supports allowing smaller groups of homeowners to join the city.

Under state law, the Local Agency Formation Commission can approve out-of-agency service extensions only if a threat to public health and safety exists or if the city plans to annex the area. A failed septic system would constitute such a threat, but it could take up to two months for the commission to approve an application to hook up to the city's sanitary sewer lines.

Many Ayers Ranch residents say they want to remain in Contra Costa County to preserve the area's rural character and avoid having to abide by the city's building codes and other regulations. But other homeowners with aging septic systems who don't have room on their small lots to install new aboveground tanks said they want the option of joining Concord.

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

Published **September 9th, 2015**

## Stress on the Front Line and on the Home Front

By *Nick Marnell*

Moraga-Orinda Fire District firefighters hold the Rocky Fire south of Highway 20 near Clearlake

brush, with hand tools and chain saws, fighting fire with fire." Woods said that his crew did not use a gallon of water. The ConFire team was the first arriving outside resource. "There was a lot of fire, and nobody there," said Woods. The fire fell under the jurisdiction of the Six Rivers National Forest Gasquet ranger district, which put the crew up at a campground. "The first two days, we ate military rations," said Woods. "No showers, nothing. Three days later, as the incident ramped up, they brought in caterers, laundry units, medical units. The area turns into a makeshift city." Welcome additions were the semi-trailers that housed over a dozen shower stalls.

Woods, a 20-year veteran whose children are grown, has served on many strike teams. "At the King Fire, I didn't talk to my family for six straight days," he said. "Little kids get used to seeing dad being gone for three days or so, but after five or six, family stress starts to build in."

MOFD

That sentiment was validated by Moraga-Orinda Fire District captain Jon Bensley, who returned in mid-August after nine days on a strike team. "We can talk about the Rocky Fire, but the bigger story is what the families go through when we're gone," he said.

Bensley, 33, has two daughters, 2 and a half and 5 months old. "The sacrifice we put in pales in comparison to what goes on at home," he said. "Our wives have the hard job. It's lonely, and they have to hold down the fort and be strong. Thousands of firefighters are out there now, and each one of them has a family back home that is pretty worried. Especially the young families." Bensley's older daughter experienced nightmares while he was away, which his wife attributed to his absence.

But once he received his assignment, Bensley was eager to get to work. His crew checked in at the Lakeport command center, a 30-minute drive from the fire activity. His task at the Rocky Fire was to contain the fire at Highway 20, north of Clearlake, about 100 miles north of Lamorinda. The

When you talk to firefighters from either of the Lamorinda fire agencies who left the area to fight California wildfires this season, you realize that the fires affect not only those at the incident but those whom the firefighters leave behind.

ConFire

The call came at 2 a.m. and in 30 minutes Contra Costa County Fire Protection District captain David Woods and his team headed to Del Norte County to tackle the Gasquet Fire, a 17,000-acre wildfire set off by lightning strikes in the wilderness outside Crescent City.

"Have you ever driven up 101? In a fire engine?" said Woods. The crew of four responded Aug. 1 to the emergency call in the state system and would spend nine days away, then relieved by another ConFire crew.

"It's a completely different experience than at ConFire," he said.

In a house fire firefighters can see where the fire is going, and the crews can go right in and fight the fire head on. "In the wilderness, you're watching the weather conditions, the wind patterns, the footing is different. You can't see where the fire is. We're cutting through steep timber, heavy

fire burnt through nearly 70,000 acres. "It was unprecedented," said Bensley. "The most extreme fire behavior I have ever seen." The fire ripped through a computer model that predicted a section would take seven days to grow. It took 12 hours.

Two firefighters were killed this year fighting wildfires in California. "When we lose one of our own, it humbles you, makes you take pause," he said, his eyes welling up, staring away. "Those guys were just like us, going to fight fires, and they thought they were fine. Then, something went wrong. We know it could happen any day, and I think it's felt most at home."

Bensley sent his wife a photo of the fire from the front line, but he did not get the reaction he expected. "It really upset her," he said. "We have no phone service at times, my wife hears the news about a firefighter that went down, news is not getting out quickly enough, the imagination runs wild, she panics."

Yet both firefighters left no doubt that they love what they do. "We don't like the uncertainties of our job, but we are happy to do the greatest amount of good we can with the training and preparation we've received," said Bensley.

"I have my bag in my car, ready to leave today," said Woods.



MOFD captain Jon Bensley and firefighter Chris Matthews pictured (right). Photos provided

## Agencies Recognized by State LAFCO for Working Together

Posted: Thursday, September 10, 2015 12:00 am

The California Local Agency Formation Commission (CALAFCO) presented its “Government Leadership Award” to six Tri-Valley agencies for “working together and furthering good government efforts in the Tri-Valley.” The six agencies are the cities of Dublin, Pleasanton, Livermore and San Ramon, the Dublin San Ramon Services District, and the Zone 7 Water Agency.

Together, these six agencies provide services related to drinking water (potable), recycled water, wastewater, and storm water to approximately 277,000 people living and working in the Tri-Valley (located in eastern Alameda County and southern Contra Costa County).

While each agency has its own policies, practices, contracts, investments, and expertise, they studied ways to coordinate and integrate how they provide the various water services to their constituents. The process included more than 30 local elected officials (mayors, council members, board members) and senior staff (general managers, assistant general managers, city managers, assistant city managers, and public works directors). The study identified 15 opportunities for functional or service-level coordination and integration and additional options for longer-term integration.

As part of this study process, the participating agencies established the “Tri-Valley Intergovernmental Reciprocal Services Master Agreement,” which makes it easier for two or more agencies to coordinate contracting for services and sharing resources and materials. For example, the agencies might share landscape maintenance personnel and equipment, or they might share water and sewer line video personnel and equipment (to examine pipelines for repairs and replacement).

The goal of the agreement is to take advantage of opportunities to save money by sharing equipment, personnel, and other resources. This directly translates into savings for Tri-Valley ratepayers and taxpayers. With the ink barely dry on the Tri-Valley Intergovernmental Reciprocal Services Master Agreement, there is a new signatory, the Livermore Area Recreation and Park District.

Each county in California has a LAFCO office that oversees the formation and development of local governmental agencies within the county.

# Contra Costa Times editorial: Retirement board wisely cuts pension-spiking Bay Area fire chief's \$241,000 payout

Contra Costa Times editorial © 2015 Bay Area News Group

Posted: 09/09/2015 04:59:31 PM PDT Updated: 112 min. ago

[Click photo to enlarge](#)



Pete Nowicki, retired chief of the Moraga Orinda Fire District, holds up charts to the Contra...  
[Related Stories](#)

Six years after an East Bay fire chief egregiously inflated his pension, the Contra Costa retirement board on Wednesday rolled it back 28 percent.

The audacity of the boost had earned local, state and national attention, making retired Chief Peter Nowicki a poster child for pension-spiking and his case a leading example of why reform was desperately needed.

At age 50, he retired in 2009 from the tiny Moraga Orinda Fire District and traded his \$194,000 salary for a starting pension of \$241,000 a year.

That was made possible because he and his fire board secretly negotiated last-minute contract changes that were finalized just three days before he publicly announced his departure.

"It's self-dealing by someone who knew he was going to retire," Scott Gordon, a trustee of the Contra Costa County Employees' Retirement Association, succinctly concluded Wednesday as the pension board voted 7-0, with two abstentions, to give Nowicki a giant financial haircut.

It was the right move. The present value of Nowicki's past and expected future pension payments was about \$6 million. The 28 percent reduction, retroactive to 2009, will wipe out about \$1.7 million of that.

Ironically, changes to state law prompted by cases like Nowicki's sparked the retirement association's re-examination of past instances of suspected abusive spiking. That led to this year's investigation of his case.

Before acting, the pension board gave Nowicki an opportunity to defend himself. But the more he talked, the worse his story seemed to get. He acknowledged that he and trustees had directly discussed and negotiated his compensation in closed session, a violation of the state's open-meeting laws.

The law permits local government boards to meet with a designated representative during contract negotiations, but it forbids closed session bargaining directly between an elected board and an affected employee.

Nowicki said he hadn't decided to retire until after his fire board had approved his contract changes, but documents show he had already contacted the retirement association with his planned departure date.

Nowicki claimed the contract amendments were designed to fulfill a promise from 2006, when he became chief, to increase his compensation above that of his battalion chiefs. But the fire district's salary sheets show he was already paid far more.

Moreover, he admitted that the supposed promise by a fire board member was never put in writing, while the contract he signed in 2006 clearly specified that it superseded any other written or oral agreements.

We suspect we haven't heard the last from Nowicki. He might sue. He's unlikely to prevail.

## Danville: Appeals court issues split ruling on controversial development near Mount Diablo

By Dan Lawton [dlawton@bayareanewsgroup.com](mailto:dlawton@bayareanewsgroup.com)

Updated: 09/11/2015 10:58:19 PM PDT

ContraCostaTimes.com

DANVILLE -- A state appeals court on Friday partially overturned a lower court's decision that Danville violated the law when approving a controversial residential development near Mount Diablo, likely clearing the way for the project to go forward.

The court agreed that town planners gave inadequate consideration to bicycle safety when performing an environmental assessment for the 69-home SummerHill Homes project, but overturned a previous ruling that the project was improperly zoned and violated the town's general plan.

"It's a partial win," said Stuart Flashman, the attorney representing Save Open Space Danville, a group of residents that filed the lawsuit.

Flashman said if SummerHill wanted to pursue the development, it would have to redo the environmental assessment.

Rob Ewing, an attorney for the town, said he was happy with the ruling and that the town would soon begin the process of reexamining bicycle safety on the road.

"I think the key points are that the town applied their zoning correctly," Ewing said.

The ruling is the latest turn in the road for the development, which was initially proposed in 2010.

In reaction to heated opposition from residents, SummerHill significantly altered the project to cluster the homes, preserving about 400 acres for open space.

That move won the developer support from the Town Council and the environmental group Save Mount Diablo.

But a group of residents, with concerns about the project's environmental footprint, formed Save Open Space Danville and filed a lawsuit.

Mary Ann Cella, the group's spokeswoman, issued a statement expressing frustration with the court's ruling.

"The appellate court's decision on the rezoning issue is a blow to democracy and the public's right to rely on voter-enacted measures that seek to protect the right to public vote and open space," she said.

The decision was made by justices Jim Humes, Sandra Margulies and Robert Dondero.

Contact Dan Lawton at 408-921-8695. Follow him at [Twitter.com/dlawton](https://twitter.com/dlawton).

## Daniel Borenstein: Pension-spiking Bay Area fire chief's comments suggest conflict of interest and illegal secrecy

Updated: 09/13/2015 08:48:19 AM PDT

ContraCostaTimes.com

- Aug 20:
- [Contra Costa Times editorial: Obama should end attack on Gov. Brown's pension changes](#)
- Aug 18:

Nowicki was 50 when he retired in 2009 from the Moraga-Orinda Fire District, trading his \$194,000 salary for a \$241,000 starting annual pension. Six years later, on Wednesday, trustees of the Contra Costa County Employees' Retirement Association ruled that he had improperly boosted his payout and they reduced it 28 percent.

There's a lot of taxpayer money at stake: The present value of Nowicki's past and expected future pension payments was about \$6 million. The retroactive reduction will cut that by \$1.7 million.

But before the pension board ruled, Nowicki made a nearly four-hour presentation seeking to keep his windfall. His account raised questions about not only his own behavior, but that of fire district directors and their attorney, Steven Meyers.

Nowicki was appointed chief in 2006 under a four-year contract. In 2008, he and the board negotiated two amendments that included backdated pay hikes, increases of paid holidays and vacation, and greater ability to convert unused leave to cash, enabling him to significantly inflate his pension.

The fire board approved the second amendment in open session three days before Nowicki publicly announced that he would soon retire. But, as Nowicki revealed Wednesday, he and the board had negotiated the amendments in closed-door sessions before directors rubber-stamped them publicly.

That would violate the state's open-meeting law. The law permits local government boards to meet privately with their negotiators during contract bargaining but forbids closed-session compensation talks directly between a board and affected employees.

The law also requires public notice of closed-door discussions about negotiations, but the board's 2008 agendas contained none pertaining to Nowicki.

The secrecy wasn't the only problem. Nowicki "improperly participated in the formation of a contract in which he was financially interested as an official," said attorney Michael Martello, a government ethics expert. That would violate the state's conflict-of-interest rules, which can carry civil and criminal penalties.

For all this, Nowicki told the retirement board on Wednesday, Meyers was present. "We've always had legal counsel in the room," he said. Citing attorney-client privilege, Meyers declined to answer questions except to say the district complied with the open-meeting law.

As for why the fire board approved Nowicki's contract amendments, Director Fred Weil said it fulfilled a prior promise. Weil, the only board member from 2008 still serving today, wrote in 2012 that Nowicki was promised when he became chief that he would do better financially than his battalion chiefs. The changes, Weil wrote, ensured his pension was greater than theirs.

Nowicki made a similar argument Wednesday, saying he had a "gentlemen's agreement" with his predecessor and a fire board director that his leave accrual benefits would be later increased.

