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To: California City Officials

From: Bill Higgins[1]
Legislative Representative
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Date: September 19, 2008

RE: Technical Overview of SB 375 (v 1.1)[2]

I. Introduction

SB 375, by Senator Darrell Steinberg, builds on the existing regional transportation planning process (which is overseen by local elected officials with land use responsibilities) to connect the reduction of greenhouse gas (GhG) emissions from cars and light trucks to land use and transportation policy. In 2006, the Legislature passed AB 32—The Global Warming Solutions Act of 2006,—which requires the State of California to reduce GhG emissions to 1990 levels no later than 2020. According to the California Air Resources Board (CARB), in 1990 greenhouse gas emissions from automobiles and light trucks were 108 million metric tons, but by 2004 these emissions had increased to 135 million metric tons. SB 375 asserts that "Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32."[3]

AB 32 set the stage for SB 375—or at least something like it. The issue was not "if" land use and transportation policy were going to be connected to reducing greenhouse gas emissions but "how" and "when." The issue was not "if" a governmental entity would regulate the car and light truck sector in order to reduce greenhouse gas emissions – the CARB already has that authority under AB 32 – but "how" and "when."

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[1] *Acknowledgement*. The author acknowledges and is grateful for the very significant contributions of the League's special counsel, Betsy Strauss, in preparing this document

[2] *Work in Progress Disclaimer*. This memorandum is a work in progress; it is not and should not be considered legal advice. It represents our best thinking to date on the scope and major implementation issues related to SB 375. As additional information becomes available, we will update this document. Readers who are aware of issues not addressed here, identify inadvertent errors, or want to make additional comments, should contact Bill Higgins at higginsb@cacities.org or 916/658-8250)

[3] See SB 375 (2008), Section 1(c) [uncodified]

Accordingly, SB 375 has three goals: (1) to use the regional transportation planning process to help achieve AB 32 goals; (2) to use CEQA streamlining as an incentive to encourage residential projects which help achieve AB 32 goals to reduce Greenhouse Gas emissions (GhGs); and (3) to coordinate the regional housing needs allocation process with the regional transportation planning process.

To be sure, the League remains fundamentally concerned about the keeping the line as bright as possible between regional planning and local land use authority. In the