Nowicki admitted he had no written documentation supporting that claim. Indeed, his contract states that it "specifically supersedes any prior written or oral agreements between the parties." Moreover, fire district documents show Nowicki's base salary a year after he took the job was 21 percent more than the top-paid battalion chief.

The board's 2008 approval of retroactive compensation may have also violated the state constitution. While a labor group with an expired contract may bargain a new deal effective back to the expiration date, Nowicki had a contract in effect.

"He did not earn the right to these retroactive increases at the time he rendered service," concluded the retirement board's attorney, Harvey Leiderman. "In fact, he did not 'earn' them at all, but was simply gifted them."

Finally, there's the issue of whether fire district directors knew Nowicki planned to retire when they granted him retroactive benefits. Nowicki claimed he hadn't decided to leave until after the second contract amendment was finalized.

But his dates didn't jibe and his story kept changing. At one point, trying to make his timeline plausible, he claimed, "I had this final mind-blowing epiphany that this is what I'm going to do."

Six years ago, however, three fire board directors said they knew of Nowicki's retirement plans before they approved the final contract amendment in December 2008.

Indeed, Nowicki apparently made up his mind as early as September 2008. Then, and again in October 2008, he sent emails to the retirement association indicating plans to retire in early 2009.

In November 2008, Nowicki wrote that he would be retiring Jan. 30 and sought calculation of his spiked pension. He enclosed the secretly negotiated second contract amendment, which he said was final. The deal had not been released but Nowicki wrote that it "will be approved and signed by the Board of Directors on December 10th."

Then, in another apparent conflict of interest, Nowicki, in a Nov. 27 staff report for that Dec. 10 meeting, recommended approval of his own contract amendment. He provided no analysis of the cost or pension implications of the deal. And he withheld release of the contract amendment itself, saying it would be presented "as a handout" at the meeting, ensuring no time for public review.

To reduce Nowicki's pensions, retirement board members did not have to find that laws had been broken, only that, in their judgment, his payout had been "improperly increased."

For one member, Scott Gordon, a public law attorney, it wasn't a close call. "It's self-dealing by someone who knew he was going to retire."

Daniel Borenstein is a staff columnist and editorial writer. Reach him at 925-943-8248 or [dborenstein@bayareanewsgroup.com](mailto:dborenstein@bayareanewsgroup.com). Follow him at [Twitter.com/borensteindan](https://twitter.com/borensteindan).

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# Five-alarm blaze erupting at East Contra Costa Fire District

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**By Assemblyman Jim Frazier**

Since East Contra Costa Fire District directors voted to lay off staff and close two more stations, I have heard from residents worried that three stations and 27 firefighters aren't enough to cover more than 100,000 people in a 249-square-mile area.

I agree with them. I've been worried about this since the district was turned over to local control in 2010 and I was appointed to the first board to represent the interests of my hometown, Oakley.

In 2010, the district had eight stations, 53 firefighters and a gaping hole in its budget caused by a downturn in the real estate market. Frankly, the recession put the final nail in the coffin of the fire district.

The fire district is funded entirely by property taxes, per 1978 passage of Proposition 13. In 1978, the region was mostly rural and fire service was mostly provided by volunteers. Officials at the time had to decide what share of property taxes fire districts needed to maintain their operations. They set the rate for rural districts at 5 percent. Neighboring urban fire districts were given larger shares.

This is why people who live in the East Contra Costa Fire District pay the same property taxes as their neighbors but receive less service.

In Oakley, Bethel Island, Brentwood, Byron, Discovery Bay and Knightsen, only 5 percent of property tax revenue goes toward fire protection. Fire districts covering Antioch, Pittsburg, Concord and Walnut Creek receive 13 to 16 percent of the revenue collected.

How do we go about changing that distribution of property tax? Only by changing Proposition 13, and there is very little political

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The fire board ... asked taxpayers, twice, to vote to provide another source of revenue. Both times, voters turned down ballot requests to charge themselves about \$8 more a month for fire service. Without additional revenue, the fire district board had no choice but to close more stations and lay off more firefighters.

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will to do that. I would consider legislation regarding the distribution of property tax if each city, school and special district in Contra Costa County agreed to a redistribution of revenue. Perhaps the task force of city and county leaders discussing this issue would consider such an option?

The district has been kept afloat through FEMA grants, which are no longer available. Even if they were, temporary grant funding is no way to run a permanent department.

Faced with falling revenue and disappearing reserves, the East Contra Costa Fire District board has done what every family does when faced with a similar crisis: It cut expenses and looked for other sources of income by closing fire stations, letting employees go, reducing salaries and insisting that employees pay a larger share of their benefit costs.

The fire board also asked taxpayers, twice, to vote to provide another source of revenue. Both times, voters turned down ballot requests to charge themselves about \$8 more a month for fire service. Without additional revenue, the fire district board had no choice but to close more stations and lay off more firefighters.

The district relies on mutual aid responses from surround-

ing fire departments to provide basic service. But how much longer will our neighbors bail us out when our district can't reciprocate?

And unlike other urban fire departments, the East Contra Costa district never did generate enough revenue to add paramedics to its services. Basic emergency medical aid is all it provides. That's troublesome, considering our area's aging population.

As a homeowner, I am as worried as every other district resident that my insurance rates are going to skyrocket and, worse, that my property won't be adequately protected if a fire sweeps through. As a parent whose daughter's life was saved by firefighter-paramedics, I am concerned that advanced lifesaving techniques aren't routinely available to me or my neighbors.

The hard truth is that fire districts are funded by local assessment with residents who use the services paying the fee. Right now, the assessment does not cover the needs. The fire district is currently living within its means and we are getting exactly what we're paying for. The question remains: Is it enough?

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*Jim Frazier represents parts of Contra Costa and Solano counties in the California Assembly.*

DROUGHT

## Napa to grapple with selling water beyond city limits



SEPTEMBER 13, 2015 7:00 AM • BY HOWARD YUNE

While state and city cajole Napans to use less water during the drought, how much water should be sold for use beyond the city limits?

Napa officials will soon begin tackling the regulation of bulk water sales to homeowners, grapegrowers and other destinations in the unincorporated county, a small but highly visible phenomenon in a city that has said it lowered its consumption by more than 25 percent in recent months.

The City Council is scheduled to discuss on Tuesday a possible policy governing the sale of water from metered, city-owned hydrants to out-of-city sites that receive deliveries by tanker truck. Afterward, city staff is expected to consult with county planning officials before crafting a policy for a council vote.

Customers relying on imported water account for only a fraction of the 12,400 acre-feet (an acre-foot equals 325,851 gallons) the city provides each year, according to Phil Brun, deputy director of public works.

While about 2,000 acre-feet of city water goes to customers outside Napa, the bulk of those buyers are long-term customers like the Silverado Resort and Spa and property owners in Monticello Park and Congress Valley, who receive conventional metered, piped service.

Bulk water sales totaled only 92 acre-feet in the 2014-15 fiscal year and 99 acre-feet the year before, records show. But those figures were double the 46 acre-feet in 2012-13, when the statewide drought was beginning.

Construction companies inside Napa typically buy 15 to 20 acre-feet of water a year to control dust on building sites, officials said. The rest is used to supply homes, vineyards and The Carneros Inn, the only commercial user of trucked-in city water.

Truck deliveries serve properties beyond the reach of municipal water pipes, but increasingly have sustained homes and farmland where wells have run dry during the drought, now in its fourth year. In January, Kevin Bingham, who founded Bingham's Potable Water Delivery in Napa, said his customer roll has grown to 300, from five when he started the company in 2009.

Unlike an extension of piped service – which requires approval from the county's Local Agency Formation Commission (LAFCO) to guard against development sprawl – no policy currently limits the sale of water through city hydrants for outside use. But LAFCO, which includes members of the City Council and the Board of Supervisors, has encouraged new development to have reliable supplies on site and use truck shipments only for emergencies and short-term needs.

Napa has treated water delivery as a sale of its surplus property, which the city can interrupt, rather than a service it must keep providing as long as customers pay their bills, Brun wrote in a memo to the council. While the city can sell surplus water without LAFCO's permission, it must get the commission's approval to extend those sales to "any project that will support or induce development," he said.

LAFCO discussed regulating water deliveries in December but took no immediate action, as city officials admitted an abrupt end to bulk sales would be impractical. "We're trying to be sensitive to the impact that just shutting off that water would have economically on the lives of people who are getting the service," City Manager Mike Parness told the commission at the time.

Possibilities outlined by public works officials include setting up recurring water sales to certain

properties on health and safety grounds; limits on annual water sales for irrigation or a one- to two-year limit per property; a yearly cap on residential water sales; and limiting out-of-city sales to existing development.

### **If you go**

#### **Napa City Council meeting**

- Tuesday, 3:30 p.m. (afternoon session) and 6:30 p.m. (evening session, including trucked water discussion)
- City Hall, 955 School St.
- Agenda: <http://bit.ly/1Kc49V3>

Contra Costa Times

9-14-15

## Editorial

### **Pension-spiking debacle demands an outside inquiry**

Confronted with new revelations about the spiked pension of retired Chief Peter Nowicki, Moraga-Orinda Fire District directors must decide whether to circle the wagons or ensure residents receive the full independent investigation they deserve.

Thus far the district's official reaction has been pathetic.

Six years ago, Nowicki left his \$194,000 salary for a \$241,000 annual pension, subsequently increased by cost-of-living adjustments to \$277,000. Last week, trustees of the Contra Costa County Employees' Retirement Association trimmed the payout back by 28 percent.

They ruled that two final-year amendments to Nowicki's contract that inflated his pension were improper. The biggest, in December 2008, came three days before he announced his retirement.

The present value of Nowicki's past and expected future pension payments was about \$6 million. The retroactive reduction will cut that by \$1.7 million. If not for the retirement association, the fire district would have been on the hook for that. Yet the fire district claims this is not their concern.

"The district's position is this is a matter between CCCERA and one of its members. At the moment, we're not taking any kind of position," said one of the fire district's attorneys, John Bakker, in comments later echoed by board President Alex Evans.

And then, compounding the insult to Orinda and Moraga residents, Bakker added, "the board approved the December 2008 agreement in open session. I think that speaks for itself."

It's an unconscionable position. This mess was enabled by past and one current fire board member, Fred Weil. Moreover, the notion that open session approval of the final contract amendment makes it all OK is outrageous.

As the retirement association investigation and Nowicki's own testimony show, the public approval was merely a rubber stamp following a series of illegal closed sessions.

Details about the deal were withheld from the public until the last possible moment. Claims by Weil that it fulfilled a past oral promise ignore the actual written wording of Nowicki's contract. Nowicki's direct involvement in his own contract formation may have violated conflict-of-interest laws. And the retroactivity of the Nowicki amendments seemingly runs afoul of the state Constitution.

Yet the fire board is turning for legal advice to the same law firm that oversaw the 2008 debacle. Bakker's senior partner, Steven Meyers, was present then and should now be recusing himself and his firm.

Four of the five fire board directors weren't around in 2008. They can continue to rely on Weil's and Meyers' accounts and advice. Or they can order an outside investigation, waive the district's attorney-client privilege and direct Meyers to publicly explain what happened.

Residents deserve the full story.

# Rainbow water district wins merger battle

## LAFCO vote kills Fallbrook's attempt to absorb neighbor



(/staff/j-harry-jones/)

By J. Harry Jones (/staff/j-harry-jones/) | 4:29 p.m. Sept. 14, 2015



Fallbrook Public Utility District attempt to merge with Rainbow is defeated. — *J. Harry Jones*

**DOWNTOWN SAN DIEGO** — A bitterly contested plan to consolidate two small North County water districts was nixed Monday by the county's Local Agency Formation Commission in a decision cheered by hundreds of rural water customers who fought the proposal.

The move bucked a county staff recommendation that the Fallbrook Public Utility District and the Rainbow Municipal Water District join forces as a way to save money and increase efficiency. The Fallbrook agency wanted the merger but the Rainbow district has fought it for 18 months.

In a 5-3 vote, the LAFCO board said the need to consolidate wasn't there, the savings weren't great enough, and the people simply didn't want it.

Hundreds of Rainbow district residents cheered wildly as the vote was recorded inside the Board of Supervisors chambers in downtown San Diego. LAFCO Chairman Bill Horn said in his 21 years on the panel — which usually operates in relative anonymity — it was by far the largest and longest hearing.

Dozens of speakers urged the commissioners to deny Fallbrook's application, saying they wanted to retain local control and that Rainbow's largely agricultural ratepayer base would be underrepresented by a bigger water district.

Horn, who also represents the area on the County Board of Supervisors, set the tone during deliberations.

"Usually when we are trying to consolidate we are trying to resolve a problem," Horn said. "In this case I am hard pressed to find a problem. At this point I'm going to err on the side of local control."

Member Dianne Jacob, also a supervisor, agreed saying it was clear to her that ratepayers in the Rainbow district's service area were opposed to what they called a "hostile takeover."

"Why are we even considering this when the people clearly don't want it?" she asked. "Big is not necessarily better. Aren't we a government of the people by the people?"

LAFCO Executive Officer Michael Ott had recommended the merger go through, estimating it would save a bit more than \$2 million a year in reduced administrative and other costs. The Rainbow board disputed those estimates.

After the vote, Ott said the board's decision will probably also discourage other water districts from consolidating.

With the Fallbrook-Rainbow proposal dead, "there are no other (water district) mergers on the horizon," he said.

In 2012, the two districts had agreed to combine resources and began working together under a Joint Powers Agreement. But after one year Rainbow backed out of plans to make the merger permanent, saying it was unsatisfied with how a new governing board would be elected.

Convinced the savings would be significant for both districts, Fallbrook officials applied to LAFCO to force the merger without Rainbow's knowledge or cooperation. While the county agency has overseen hundreds of special district mergers over the years, only a handful have ever been so controversial.

The specifics of the proposed merger outlined in Ott's final report seemed to solve the governance problem by suggesting the new board be elected by geographic district. By that time, however, Rainbow's leadership said they wanted nothing to do with the plans.

Rainbow hired lawyers to fight the proposal and public relations operatives to sell its message to ratepayers.

Fallbrook General Manager Brian Brady on Monday called the vote very disappointing "given the undisputed customer savings." He thanked LAFCO's staff for "their hard work over the past 18 months and support for a merger."

After the vote an ecstatic Rainbow General Manager Tom Kennedy high-fived supporters in the hallway.

"We're happy the commission saw through the information they were given and saw fit to let the Rainbow voters remain independent," Kennedy said.

"We believe there are opportunities to save money between public agencies but forcing a merger was not the way to go. It was only going to cause more problems in the future." He said the chances of Fallbrook and Rainbow getting together in the near future aren't likely. "Anything's possible," he said. "But the waters have been pretty muddied."

The three commissioners who voted for the merger were Sam Abed, Andy Vanderlaan and Ed Sprague. Voting against were Horn, Jacob, Lorie Zapf, Jo MacKenzie and Lorraine Wood.

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# Local fire agencies agree to cut back on medical aid response

By Rowena Coetsee

[rcoetsee@bayareanewsgroup.com](mailto:rcoetsee@bayareanewsgroup.com)

Posted: 09/15/2015 01:37:34 PM PDT Updated: about 24 hours ago

BRENTWOOD -- The two fire agencies serving East Contra Costa residents recently struck a new automatic aid agreement that aims to have them share the load more evenly but will further erode medical services to residents here.

For years the financially strapped East Contra Costa Fire District has relied heavily on neighboring Contra Costa County Fire District to provide additional engines when it lacked the necessary manpower to tackle a fire or medical emergency.

Con Fire has come to the rescue more often than the other way around, a lopsided state of affairs that worsened dramatically this spring when voters rejected a benefit assessment that East Contra Costa Fire had proposed. As a result, the district closed two stations, leaving only three to serve approximately 249 square miles.

To meet industry standards, fire districts must send five engines -- that equates to 15 firefighters and a battalion chief -- to a one-alarm structure fire, East Contra Costa Fire Chief Hugh Henderson said.

But his agency now has only nine firefighters available at any time, which means that two Con Fire engines are summoned every time a building goes up in flames, he said.

The numbers underscore the glaring disparity: From June through August, the computerized dispatch system sent Con Fire on 159 calls to East Contra Costa and with 212 of its engines. By contrast, East Contra Costa Fire responded to 64 requests from Con Fire, reciprocating with 74 engines.

"You can't depend on your neighbor 24/7," said Henderson, who proposed the revised agreement.

As of Sept. 1, his agency has been cutting back on the number of times it requests Con Fire's help on medical calls, reserving that source of help for emergencies that require multiple engine companies such as extricating accident victims trapped in a vehicle.

An ambulance will respond to minor incidents but neither agency will provide a fire engine.

In more serious cases, East Contra Costa Fire crews will show up along with an ambulance if they're available. If not, it's up to the paramedics to decide whether they need Con Fire's intervention.

Only in medical crises that are a matter of life and death will the auto-aid system automatically dispatch Con Fire if East Contra Costa Fire doesn't have the personnel.

The idea is to reduce the number of times that Con Fire engines have raced out of a station only for the ambulance crew that's already at the scene to cancel the call because they can handle the situation themselves.

Henderson predicts that by his agency cutting back on medical aid calls to Con Fire will all but eliminate the disparity between the number of times each helps the other.

But he doesn't think the agreement will solve the imbalance in the actual resources they share.

His district always will need two Con Fire engines for every structure fire, whereas Con Fire's emergencies typically require East Contra Costa Fire to share just one of its engine companies, Henderson said.

The two fire districts will revisit the agreement after it's been in effect for 60 days.

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

# Village News

## LAFCO rejects FPUD – Rainbow Water merger

By [Joe Naiman](#) on **September 15, 2015**

San Diego County's Local Agency Formation Commission voted 5-3 September 14 to reject the proposed consolidation of the Fallbrook Public Utility District and the Rainbow Municipal Water District.

County Supervisor Bill Horn, County Supervisor Dianne Jacob, Carlsbad City Council member Lorraine Wood, San Diego City Council member Lorie Zapf, and Vista Irrigation District board member Jo MacKenzie cast votes in favor of the motion to reject the merger. Escondido mayor Sam Abed, Olivenhain Municipal Water District board member Ed Sprague, and public member Andy Vanderlaan voted in favor of the merger.

"I don't see any benefit to ratepayers. Rainbow as a district is financially sound. It's not broken," Jacob said. "Usually when we consolidate we are trying to solve a problem. In this case I am hard-pressed to find a problem," Horn said. "I'm going to err on the side of local control. It think it's important," Horn said. "I think both districts are managed fairly well."

"It's clear to me that there's a lot of unresolved issues, a lot of disagreement," Jacob said. "They just don't want this merger flat out," Jacob said. "The people that would be affected don't want it."

"I do believe in the merger, but I don't believe in it right now," Wood said. "The dispute on governance should not trump the savings to the ratepayers," Abed said. "The savings will benefit the ratepayers."

"I do not see that there would be a substantial cost savings, either," Jacob said. Jacob noted that the claimed economic savings were in dispute. "I did not see that either the Rainbow Municipal Water District or Fallbrook ever adopted the draft consolidation study nor did they confirm the contents of that," she said. "There's a difference between the words accepted and adopted."

Jacob has been on the LAFCO board since January 1993. "I have not seen a proposed consolidation merger that has been this controversial," she said. During Jacob's tenure LAFCO has approved three consolidation proposals favored by one affected agency's board and opposed by the other governing body: the 1994 merger between FPUD and the Fallbrook Sanitary District, the 2004 elimination of the Tia Juana Valley County Water District whose area is now served by the City of San Diego water department, and the dissolution of the Lower Sweetwater

Fire Protection District in Lincoln Acres which would have been replaced by a county service area had a 2002 election not nullified the dissolution. “It didn’t go because the people overturned the commission,” Jacob said. Because a fire protection district and a city fire department cannot legally merge, functional consolidation including automatic aid and dispatch service sharing is common with the fire service. “There’s other ways to do this,” Jacob said of FPUD and Rainbow achieving shared efficiencies. “If we just leave them alone I think there’s a better probability of that happening.”

FPUD and Rainbow began discussing consolidation in early 2012. The individual districts formed ad hoc committees, and that year the two district boards individually agreed to a consolidation study. The North County Joint Powers Authority was created in February 2013 as a transitional structure to test the possibility of consolidating the Fallbrook and Rainbow districts. The functional consolidation allowed for the experience of combining tasks among the two districts without a jurisdictional consolidation while also creating the possibility that the districts could experience cost savings due to such sharing without governance consolidation. The first North County JPA meeting took place in March 2013, and FPUD general manager Brian Brady was selected as the JPA’s executive officer. The seven-member JPA board consisted of three FPUD board members, three Rainbow board members, and an at-large member chosen by the rest of the board (following the dissolution of the JPA the at-large member, Charley Wolk, was elected to the FPUD board in November 2014).

Dave Seymour was Rainbow’s general manager from September 2007 until his retirement in April 2013. When Seymour retired Brady also became Rainbow’s general manager as well as the FPUD general manager and the JPA executive officer. The joint powers agreement included an employee leasing agreement which allowed FPUD and Rainbow to share employees. During the life of the JPA no board contested a report that the functional consolidation saved more than \$1 million during its 11 months of existence with approximately 80 percent of those savings accruing to Rainbow and the other 20 percent benefitting FPUD.

“That was a combination of labor savings and operational efficiency savings,” said current FPUD board president Don McDougal.

“Sounds like the JPA was indeed working very well,” Jacob said.

Brady gave a presentation at the August 2013 JPA meeting which led to a decision, which was neither ratified by board approval nor overturned by any board, to move the engineering and systems operations functions to the Rainbow facility while transferring customer service items to the FPUD office. Rainbow’s customer service staff relocated to the FPUD building in November 2013, although issues involving the electronic equipment which communicates between district facilities prevented FPUD from moving its engineering or systems operations staff to Rainbow.

In November 2013 the FPUD and Rainbow boards voted to begin the process of applying to LAFCO for an actual jurisdictional consolidation. The subsequent talks led to agreement that the consolidated district would be called the North County Public Utility District and would be a public utility district, as is the case for FPUD, rather than a municipal water district which is Rainbow’s situation. The issue of governance led to the end of both consolidation talks and the

JPA. FPUD and Rainbow both have five-member boards. FPUD elects its directors by seat with the entire district voting for each seat. Rainbow elects its directors by division with only voters in that division participating in the choice. FPUD initially proposed that all board members of the consolidated agency be elected at large, which was not acceptable to Rainbow.

In February 2014 FPUD's representatives on the JPA board offered a compromise in which four directors would be elected by division and three would be elected at large. Such a format would provide board representation for residents of each of the four divisions while also ensuring that a majority of the board would be accountable to all of the district's residents. Section 15972 of the California Public Utilities Code stipulates that if the entirety of a public utility district is in the same county the board shall have five directors elected at large. Municipal water district directors must be elected by division. The North County JPA looked at latent powers only and not governance when deciding to make the consolidated agency a public utility district rather than a municipal water district. The joint powers agreement allowed for a termination provision after one year.

On March 5, 2014, Rainbow's board voted 4-1 with Dennis Sanford in opposition to give FPUD a 30-day notice terminating the JPA. Rainbow board president George McManigle (who was defeated in his November 2014 re-election attempt) delivered the notice of termination to FPUD the following day. This dissolution also ended the employee leasing agreement, although Rainbow remained willing to approve a new agreement and subsequently approved a resolution authorizing Rainbow to provide practical assistance to FPUD in an emergency or opportunity situation regardless of whether a formal agreement exists. Rainbow moved its customer service staff back to the Rainbow office in April 2014.

A March 10, 2014, FPUD special meeting approved an application to LAFCO to consolidate FPUD and Rainbow, and Brady delivered that application the following day. Due to concerns whether the special meeting was properly noticed, FPUD's regular April 2014 meeting included a vote to resubmit the application. The 3-1 vote with Archie McPhee (who was defeated by Wolk in the November election) opposed and Bert Hayden absent, approved an application calling for the dissolution of the Rainbow Municipal Water District, the annexation of the Rainbow territory into FPUD, the expansion of FPUD's latent sewer service powers into the Rainbow territory, the expansion of FPUD's sphere of influence into the Rainbow area, and a zero sphere of influence for Rainbow.

A municipal service review evaluates a jurisdiction's services and anticipated needs. A sphere of influence study determines boundaries best served by a particular agency. Updates to both the municipal service review and the sphere of influence are prerequisites to any boundary change including an annexation or consolidation (LAFCO also periodically conducts municipal service review and sphere of influence updates for all cities and special districts), and in the event of a consolidation a dissolved district is given a zero sphere of influence. LAFCO may approve the municipal service review, sphere of influence update, and boundary change at the same meeting. FPUD's special meeting agenda also addressed the JPA's conflict of interest code which covers incompatible offices, and Brady resigned as Rainbow's general manager. Later that month the Rainbow board selected Gene Buckley as the district's new general manager. Buckley retired in

June 2014 and Chuck Sneed served as interim general manager until Tom Kennedy was hired in August 2014.

The North County JPA held its final meeting on March 13, 2014, although the special meeting to address Rainbow's withdrawal and the LAFCO application involved discussion rather than votes. Support from both agencies is not required for LAFCO to process a consolidation request, although input from the Rainbow board as well as from Rainbow residents has been part of the public hearing process.

A public comment period for FPUD's application ended August 1, 2014, and the Rainbow Municipal Water District provided a formal resolution of objection which addressed several issues. During the public comment period, LAFCO also received 396 letters in opposition and 23 letters in support.

On December 19 LAFCO's Special Districts Advisory Committee found that financial savings would occur if FPUD and Rainbow consolidated, although the committee made no recommendation on whether directors should be elected by the entire district or by territorial unit. "The committee found that there were cost savings and that the reorganization was financially feasible," said Olivenhain Municipal Water District general manager Kimberly Thorner, the 2015 chair of the Special Districts Advisory Committee.

The hearing was initially set for July 6, but when Horn found out that a family matter would prevent him from attending on that day he requested a continuance. Three public speakers who were not sure whether they would be able to return for the September hearing were allowed to provide comments, and the remainder of the public comment was heard September 14. The September 14 comments also included statements from the general managers of FPUD and Rainbow. "There are no service level concerns that would justify LAFCO intervention," Kennedy said. "This is a viable functioning district," Kennedy said. "We have an excellent service record to our community."

Brady cited the reduced administrative costs of a consolidated agency. "In the last 18 months once we split up the JPA together we have spent over one and a quarter million dollars on unnecessary administrative costs," he said. The total number of employees for the two agencies decreased from 123 to 114 while the JPA was in existence. "That was all a very positive thing," Brady said. (As of September 14 FPUD had 66 employees and Rainbow had a staff of 50.) Brady added that the two districts also had separate \$250,000 expenditures on billing software. Kennedy noted that shared costs wouldn't translate into lower rates for Rainbow's customers. "There's no direct benefit to the ratepayer here," he said. "It's not going to drop anyone's rates," Kennedy said. "Our rates are driven primarily by external factors." Kennedy added that the stated \$2.1 million of staff cost savings would not reduce the combined territorial area, infrastructure, or number of customers. "You really can't make cuts like that without serious service disruption," he said. "The job cuts would result in degradation to the ratepayers," Kennedy said. "Another really important concern for us is the dilution of agricultural representation."

Kennedy noted that Rainbow ranks second among San Diego County water agencies in agricultural sales. "Water is very important to agriculture," he said. "They really enjoy having a board that's focused on their needs." Kennedy told LAFCO that Rainbow's agricultural sales exceed FPUD's total sales. "We're an agricultural agency. They're a water agency that sells to agriculture," he said. The board of the consolidated agency would have determined rates, although Brady noted that FPUD rates are lower than Rainbow's. "Rainbow agricultural rates will go down. That's just mathematics," he said. Although rate surveys for San Diego County's water agencies have listed Rainbow as among the highest for what the survey defines as the average water user, Kennedy countered that the average Rainbow customer uses 100 units (customers are billed in units of 100 cubic feet, or 748 gallons) and that while FPUD's rates are lower for usage of 50 units or fewer Rainbow has lower rates for 100 units or more. "It comes at a loss of local control and agricultural representation on the board," Kennedy said of the proposed consolidation. Kennedy cited a December 2014 presentation to the LAFCO board by Valley Center Municipal Water District general manager Gary Arant that jurisdictional or functional consolidation must include mutual support. "The climate isn't right," Kennedy said. "We need everybody on the same page."

Arant's presentation noted that distance or system integration issues could offset economies of scale. "The benefits can be very small or even illusory," Kennedy said. Arant warned that functional or jurisdictional consolidation must result in better service or economic savings to be successful. "It's bad public policy to just push it through for the sake of pushing through a merger," Kennedy said. "We believe that the outcome is more likely to be the opposite."

The citizens who spoke against the merger included Oak Crest Estates resident Jim Mauritz. "Nobody's talking about what's going to happen to our senior park," he said. The mobile home park for residents 55 and older has its own sewer plant, and the permit is grandfathered from current standards but references the Rainbow Municipal Water District. Mauritz told LAFCO that if the permit needed to be changed the park would no longer be grandfathered and the estimated cost for the 105 homeowners to upgrade the system would be \$250,000. "All of our residents there are seniors," he said. "They can't afford this kind of rate increases."

"Local control needs to be honored," said Rainbow resident Jerri Arganda. "We have no desire to be a part of Fallbrook's desire to expand."

Bonsall resident Joe Beyer lives in the Rainbow district but favors the proposal. "It seems to make sense," he said. Beyer noted that consolidation would need to protect Rainbow's employees from staff cuts. "We want to make sure that they can stay around as long as possible," he said.

FPUD board member Milt Davies was on the Fallbrook Sanitary District board before the merger with FPUD. Davies told LAFCO that the sanitary district was without a general manager in 1992 when FPUD general manager Gordon Tinker proposed a merger. The consolidation proposal had both board and resident opposition, but Davies noted that no issues have occurred since the merger. "It was the best thing that the sanitary district ever did," he said.

Tinker was also FPUD's general manager in 1990 when the DeLuz Heights Municipal Water District was merged into FPUD and thus was involved in two of FPUD's three mergers. "We never got a complaint afterwards," he said. (FPUD, which was formed in 1922, merged with the Fallbrook Irrigation District in 1937.) "The savings are real. They're going to be real here," Tinker said.

"The proposed merger of Rainbow and FPUD will provide for smaller and much more efficient local government," said FPUD resident and avocado grower Donna Gebhart. "I just believe that smaller government will trickle down to the consumer." (Gebhart had given Horn \$300 during his 2014 re-election campaign; prior to Gebhart's comments Horn returned \$51 of that so the \$250 threshold which would have prevented Gebhart from speaking or Horn from voting was avoided.)

"We are concerned about a loss of customer service," said Rainbow resident Tom Casey. "I think Rainbow does a very good job and we should just keep our local control," Casey said. "I think this is a classic case of solving a problem that does not exist."

Oshea Orchid represented the Rainbow employees' association. "It's clear Rainbow can provide more efficient and higher-quality service to ratepayers," she said. "Providing quality service to customers is the most important goal."

Jacob served on the Jamul-Dulzura Union School District board prior to her election to the Board of Supervisors. She noted that the Jamul-Dulzura students outperformed their large-district counterparts. "The outcomes we achieved were far better at less cost," she said. "Bigger is not necessarily better." Jacob has spearheaded the reorganization of fire protection services which has already included territory served by volunteer fire departments but not by a legal fire protection agency and five county service areas whose governing body was the Board of Supervisors.

The current LAFCO phase will consolidate the Pine Valley and San Diego Rural fire protection districts into the San Diego County Regional Fire Authority, and that has no known opposition. "Usually you find there's a problem that needs solving and we did find problems that needed to be solved in terms of fire and emergency services," she said. Jacob noted that none of the fire service consolidations were forced upon any district. "They all agreed they want to be part of CSA 135," Jacob said. "It's taking its natural progression in consolidation."

"Maybe another time in the future a formal merger may be appropriate," Sprague said.

# Barnidge: Time to sound the alarm on Rodeo-Hercules Fire District budget problems?

[By Tom Barnidge Contra Costa Times Columnist](#)

Posted: **09/16/2015** 12:17:01 PM PDT Updated: about 22 hours ago

First responders are expected to be ready for any emergency, but I'm not sure even they are prepared for the smoke engulfing the Rodeo-Hercules Fire District's financial situation. Its annual operating budget, about \$6.5 million for the two firehouses it staffs, pencils out only because of \$940,000 expected from a special benefit assessment and \$1.2 million from a federal SAFER grant.

The benefit assessment is being challenged in court, and the federal grant expires at the end of 2016. The situation is of such concern to the Hercules City Council that last month it called upon Chief Charles Hanley to explain how he thinks this will all work out.

"I want to acknowledge that it's unusual for one elected body to discuss a budget controlled by another elected body," Councilman Bill Kelly said, "but of the 34,000 people that your district serves, 24,000 live in Hercules. We felt we should be asking some questions."

Foremost among those is what contingency the district has in place for the \$940,000 that will vanish if Hercules resident Thomas Pearson wins a lawsuit contending that the new fees -- \$82 annually for single-family homes; \$46.93 for condo and apartment dwellers -- are illegal because they'll pay for the same service as always, no special benefits to property owners.

Hanley, who's counting the days to retirement, didn't want to discuss the lawsuit. He said the district can survive without the money; there are other budget-balancing measures to explore.

He said the district has asked the Contra Costa Employees' Retirement Association to lower its annual payments on unfunded retirement debt by extending the amortization schedule to 30 years (a request as yet unapproved); the district plans to seek assistance from the state's Proposition 172 Public Safety Augmentation Fund (which always has been directed to law enforcement and, in all likelihood, still will be).

Both sounded like "Hail Mary" passes to Vice Mayor Dan Romero, who shared his thoughts in an email: "As Chief Hanley walked away from our discussion, I felt that he does not want the truth of the district's financial shortcomings public."

He won't get any argument from Ernie Wheeler, the newest director on the Rodeo-Hercules fire board, who figures the district will be at least \$300,000 in the hole if it loses the lawsuit. He saw this problem coming long before he was elected last year.

"This board started tapping into its reserves five years ago," he said. "At that point, they should have known there was a financial situation. They did nothing. They came back with this benefit assessment, which in my opinion -- I'm not speaking as a board member -- was back-doored. The people didn't understand it when they were asked to vote for it."

The last time the district landed on hard times, at the end of 2011, it cut nine positions and closed the Rodeo station. With the benefit assessment under attack and the SAFER grant expiring next year, Wheeler can see history repeating itself.

Bill Prather, the lone board member who voted against the benefit assessment, said the mess is such that the fire district needs to think about reinventing itself. He envisions a business manager overseeing the budget, improved efficiencies, a reduction in overtime and a refocus on service priorities. ("We do far more medical than fire calls.")

But that's a big-picture view for another day. There are big-time, short-term concerns. That's why Hercules City Council wants answers.

Contact Tom Barnidge at [tbarnidge@bayareanewsgroup.com](mailto:tbarnidge@bayareanewsgroup.com).

# San Bernardino fire annexation top priority for commission



The Local Agency Formation

Commission for San Bernardino County voted unanimously on Wednesday to make proposed annexations into the San Bernardino County Fire Protection District its top priority. Photo by Ryan Hagen

By [Ryan Hagen](#), [The Sun](#)

Posted: [09/16/15](#), 4:58 PM PDT | Updated: 30 secs ago

[0 Comments](#)

SAN BERNARDINO >> The commission that's in charge of approving the city's bid to annex itself into the San Bernardino County Fire Protection District voted unanimously Wednesday to make that and two related applications its top priority.

That focus is meant to ensure the annexation process can be complete by July 1, 2016, rather than having to wait for the beginning of the next fiscal year 12 months later.

The applicants — San Bernardino, the Twenty-nine Palms Water District and Hesperia Fire Protection District — would then lose out on significant potential savings, said Kathleen Rollings-McDonald, the executive officer of the Local Agency Formation Commission for San Bernardino County.

And that budget assistance — [close to \\$12 million](#) in the case of bankrupt San Bernardino, according to city officials, between savings and a parcel tax that requires annexation to implement — is vital, said one LAFCO member [Jim Bagley](#).

“This is an economic crisis for these communities,” Bagley said. “And there really is nothing more important that we have right now.”

The proposals will most likely have public hearings in February, reconsideration in May, and begin the [protest process](#) in April. The annexation process is terminated if more than 50 percent of registered voters protest, and leads to an election if written protests are received from either 25 to 50 percent of registered voters or at least 25 percent of landowners who own at least 25 percent of the total annexation land value.

The commission also approved the hiring of consultant to help with the county fire reorganizations, particularly San Bernardino’s application. Robert Alrich, the former assistant executive officer of the Orange County LAFCO, will be paid up to \$75,000.

San Bernardino [voted 4-3](#) in August to move forward with outsourcing its Fire Department to county fire and implement a \$143-per-year tax on each of the city’s 56,000 parcels.

The county Board of Supervisors, which governs the county fire protection district, voted unanimously Tuesday to ask LAFCO to [begin proceedings](#) on the annexation.

Wednesday’s meeting took place in San Bernardino City Council chambers.

## [San Diego Reader](#)



- [Tom Kennedy](#), general manager of Rainbow Municipal Water District
- [Bonsall](#)
- [Fallbrook](#)
- [Neighborhood News](#)
- [Rainbow](#)

## Back away from the water, Fallbrook

1 0

### Rainbow water district survives takeover attempt

By [Ken Harrison](#), [Sept. 17, 2015](#)

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Water users in Rainbow and Bonsall finally feel like they've defeated a Goliath.

[A yearlong battle has ended, thwarting a takeover by the Fallbrook Public Utility District](#) of the mostly agricultural Rainbow Municipal Water District. The Local Agency Formation Commission (LAFCO) ruled on September 14 that Rainbow ratepayers, some 13,000 people, could keep their smaller water district. The ruling went against the commission's own staff recommendations.

Tom Kennedy, general manager of the Rainbow district, told the *Reader* that about 150 people showed up at the meeting. Reportedly, it was the largest attended meeting in the commissioner's recent memory. Over 700 emails and letters were received by agency formation commission. "Only 30 were in support of the merger," said Kennedy.

"There wasn't a problem that needed to be solved," said Kennedy. "It's was like two people who don't like each other being forced into a marriage."

Surveys had reported 20 to 1 in favor of keeping the Rainbow district locally controlled. The commission's staff reportedly thought there would be a ratepayer savings for both districts.

"We're an 80-square-mile district in rural San Diego County," said Kennedy. "We have a different cost structure than other districts and can't have some of the efficiencies larger districts do."

As an example, he noted the district has a lot of miles between pipes, so it takes their trucks longer to arrive at sites. According to Kennedy, Fallbrook's proposal of a cost savings also included firing 40 percent of the Rainbow district's work force.

Rainbow resident Jim Mauritz led the charge for his 105-unit Oak Crest Mobile Home Estates. His park has a contract with the Rainbow district in which the district services their rural sewer system. If Fallbrook took over the Rainbow district, the special-use permit from the state would have to be re-permitted and, probably, the system re-engineered, at a cost of at least \$10,000 per park resident.

Mauritz and 38 other park residents went to the meeting. "I felt good that in the commissioner's discussion, they brought up my points about the seniors," he said.

Going into the meeting, Kennedy said they felt they had at least three votes against the proposed merger but needed just one more. They ended up with five votes against the merger. San Diego County supervisors Bill Horn (who represents Rainbow) and Dianne Jacobs, along with San Diego councilwoman Lorie Zapf, Carlsbad councilwoman Lorraine Wood, and Vista Irrigation's Jo MacKenzie, voted against the merger.

It was a surprise to some that Escondido mayor Sam Abed voted for the takeover. A declared candidate for the 3rd supervisorial district, Abed, if elected next year, will govern alongside Horn and Jacobs.

*(revised 9/18, 12:50 p.m.)*

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# Water district opposition growing, may sink plan

September 17, 2015

By DANIEL BLACKBURN

A county commission pushed forward a proposal to form a Paso Robles water regulatory district Thursday while its top executive deflected assertions that more than a thousand letters of opposition have been kept from public view. The Local Agency Formation Commission (LAFCo) gave a nod to the Paso Robles Water Basin district's concept and voted to put the plan before North County voters by an 6-1 vote.

Commissioner Roberta Fonzi cast the lone dissenting vote. An election may be set March 8, 2016, to determine if two-thirds of property owners in the potential district boundaries will approve a tax assessment to fund the district.

Each of the owners of property over the basin will have one vote, as specified in enabling legislation.

Opinion on the water district's formation is widely divided, evidenced by the flood of speakers who appeared at the LAFCo meeting. About a hundred people attended the meeting.

The number of overlying property owners publicly opposing the district's formation is undeniably growing, something LAFCo officials may have wanted to de-emphasize prior to the meeting: a thousand-plus letters were filed separately from the final staff report to commissioners.

Rancher Larry McGourty questioned the way LAFCo Executive Director David Church handled the letters:

"These letters are properly comment letters and should not have been filed separately. I fully expect that you will provide the commissioners with at a minimum a count and list of names so they have an accurate understanding that it is unlikely that this district will pass a formation vote," McGourty wrote in an email to Church this week.

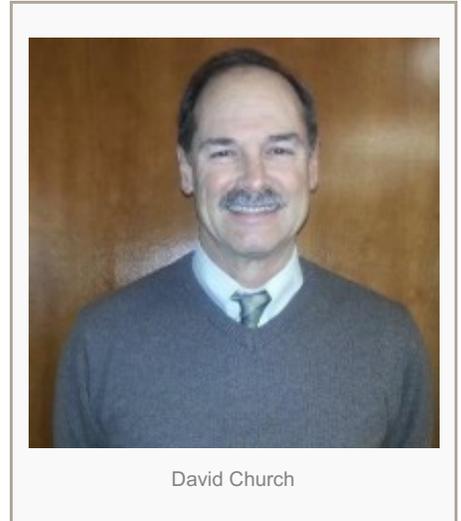
Church noted that the letters were available on the commission's website, but McGourty replied that it was "not sufficient."

"By now the count of these letters is in the thousands," he wrote, "and it should be evident to (LAFCo) that opposition is already nearing a critical mass for a 'no' vote."

North County landowner Julie McClosky told Church in another email, "This seems like an intentional act by LAFCo to dismiss the overwhelming opposition to the AB 2453 water district. It has a very strong appearance of impropriety. The *people* need to be made aware of these personal opposition letters, not just the commissioners."

In his report to the commission, Church downplayed the protests, responded selectively to certain assertions, and defended the proposed taxing mechanism as not being "illegal." He said the district is needed "to comply" with the state's recently-mandated Sustainable Groundwater Management Act (SGMA).

Opponents of the proposed district argue that it is not necessary in order to comply to state mandates.



David Church

County supervisors are split on the matter of the district's formation, but that hasn't prevented its staff from launching a veritable public relations program in support of the plan.

County Public Works Administrator John Diodati, who also serves as project manager for the Paso Robles basin water district formation project, outlined to commissioners a comprehensive, tax-supported "outreach program" that is being conducted to "educate" North County residents about the district plan.

Perhaps not coincidentally, a representative of the California Department of Water Resources stepped to the microphone to inform the crowd that the Paso Robles basin — as of this week — is in "critical overdraft." That particular determination has remained an essential ingredient in the formula for a successful effort to create a district. A report explaining methodology used in developing the timely determination will be made public in the near future.

*Updated at 8:35 p.m. to reflect the correct number of commissioners.*

9

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 Uploaded: Sat, Sep 19, 2015, 6:39 pm

## Council: Danville won't further appeal SummerHill Homes case

Airbnb support, 'urgent' Camino Tassajara paving, IT manager resignation among other meeting topics

by Jeremy Walsh

The Danville Town Council has decided not to challenge a state appellate court's recent ruling in the lawsuit over the council's 2013 approval of a 69-home development in the northeast part of town.

The First District Court of Appeal determined Danville officials did not violate state planning law when approving the SummerHill Homes project at Magee Ranch, reversing a county judge's earlier finding that the town acted improperly when it rezoned agricultural land at the site during its approval process.

But the three-judge appellate court panel, in its Sept. 11 decision, agreed with the county judge's determination that the town violated state environmental law by failing to determine whether the proposed development had significant impacts on bicycle safety.

In a unanimous closed-session vote Tuesday night, the council decided it would not appeal the appellate court's decision, according to Geoff Gillette, town public information coordinator.

Save Open Space-Danville (SOS-Danville), the environmental group that sued the town over its approval of the housing project at the southeast corner of Diablo and McCauley roads, has not decided whether to challenge the court of appeal's ruling, according to spokeswoman Maryann Cella.

"No, we haven't decided yet," Cella said Thursday. "We have until 40 days from the Sept. 11 decision to file a petition for review to the California Supreme Court, and we won't be making our decision until then."

The SummerHill Homes project has remained in limbo amid the ongoing litigation.

The council's closed-session discussion and vote occurred after its 95-minute open-session meeting Tuesday night at the Town Meeting Hall.

### In open-session business

\* The council heard from three people speaking in favor of Airbnb and asking the town to continue allowing short-term residential rentals in Danville.

The speakers -- two town residents who rent rooms in their homes through Airbnb and a woman who uses Airbnb when commuting to Danville -- gave their comments during citizen input on non-agendized items. Council members said they could not respond because the issue was not listed on the meeting's agenda.

The trio's appearance Tuesday came one week after the council held a study session on the topic and directed staff to prepare a draft ordinance that would ban short-term residential rentals, city attorney Rob Ewing said in an interview after the meeting.

At the Sept. 8 study session, the council heard feedback from some residents concerned about Airbnb rentals in their neighborhoods, Ewing said.



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LMCHD

# Press Release

## Los Medanos Community Healthcare District's 2015 Summer Interns Get Hands-On Experience in the Real World

Local Foster Care Youth Diabetes Awareness Campaign won California Special District's Exceptional Outreach and Advocacy Award

**Pittsburg, CA**—This summer 7 transitioning foster care young adults were given a rare opportunity to put their education to work in the real world by developing a diabetes awareness campaign. Over the course of 6 weeks, the group "Healthy Youth Council" created the 'Impact Project: Impacting Our Community to Stop Diabetes.' The Healthy Youth Council researched diabetes in Contra Costa County, evaluated the

community's knowledge surrounding the issue, and conducted a focus group to gather the community's insights on what was needed to help those with diabetes and how to prevent future generations from being affected by Type 2 diabetes.

"Our mission is be the change we want to see by making a difference in our community," said one intern Annyanna McDuff. The group set out to increase awareness and measure the community knowledge on diabetes, provide diabetes education materials, and support Assembly member Beth Gaines' bill AB 572 which calls for the California Department of Health to create a Diabetes Action Plan for California. Justin Montanez summarized the goal of their project, "According to Contra Costa Health Services, diabetes is the seventh leading cause of death in Contra Costa, so we are naturally concerned about diabetes in our community. We want to send the message that diabetes is not a death sentence."

The LMCHD location was the ideal environment to conduct the diabetes awareness campaign. And, who better to communicate to the community about diabetes prevention than a group of young adults. The Healthy Youth Council had the opportunity to design an integrated marketing campaign (IMC) aimed at increasing awareness against diabetes. Awareness efforts completed by the Healthy Youth Council included: information table events to survey community residents, distribution of flyers for local diabetes prevention programs, conducting a focus group at the Pittsburg Senior Center, gathering signatures in support of AB 572, and filming a PSA regarding diabetes awareness. The group outreach efforts targeted residents of Pittsburg, Bay Point, Antioch, and surrounding areas. Additionally, The Healthy Youth Council decided to go where the people were and utilized the following community locations: Pittsburg Health Center, La Clinica, and the Pittsburg Senior Center.

Jules McClary stated "We surveyed over 200 residents and collected 128 signatures for the petition. Many residents shared personal stories on how living with diabetes affects them or a loved one."



*The Healthy Youth Council (HYC) took their message to Sacramento and met with Assembly members Jim Frazier and Beth Gaines offices.*

The program culminated in formal presentations by the Healthy Youth Council to the Pittsburg City Council, Assembly Members Jim Frazier's office and Beth Gaines' office at the State Capitol in Sacramento, and LMCHD's Board of Directors. The presentations were a unique opportunity for the young adults to develop public speaking and presentation skills, in addition to building self-confidence. To view the Health Youth Council's Public Service Announcement visit [www.lmchd.org](http://www.lmchd.org).



*HYC held a focus group to discuss diabetes at the Pittsburg Senior Center*

“For a young person, it is a life-changing experience to provide service on a project that carries not only personal meaning but concrete benefits to the community and our local government bodies as well,” stated Melinda Harris, LMCHD's Intern Program Coordinator.

As a collaboration between Los Medanos Community Healthcare District, CCC Children & Families Services, CCCOE Foster Youth Services, and EMQ Families First, LMCHD's Summer Internship Program provides an opportunity for young adults transitioning from foster care into independent living to participate in its District sponsored summer internship program. Bobbi Palmer, LMCHD CEO stated, “This was an excellent opportunity to begin living out the District's Living Well, Living Long Resolution. Our Board of Directors are fully committed to preventative and public health efforts that promote and protect our residents' health.” LMCHD's Summer Internship Program is designed to provide the young adults with an opportunity to participate in a project that will help bring awareness to their community, develop personal growth, and generate ideas on how the community can build a better tomorrow.

**On August 20, 2015, The California Special District Association notified LMCHD that their 2015 Summer Internship Program's Impact Project is the recipient of the 2015 Exceptional Public Outreach and Advocacy Award.** LMCHD representatives and the Healthy Youth Council will accept the award during the CSDA Awards Luncheon on Wednesday, September 23, 2015 at the Monterey Marriott Hotel, in Monterey.



*Healthy Youth Council at LMCHD collecting signatures for their petition supporting AB 572. Left to Right: Charles Finney, Annyanna McDuff, Justin Montanez, Blanca "Rocky" Montanez, Estela Barrera, Juels McClary, and Melinda Harris (LMCHD Program Coordinator)*

Witten By: Melinda Harris, LMCHD  
Contact: [mharris@lmchd.org](mailto:mharris@lmchd.org)

###

# Los Angeles water company trying to purchase Delta islands

By Matthias Gafni mgafni@[bayareanewsgroup.com](mailto:mgafni@bayareanewsgroup.com)

Posted: 09/22/2015 08:16:41 AM PDT Updated: 98 min. ago



A giant Southern California water district is discussing the purchase of four Delta islands, including Webb and Holland tracts in Contra Costa County, in what critics say is an attempt to jump-start the controversial Delta tunnels project to send water to Los Angeles.

The Metropolitan Water District's real asset and property management committee is scheduled to meet behind closed doors Tuesday in Los Angeles to discuss the purchase of 37 parcels of Contra Costa land -- Webb and Holland tracts -- and 35 parcels of San Joaquin land -- Bouldin and Bacon islands.

The Delta Wetlands Project, a public-private partnership that previously bought the parcels from private landowners, had proposed an agreement to provide water storage on the land, and return two of the islands to wetland habitat. However, this potential sale has critics comparing it to the infamous Owens Valley water wars where a thirsty and burgeoning city of Los Angeles in the early 1900s built an aqueduct and acquired water rights through unsavory means.

"I find this really alarming," said Barbara Barrigan-Parrilla, Restore the Delta executive director. "Farmers, communities, and fishing groups that live in the Bay-Delta Estuary region feel like the potential takeover of land and water rights by the Metropolitan Water District of California is akin to what happened to landowners in the Owens Valley who found their communities and water taken secretly by Los Angeles interests."

Both Metropolitan Water and the Delta Wetlands Project declined to comment when reached by phone Monday.

"We're withholding comment until it's been presented to the board," said Bob Muir, spokesman for Metropolitan Water, the largest distributor of treated water in the United States.

According to the meeting agenda, the board will hear from their own negotiators and Delta Wetlands.

The Delta Wetlands Project is an Illinois-based public-private partnership for which Semitropic Groundwater Storage District, a Central Valley groundwater storage bank, is the lead agency. The partnership bought the four islands with the intention of turning Webb Tract and Bacon Island into reservoir islands during wet seasons -- essentially breaching the levees and flooding the islands -- to store 215,000 acre-feet of water. The other two islands, Holland Tract and Bouldin Island, would be converted into 9,000 acres of wetland and wildlife habitat.

Barrigan-Parrilla is suspicious of Metropolitan Water's motive for a purchase, since Bouldin and Bacon islands are aligned geographically with the current Delta tunnels plan to pump water to Southern California. She also said buying land for those purposes was premature since the Delta tunnels plan was still in its environmental review process and the Delta Wetlands Project accord would be violated.

"Now we have a selling out of that. Now it's going to the tunnels and that's not what was negotiated," Barrigan-Parrilla said. "It feels like a complete betrayal."

Farmers have long been concerned with the Delta Wetlands plan -- a "25-year-old zombie," the San Joaquin Farm Bureau Federation has called it -- as it would turn agriculture into wetlands.

And any potential Metropolitan Water land purchase only "crystallizes" a move toward tunnels, said Bruce Blodgett, the Farm Bureau's executive director.

"We have had our differences with Restore the Delta," he said, "but one thing we agree on is the tunnels would be bad for the Delta."

Contact Matthias Gafni at 925-952-5026. Follow him at [Twitter.com/mgafni](https://twitter.com/mgafni).



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Published **September 23rd, 2015**

## MOFD and ConFire to Go Separate Ways

*By Nick Marnell*

It may be just as well that fire station 46 never got off the ground.

Contra Costa County Fire Protection District chief Jeff Carman told his board Sept. 15 that he received a second opinion from a contractor concurring the feasibility of rebuilding station 16 in Lafayette, and that he awaits a report later in September from a structural engineer. The chief earlier presented to the board his desire to reopen station 16, scuttling plans with the Moraga-Orinda Fire District to combine station 16 with MOFD station 43 into a new station 46. MOFD chief Stephen Healy then recommended that his board memorialize the station 46 program.

"After listening to some of the comments from (the MOFD) board meeting, I think we made the right decision to move ahead on our own," said Carman. "The differences in the two organizations would have been problematic, so I'm happy that fire station 16 presented itself as an opportunity." MOFD director Fred Weil had commented that he did not want the district to hold on to the property it purchased as a site for station 46 in hopes that ConFire may come back to MOFD to reignite the partnership. "If the county came back next month and said, Yeah, let's go on with 46, it would just be more evidence that they are an unreliable partner," he said.

With the approval of the repairs to station 16 a near certainty, MOFD turned its attention to its own dilapidated station 43 in north Orinda.

"We need to get moving with this," said Weil at the Sept. 16 district meeting.

Healy confirmed that the current location of station 43 was the best site available for a fire station in the north Orinda area. He noted that four houses are for sale within a mile of station 43, and that the district geographic information system model showed that the station 43 site won out over the other four. "It would be hard to find a better location," said Healy.

Architect Alan Kawasaki estimated that the remodel of the station will cost \$4 million. "Nothing about station 43 meets any standard of a fire code," he said. The district has invested more than \$320,000 in the fire station remodel since 2011.

Board president Alex Evans said he was unsure that the district could afford sinking so much money into the station 43 project. "I don't want to have a nice fire station, and down the road, I can't afford the firefighters," he said.

MOFD union representative Mark DeWeese also questioned the proposed spending on station 43.

"The union's base salaries have lagged inflation and are only around 5 percent greater than they were in 2006," he said. "Before our board spends \$4 million to totally rebuild a station that is currently functioning, and has been for decades, we feel they should save the money for more pressing needs. The board's priority should be toward investing and restoring the district's most important asset, its human capital."

Healy plans to deliver to the board in October his specific recommendations for the station 43 rebuild, including contract details, financing options and the project timeline.

Reach the reporter at: [nick@lamorindaweekly.com](mailto:nick@lamorindaweekly.com)

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Published **September 23rd, 2015**

## Former MOFD Chief Stripped of \$1.2 Million

*By Nick Marnell*

The Contra Costa County Employees' Retirement Association board Sept. 9 lowered former fire chief Peter Nowicki's pension by \$1.2 million after it established that his retirement benefit was improperly increased by his own actions. The board determined that the former chief of the Moraga-Orinda Fire District engineered retroactive changes to his contract that resulted in improper retirement benefits and the district board, knowing Nowicki was soon going out the door, went along with the changes.

Nowicki signed on as MOFD fire chief in July 2006, and the district added amendments to his contract in February 2008 and December 2008, allowing the chief to sell back vacation leave, administrative leave and holiday pay. The chief retired Jan. 30, 2009, and according to CCCERA, the cashed-out perks granted in 2008 improperly inflated - "spiked" - his retirement benefit. "That was not the intent," said Nowicki, who spoke to and answered questions from the CCCERA board members for nearly three hours. "It was not my decision to grab and run out the door. It looks bad from your side, but from my side, I needed to get out."

Harvey Leiderman, fiduciary attorney for CCCERA, saw it otherwise. "We have the authority to correct errors if the member improperly caused the benefit to be increased or overstated at the time of retirement," he said. "There is no question the member actively engineered these retroactive benefits." Leiderman also said that the fire district board conducted the Nowicki negotiations in closed sessions, in violation of the Brown Act, and he blamed the MOFD board for being slow to respond to a records request for the hearing.

"This is between CCCERA and Nowicki," said MOFD board president Alex Evans. The district did not send a representative to the hearing.

"As to Brown Act issues, I should note that the agreements with Mr. Nowicki were presented and approved in open sessions so I have to disagree with suggestions that the MOFD board operated without openness," said Fred Weil, the only current MOFD director also on the board in 2008. "Mr. Leiderman, whose theories are based on suppositions, never attended any of those meetings, so it is difficult to understand how he can properly comment on what went on, who attended what meetings, what was said, or what the MOFD board should have done."

Former MOFD director Brook Mancinelli attended his first district meeting as a board member in December 2008. "I was assured by members of the board that Nowicki's contract was a long time in the works," he told the CCCERA board. "I don't agree with the fact that it was done maliciously. And I had no idea the chief would be retiring."

Nevertheless, the retirement board voted to cut Nowicki's annual pension of \$240,923 to \$172,818, and ordered him to return more than \$600,000 in overpayments. The cost savings by correcting future overpayments was projected at over \$1.2 million.

Had the MOFD rank and file been at the CCCERA meeting, they may have jumped to the ceiling.

"I'm glad it happened to Nowicki," said district union representative Mark DeWeese. "The retirement board hearing and ruling validates our union's consistent belief that there was improper behavior from both our board at that time and Nowicki."

As the ruling means that Nowicki has exhausted all of his administrative remedies through CCCERA, it is likely that his pension reduction will be subject to litigation.

Neither current MOFD chief Stephen Healy nor Contra Costa County Fire Protection District chief Jeff Carman may sell back unused, accrued vacation time.

Reach the reporter at: [nick@lamorindaweekly.com](mailto:nick@lamorindaweekly.com)

Published **September 23rd, 2015**

## Nowicki: I Followed the Rules

By Nick Marnell



Pete Nowicki in 2007 Photo A. Scheck

For a man who five days earlier had his pension reduced by over \$1 million, Pete Nowicki did not appear angry or bitter. Rather, the former Moraga-Orinda Fire District chief said that he felt disrespected and hurt. Disrespected, after the work that he did for 26 years at MOFD, and that he was punished for doing what he was told to do by the Contra Costa County Employees' Retirement Association. And hurt, over how he has been portrayed.

"Absolutely, I feel disrespected," said Nowicki during a Sept. 14 interview. "CCCERA counseled me on what to do, on how to get what I was entitled to. I followed the rules. Then, 'No, we changed our mind, and we're going to take back the deal.' How can they do this?"

Nowicki said he was surprised to receive the Aug. 5 letter from CCCERA, summoning him to a Sept. 9 hearing at which the retirement board was to consider adjusting his retirement allowance. "No, I did not see it coming at all," said Nowicki. "Now

I've got four weeks to find a lawyer and develop an appropriate response. I didn't know I could have asked for a delay."

Nowicki said he felt he had no chance at that hearing. "I felt I was singled out, that this was media and politically driven," he said. He said he is frustrated that he has been unable to convey his position: That he was offered the job of MOFD fire chief in July 2006, and that his original contract did not include sell-back of vacation leave or administrative leave. "The board said they would do annual reviews, and that they would make me whole," he said. "They did exactly what they said they would do."

The district added vacation sell-back rights to his contract in July 2007, but the terms were not finalized until February 2008. "The MOFD board was dysfunctional in getting things done in a timely fashion," said Nowicki. "Shame on them. But they told me it would be retroactive to July. I trusted them, and they did it."

The second amendment to his contract, allowing more sell-back rights, was not finalized until December 2008. Nowicki retired Jan. 30, 2009. The CCCERA board pointed to that retirement date as one of the factors contributing to the improper increase of his pension.

"My biggest mistake was not demanding that those perks be put into the original contract," said Nowicki. "I regret that." He said that he asked MOFD director Fred Weil for an affidavit, stating what the board originally promised Nowicki, but that Weil did not respond. (Weil declined to comment, saying that the status of the former chief's pension "is likely to be the subject of litigation.")

"Of course it hurts," said Nowicki. "It's absolutely awful. I've had a lot of sleepless nights. Six years out of retirement, it overwhelms me, my family, my friends. It's a horrible position to be put in.

"I know the sentiment of the public. Here's this guy coming out of the fire department, making all of this money. It's got to be something I did wrong. But I didn't. I didn't set those standards."

With the retirement board having voted to cut back his pension \$1.2 million - the projected savings by correcting future overpayments - Nowicki has exhausted his administrative appeals

through CCCERA, and he said that he is talking to an attorney.

"I find it equally demeaning and dishonoring to be put in this position, especially after having served the fire district the very best I could for 26 years and having followed all of the rules and direction that was given to me by CCCERA," he said.

"It's shameful."

Reach the reporter at: [nick@lamorindaweekly.com](mailto:nick@lamorindaweekly.com)

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# Barnidge: Critics says Lafayette residential development is too large -- and too small

By [Tom Barnidge Contra Costa Times Columnist](#)

Posted: **09/23/2015** 10:00:35 AM PDT Updated: about 19 hours ago

Truth is not only stranger than fiction; sometimes it's more perplexing.

We refer you to a residential project in Lafayette, across from Acalanes High School, that's been on the approval treadmill for 4½ years, evolving from a 315-unit apartment complex (the Terraces of Lafayette) into a 44-home subdivision (the Homes at Deer Hill).

We thought we'd heard every argument against the development. Not so, it turns out.

"We've received one lawsuit from a local group called Save Lafayette," said City Manager Steve Falk, "and they're attempting to stop the project because it's too big. We've been threatened with another lawsuit from the San Francisco Bay Area Renters Federation -- their effort is called Sue the Suburbs -- and they argue that the project is too small. They want the 315-unit apartment project to be built."

So there's room for everyone on this issue. Fee feel free to pick a side. The development will provide homes for too many residents or it won't provide homes for enough. Lafayette, which formerly was located between Walnut Creek and Orinda, now can be found between a rock and a hard place.

Falk, who's been at his job for 25 years, said it's not unusual to see people agitated over land-use issues. Many years ago, residents were upset over a proposed health club at the western end of town. About 15 years ago, the firestorm was over reconfiguration of a small park at the intersection of Moraga Road and Mt. Diablo Boulevard.

Controversies are bound to pop up in a town with residents as involved as Lafayette's, but it's not often that projects get attacked from both sides -- for being too little and too much.

Save Lafayette contends the city has understated the environmental impact of a new subdivision and has diverged from its general plan by rezoning the land for residential use. Sue the Suburbs alleges Lafayette has ducked its state-mandated responsibility to provide affordable housing by forgoing rental units for costly single-family homes.

"I can understand people's concerns about environmental impacts," Falk said, "but the Sue the Suburbs effort strikes me differently. We spent \$5 million in the last 10 years to deliver affordable housing. We recently opened a 46-unit project with Eden Housing where all units are for very low income people. We've insisted on 15-20 percent inclusionary affordable housing for all big downtown projects for the last 20 years.

"I think they're suing the wrong suburb."

Maybe the truth will win out. Now that would really be strange.

Contact Tom Barnidge at [tbarnidge@bayareanewsgroup.com](mailto:tbarnidge@bayareanewsgroup.com).

# Saving water: East Bay residents continue to conserve at high levels

By Denis Cuff [dcuff@bayareanewsgroup.com](mailto:dcuff@bayareanewsgroup.com)

Posted: 09/25/2015 04:49:31 PM PDT Updated: about 7 hours ago

Drought-conscious East Bay residents kept up their big water savings in August, conserving the resource at much higher rates than state demands for the third month in a row.

The area's six water suppliers slashed use at rates ranging from 27 to 42 percent below consumption in August 2013, as people continued to throttle down use for lawns and plants.

The August savings rate slipped a little for five of the six suppliers -- a drop of 2 to 7 percent, the water agencies reported in a survey by this newspaper.

But the savings rate still was significantly higher than the state-ordered reduction rates of 12 to 28 percent for individual districts.

Water officials are pleased.

"This shows our customers are taking the drought seriously and doing what we asked for three summer months in a row," said Abby Figueroa, a spokeswoman for the East Bay Municipal Utility District. "We really need this conservation in the hot summer, when we typically get the biggest demand, but we also have the biggest potential to save."

Even with predictions of a wet El Niño winter ahead, officials say it's too soon to know if the drought is about to end.

The East Bay district's 1.3 million residents reduced use 27 percent in August, a slightly less aggressive rate than the 31 percent in June and July. EBMUD has asked customers for a 20 percent cut, and the state has ordered the district to cut back at least 16 percent.

The Contra Costa Water District reported a 40 percent drop in August among its nearly 200,000 Central County residents. This was the third month in a row with such a high rate.

The Alameda County Water District's 330,000 residents in Fremont and Newark cut use 33 percent in August, a slight decrease from the 36 percent reduction in July. The district has a 16 percent state reduction target.

The biggest August saving rates were in the Tri-Valley, an area that imposed drought rates last year, earlier than most of California.

The Dublin San Ramon Water Services District reported a 42.5 percent reduction in August. The rate was 44.5 percent in July, the district's peak month for conservation this year.

The state has ordered Dublin San Ramon to reduce 12 percent.

"We are achieving 30 percent more conservation than the state has told us we must meet," said Dan Gallagher, the district operations manager. "We have been extremely pleased with our customers' hard work."

Pleasanton residents cut use 40 percent in August, less than the 47 percent savings rate in July and 48 percent in June. The city has been ordered by the state to cut back 24 percent.

Livermore water customers slashed use 36 percent in August, not as aggressive as the 42 percent rate in July. Livermore faces a 20 percent reduction ordered by the state.

Many residents made big cuts in outdoor water use this summer -- like Danville resident Wellington Lim.

He trucks in free recycled water from the Dublin San Ramon district's sewer plant in Pleasanton to irrigate his front and back lawns. The result: His household water use stays at about 250 gallons a day in summer for a family of four.

"We take shorter showers," Lim said, "but I think the biggest difference is the recycled water for irrigating landscaping."

The Dublin San Ramon district has no plans to close the reclaimed water station at its Pleasanton sewer plant any time soon. More than 3,100 people are signed up to use it.

Livermore plans a seasonal shut down of its recycled-water fill station on Wednesday for the fall and winter.

"As we move into cooler fall and winter temperatures, the supplemental recycled water for irrigation should not be necessary to keep landscaping alive," said Darren Greenwood, Livermore's public works director.

Water officials suggest that as days become cooler and shorter, customers consider resetting their sprinkler controls to water once a week. State rules bar homeowners from running sprinklers more than twice a week.

"If you have automatic sprinkler controls, it's good to check them in the next couple of weeks and consider how often to have them run," said Jennifer Allen, a spokeswoman for the Contra Costa Water District.

Contact Denis Cuff at 925-943-8267. Follow him at [Twitter.com/deniscuff](https://twitter.com/deniscuff).



## Local Fire Districts Battle Fires and Request Veto

In the midst of one of the worst fire seasons in recorded history, 18 fire agencies have now sent letters to Governor Jerry Brown requesting his veto of [Senate Bill 239 \(Hertzberg\)](#). This bill will limit the ability of fire agencies to contract together for services for the provision of fire protection services. It requires all such contracts be approved by local agency formation commissions (LAFCo) and mandates that each agreement undergo a costly fiscal analysis. Local agencies are currently able to contract together for services without LAFCo approval if no new services are being provided. As noted in CSDA's [request for veto letter](#), SB 239 limits local control and could disrupt fire service entirely in some situations.

While SB 239 awaits action, fire agencies are responding to severe fire conditions. The governor has issued states of emergency in the counties of Amador, Calaveras, Lake, and Napa due to the [Butte](#) and [Valley](#) fires, which have resulted in loss of life, as well as burned thousands of acres of land, caused the evacuation of residents and damaged highways and other critical infrastructure.

A total of over 140,000 acres have burned between the two fires in five different counties. A coordinated effort between CalFIRE and local agencies has been conducted to contain the blaze and provide food, water and shelter to displaced residents. A synchronized effort has been paramount to protecting the health and safety of those communities threatened by this natural disaster.

Register your SB 239 veto request today. Download a template letter [here](#).

[California Special Districts Association](#) | 1112 I Street | Suite 200 | Sacramento, CA 95814 | 877.924.CSDA (2732)



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## State Initiates First Mandatory Consolidation

A [new webpage](#) has been created by the State Water Resources Control Board (Water Board) to keep the public and stakeholders informed of actions related to state mandated consolidations and extensions of service for disadvantaged communities. This webpage provides public access to letters issued to water systems relating to consolidation or extensions of service, and provides a Frequently Asked Questions (FAQ) document explaining the consolidation or extension of service process.

The water system consolidation program was established by Senate Bill 88 earlier this year. The program allows the Water Board to require certain water systems that consistently fail to provide safe drinking water to consolidate with, or receive an extension of services from, another public water system.

In its first actions under the new authority, the Water Board issued letters ordering the consolidation of a the Pratt Mutual Water Company and Soult's Mutual Water Company into the City of Tulare water system. These letters and more can be found at the new Water Board [webpage](#).

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## Governor Signs AB2 Allowing for a New Tool to Combat Blight in Disadvantaged Communities

9/30/2015 by Todd Williams | Wendel, Rosen, Black & Dean LLP

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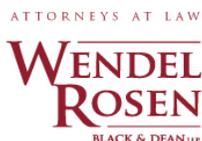
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After rejecting earlier attempts to revive redevelopment, Governor Jerry Brown signed Assembly Bill 2 on September 22, 2015, creating a new process to allow local governments to address blight in economically disadvantaged communities. The law permits the formation of a new public body called a “Community Revitalization and Investment Authority” (CRIA). While CRIsAs have a similar aim as former redevelopment agencies, the scope of AB2 is a scaled-down version of the redevelopment system that Brown helped dissolve four years ago.

A stated purpose of the new law, which goes into effect in January 2016, is to permit cities and counties to invest in “disadvantaged communities with a high crime rate, high unemployment, and deteriorated and inadequate infrastructure, commercial, and residential buildings.” CRIsAs will have comparable powers as the former redevelopment agencies, including issuing bonds, providing affordable housing, adopting area plans, and eminent domain power, but circumstances in which a CRIA can be formed are narrower than redevelopment agencies in an attempt to avoid what many perceived was an overuse of redevelopment in areas not truly blighted.

Formation: Under the law, there are two ways a CRIA can be formed.

First, a city, county (or city and county jointly) may create a CRIA (to be governed by a five-member board appointed by forming agency).  
Second, a city, county, or special district (or any combination) can form a CRIA through a joint powers agreement with the CRIA administered by members of the legislative bodies of the agencies that created the CRIA. In both situations, the five-member CRIA board must consist of three members of the legislative body of the agency that created the CRIA, as well as two members of the public who live or work in the area.

Some public agencies cannot take part in a CRIA. School entities and redevelopment oversight boards may not participate in a CRIA, nor may a public agency that has not yet completed the wind-down process of its redevelopment agency and received a finding of completion from the California Department of Finance.

Qualifications and Public Process: A CRIA must adopt a “community revitalization and investment plan” for its “community and revitalization and investment area.” At least 80% of the area designated is required to have an annual median household income less than 80% of the statewide annual median income, and must meet at least three of four conditions:

- (1) Unemployment is at least three percent higher in the area than the statewide median unemployment level;
- (2) The crime rate is five percent higher than the statewide median crime rate;
- (3) The area has deteriorated or inadequate infrastructure; and
- (4) The area has deteriorated commercial or residential structures.

In the past, redevelopment agencies simply needed to prepare a study to support a finding that “blight” (which carried a broad and varied definition under the law) existed in a project area. This allowed local governments broad powers to create redevelopment areas in areas that

were neither disadvantaged nor objectively blighted, and freeze the property tax base in order to retain property tax increases regardless of whether they were due to any actual redevelopment.

The CRIA's plan must be considered at three public hearings held 30 days apart. The first is to hear public comments; the second is to consider additional comments and modify or reject the plan; and the third is to conduct a protest proceeding where the board considers written and oral protests to the plan's adoption by property owner and residents, and ultimately makes a decision to terminate or adopt the plan. However, similar to annexation procedures under local agency formation commission laws, the plan will only be rejected if protests have been filed by over 50% of the property owners and residents in the area. If only between 25% and 50% of property owners and residents file protests, an election must be called to confirm the plan. If less than 25% of property owners and residents file protests, the board can adopt the plan at the third hearing. A new protest proceeding must be held every 10 years during the life of the plan.

**CRIA Powers:** A CRIA's has the ability to do all of the following: (1) fund rehabilitation, repair, upgrade or construction of infrastructure, (2) provide low and moderate-income housing, (3) remedy hazardous waste, (4) provide seismic retrofitting to existing buildings, (5) acquire and transfer real property, (6) issue bonds, (7) borrow money, receive grants or accept financial assistance, (8) adopt a community revitalization and investment plan, (9) make loans or grants for rehabilitation or retrofitting of buildings in the area, (10) construct structures necessary for air rights, and (11) provide direct assistance to businesses in the plan area in connection with new or existing industrial or manufacturing facilities.

Like former redevelopment agencies, a CRIA's plan may also provide for the receipt of tax increment funds, i.e., CRIAs would freeze the property tax base of the area at the time of plan approval, and retain the increased tax increment for use on specified activities. However, the taxing entities in the plan area must agree to divert tax increment to the CRIA, thus providing a greater voice to such entities than was available

under the former redevelopment law. At least 25% (up from 20% in under redevelopment law) of all tax increment revenues received by the CRIA must be deposited into a separate low- and moderate-income housing fund to be used by the CRIA to increase, improve and preserve the community's supply of affordable housing.

**Special Rules Regarding Low Income Housing:** If the plan calls for the destruction or removal of low- or moderate-income housing, the CRIA must provide an equal number of replacement units for sale or rent to low- or moderate-income persons and families within two years. The plan must also include a relocation plan for displaced persons. Also, the number of housing units occupied by extremely low, very low- and low-income households may not be reduced during the plan's lifetime.

**Conclusion:** While the application of AB2 is narrower than the former Community Redevelopment Law, it provides cities and counties with an additional tool to help fund improvements for infrastructure, affordable housing and economic revitalization in disadvantaged communities.

[\[View source.\]](#)

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# Money woes imperil Contra Costa fire districts

Updated: 10/04/2015 03:55:52 PM PDT

ContraCostaTimes.com

**BRENTWOOD** -- The Great Recession has widened the gap between Contra Costa's rich and poor fire agencies, leaving several areas with fewer stations and slower emergency response times and the entire county less equipped to handle a disaster as an already destructive fire season grinds on.

While most fire agencies across the county are getting their fiscal houses in order after years of belt-tightening, the East Contra Costa and Rodeo-Hercules fire districts face continuing financial hardship, exacerbated by low tax rates and property valuations that are still below pre-recession levels.

A county board is commissioning a study focused on finding solutions for the districts, whose average response times last year were nearly two minutes slower than before the recession.

### Fewer fire stations

Huge fire-prone swaths of central and eastern Contra Costa County have fewer operating fire stations than ever before.



Fire agencies with closed stations	Number closed	2007 Median response time	2014 Median response time
Contra Costa County Fire Protection District	4	5 min, 23 sec	5:27
East Contra Costa Fire Protection District	5	5:46	7:21
City of Pinole	1	5:01	5:30

Fire agencies with no closed stations	2007 Median response time	2014 Median response time
Crockett-Carpunaz (volunteer district)	6:52	5:47
City of El Cerrito (Kensington)	4:25	4:23
Orinda Moraga Fire Protection District	4:54	4:56
City of Richmond	4:52	5:07
Rodeo-Hercules Fire Protection District	5:24	7:39
San Ramon Valley Fire Protection District	5:17	5:30

\*One station closed for part of 2014  
Note: The East Bay Regional Park District and CalFire each staff one station in Contra Costa County  
Sources: Fire agencies; Contra Costa Local Agency Formation Commission  
SAN ANGELES NEWS GROUP

Staffing is especially low in East Contra Costa, which has had to close five of the eight fire stations it operated in 2008. With only 10 sworn firefighters per shift covering a parched 249 square miles, including Brentwood, Oakley and Discovery Bay, the district must call for help from other fire protection departments, sometimes from as far away as Tracy, simply to put out a fire.

"Everybody is concerned," Oakley Mayor Doug Hardcastle said. "And anyone who's not concerned needs to have their head examined."

The upcoming study will be undertaken amid a larger debate over the level of fire service communities should expect in an era of tighter budgets, and whether the best remedy is more taxpayer money or a retooling of fire departments, which mostly respond

to medical calls.

Ernie Wheeler, a Rodeo-Hercules board member and retired assistant chief at Travis Air Force Base, said staffing wouldn't be an issue if firefighters went back to focusing on fires and let ambulances handle medical calls. A relaxation of state-mandated training requirements for reserve or volunteer firefighters, he said, would also help boost manpower.

"At some point, we lost a sense of what a fire district really needs," he said.

For Contra Costa Fire Protection District (ConFire) Chief Jeff Carman, whose agency has shuttered four of its 28 firehouses and has 18 fewer firefighters working every shift since the recession, the biggest need is more Costa full-time firefighters.

If East Contra Costa or Rodeo Hercules don't pull their weight, he said, that strains other agencies, especially when there's a major incident.

"When you run out of fire engines, you shouldn't expect that someone will always come to the rescue," said Carman, who runs the county's largest fire district -- which often struggles with its own call volume. "We're the fifth-most industrialized county in the state, and we live on earthquake faults. We do not have enough firefighters."

Overall, Contra Costa is home to 11 firefighting agencies that staff 57 stations daily -- 10 fewer than in 2008.



*East Contra Costa firefighter captain Robert Ruddick, of Station 52, works on a desktop computer in Brentwood, Calif., on Monday, Sept. 28, 2015. Over the*

Cities impacted by reduced staffing include wildfire-prone Lafayette and south Walnut Creek, where ConFire closed stations with low call volumes. In West County, Pinole closed one of its two stations, and Rodeo-Hercules, which is dependent on a soon-to-expire grant, could be forced to once again close its Rodeo station, leaving just one open.

Nevertheless, median response times have held relatively steady except in East Contra Costa and Rodeo-Hercules, where they jumped from about 5½ minutes before the recession to more than seven minutes last year -- by far the slowest in the county.



*East Contra Costa firefighter captain Robert Ruddick, of Station 52, poses for a photograph in Brentwood, Calif., on Monday, Sept. 28, 2015. Over the past*

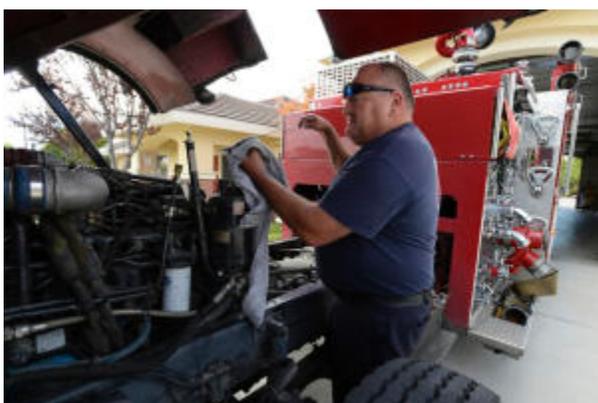
Firefighters say every second counts in an emergency, but it's difficult for them to quantify the impact of slower response times in terms of fighting fires and responding to medical calls.

Rodeo-Hercules Chief Charles Hanley pointed to a 9-acre fire this summer just outside his district in rural Martinez that burned down a house, killing a dog inside, as an example of the impact of nearby station closures.

"That fire wasn't contained quickly," Hanley said. "The more water and more people you get there, the faster the fire is

going to go out."

East Contra Costa Chief Hugh Henderson said his fire engines are now frequently being beaten to emergency calls by ambulances. ConFire, by comparison, arrives before the ambulance 50 to 70 percent of the time, Carman said.



*East Contra Costa engineer Larry Bennett, of Station 52, checks on the engine oil of the fire truck in Brentwood, Calif., on Monday, Sept. 28, 2015. Over*

Starting next year, ConFire's dispatch center will be able to track available ambulances, which Carman hopes will reduce by about 25 percent the number of engines sent to minor medical calls.

Still, he said, it would be prohibitively expensive to get private ambulances to respond to all medical calls.

East Contra Costa and Rodeo-Hercules' money woes date back nearly 40 years to Proposition 13, which set in stone the share of property taxes earmarked to local government entities such as cities and schools.

At the time, both communities were mostly undeveloped and didn't need to devote much money to fire protection. As a result, East Contra Costa receives 8 percent of that tax revenue. Rodeo-Hercules gets 9 percent, although some of it goes to pay off the debt of Hercules' former redevelopment agency.

By contrast, ConFire is slated to receive 14 percent, the San Ramon Valley Fire District 15 percent, and the Orinda-Moraga Fire District 21 percent.

East Contra Costa's fiscal problems turned dire when the foreclosure crisis hit in 2008, devastating its already paltry property tax base. While foreclosures weren't as big a problem in Rodeo and Hercules, the assessed value of the Phillips 66 oil refinery in Rodeo was nearly halved during the recession, costing the fire district about \$900,000 per year, officials said.

"As a fire district, we rely heavily on property values," San Ramon Valley Fire District Chief Paige Meyer said. "And the fact is that our property values weren't hit as hard as others."

With a bigger, more stable tax base, Meyer's district and the neighboring Orinda-Moraga Fire District were able to keep stations open even as they dealt with multimillion-dollar budget deficits and spiraling pension costs during the recession. Likewise, city fire departments in El Cerrito and Richmond, both of which have special taxes supporting them, have kept services intact.

But the wealthier departments have no interest taking over their poorer neighbors.

Rodeo-Hercules couldn't find any takers recently when it explored contracting out for services or consolidating with a neighboring agency.

"Why would anyone take on our problems?" Hanley said.

Henderson said fire agencies have less incentive to join forces these days because they have already thinned out their upper management and support staff.

"A lot of those economies of scale can no longer be achieved," he said.

For now, Rodeo-Hercules' financial future is primarily tied to a \$900,000-a-year special tax that property owners approved but has been challenged in the courts.

East Contra Costa property owners twice rejected a similar tax proposal. Leaders are gearing up for another tax measure, while also working on a temporary plan to open a fourth station until the election using funds from Oakley, Brentwood and the county.

For Supervisor Mary Piepho, of Discovery Bay, a tax hike is the only solution. "The question is how do we gain (the voters') trust and how do we explain to community members that this is dire?"

Contact Matthew Artz at 510-208-6435.

**NEWS**

OCTOBER 4, 2015

# National leaders in ag preservation gather in Modesto

## HIGHLIGHTS

American Farmland Trust board discusses anti-sprawl efforts in county

Ballot measures, ag land mitigation are among tools

County's \$4.4 billion in gross farm income last year draws attention

BY JOHN HOLLAND

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National leaders in farmland preservation learned Sunday of efforts in Stanislaus County to keep sprawl at bay.

The board of the American Farmland Trust heard about ballot measures that direct housing to less productive soil and about requirements for at least an acre of preserved agricultural land for every acre annexed to a city.

Veterans of the land use battles told of pressure over the past four decades from the building industry, which went through a few booms and busts while farming generally prospered.

“Clearly, you’ve decided that the better use is agriculture here, and that’s a big hurdle to get over,” said Ralph Grossi, a Marin County rancher who spent 23 years as president of the trust and now is its interim leader.

The group, based in Washington, D.C., announced Sunday its support for a Nov. 3 ballot measure in Modesto that would require a future vote for development to the north, west or south, except for a zone near Salida.

The board visited with Jake Wenger, a nut grower and Modesto Irrigation District director, before meeting at the downtown headquarters of the Stanislaus County Farm Bureau. The trust’s annual meeting is Monday in Sacramento.

Sunday was the first board gathering for member Gina Gallo, a third-generation leader of E.&J. Gallo Winery in Modesto. She succeeded her brother, Tom Gallo, at the trust. Their father, Bob Gallo, was on the board previously.

“Everyone here is passionate,” Gina Gallo said afterward. “The Central Valley is the best in America for food – 230 different products that are planted here.”

Gallo, who now lives in Napa, recalled growing up in a Stanislaus County that had much less development, including the homes built for Bay Area commuters in recent decades.

The meeting came five days after the release of the county’s 2014 crop report, which estimated

gross farm income at a record \$4.4 billion.

“Our county is bigger than 20 other states in the U.S.,” said Wayne Zipser, executive manager at the Farm Bureau. “It’s quite remarkable what we do.”

The growth debates go back at least to the late 1970s, when Modesto started to put major sewer extensions before voters in advisory measures. More recently, voters countywide decided to require a vote of the people before unincorporated land is developed for housing.

Hughson Mayor Matt Beekman said residential growth costs much more in public services than it brings in taxes, compared with other types of development. His city requires 2 acres of preserved farmland, rather than the 1-acre standard set by the Stanislaus Local Agency Formation Commission, which rules on annexations.

Beekman served on LAFCO until July, when a majority of other mayors ousted him over his vote on fees that builders can pay toward farmland preservation.

Modesto Mayor Garrad Marsh said his city is among the densest in the Valley thanks to ag preservation, and it has enough room in its current growth boundaries for a doubling of the population.

“I ran on a platform of build up, not out, and I’m still there,” said Marsh, who is seeking re-election next month.

Officials noted the county’s right-to-farm

ordinance, which protects farmers from complaints about noise, dust and other impacts. Homeowners get a reminder of it in their property tax bills.

“Maybe it doesn’t smell so good,” Supervisor Jim DeMartini said, “but these are typical farming operations, and we have a right to farm our ground.”

John Holland: 209-578-2385



## MORE NEWS

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## COMMENTS

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## MOFD to Leave Local 1230?

*By Nick Marnell*

Rumblings abound among the Moraga-Orinda Fire District rank and file of a desire to break off from their parent labor union and form their own local, according to a district union representative.

"Nothing specific, we're just looking at our options," said firefighter-paramedic Mark DeWeese. "We always want to look at what's out there. What if we had our own union? We have 50 guys in our district and there have always been a bunch who think that it would be better for us to go off on our own."

Both MOFD chief Stephen Healy and Vince Wells, president of the International Association of Firefighters, Local 1230, declined to comment.

"We're not looking to leave IAFF," said DeWeese, the district union representative. As to the pros of breaking off to form a separate local, "I'd rather not answer that," he said.

Mike Mohun, San Ramon Valley Fire Protection District captain and president of Local 3546, which split from its parent union in 1993, cited the benefits of a breakaway by using simple logic. "The larger the group you belong to, the smaller you are," he said. "In a smaller organization, you have more of a say."

The SRVFPD captain said that he favors the hands-on approach he employs at his local chapter. "I work in San Ramon," he said. "I am in constant contact with my employees, the chief officers, the board of directors. I am much more geographically accessible."

According to Mohun, the breakaway of MOFD would also take a burden off of Local 1230. "The more employees that you represent, the more difficult it becomes to manage them," he said. "It'll be much easier for ConFire." Wells is a captain with the Contra Costa County Fire Protection District. "There's no urgency," said DeWeese, who noted that the membership meets regularly to discuss such topics. As for any affect of a possible split on the district residents, "It wouldn't be a big deal. Not much would change for the citizens of Moraga and Orinda," he said.

Reach the reporter at: [nick@lamorindaweekly.com](mailto:nick@lamorindaweekly.com)

[back](#)

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## Lamorinda Fire News Briefs

*By Nick Marnell*

### Stations 16 and 43 Construction

A structural engineer told Contra Costa County Fire Protection District chief Jeff Carman that he concurred with the opinion of the district contractor that fire station 16 in Lafayette was not doomed to the wrecking ball. "There's no reason why we can't rebuild it," said the chief. Initial plans call for the stripping of the structure down to the frame and rebuilding from there.

The Moraga-Orinda Fire District, though, plans to raze its dilapidated station 43 and erect a totally new structure on Via Las Cruces in Orinda. Initial estimates approach \$4 million. Fire chief Stephen Healy said that the district may need to purchase a temporary station to house the station 43 crew during construction.

Representatives from Brandis Talliman LLC, a San Francisco-based investment banking firm, plan to outline public and private financing options at the Nov. 4 district meeting.

### MOFD is Hiring

The Moraga-Orinda Fire District is seeking firefighter-paramedics. Fire chief Stephen Healy said that the district extended its application period this time from one to two months to broaden the pool of potential applicants. "The best candidates are taking a lot of tests," he said.

The deadline for applying is 5 p.m. Nov. 13. More details, along with the employment application, are available at the district website, mofd.org.

### ConFire Ambulance Contract

The Contra Costa County Board of Supervisors awarded the available county ambulance contract to the Contra Costa County Fire Protection District, and the district's contract negotiations with the county emergency medical services agency should be completed by mid-October, according to ConFire chief Jeff Carman. The district then plans to finalize an agreement with American Medical Response, the current county emergency medical transport provider, to subcontract for ambulance service. ConFire takes over the available county ambulance contract in January.

"We are working to merge our two dispatch centers," said Carman. The Contra Costa Regional Fire Communications Center in Pleasant Hill operates 24 hours a day, every day of the year, with ConFire dispatchers providing fire and medical service to most of the county. The center also contracts for dispatch service with the Moraga-Orinda Fire District. ConFire will add AMR dispatchers to the center to systematically deploy ambulance calls after the first of the year.

ConFire and AMR transmit via different radio frequencies, but by January, the chief said that AMR dispatch will merge into the ConFire radio frequency.

"We're making good progress, but there's not a lot of breathing room," said Carman. "But that's the way I like it."

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[back](#)

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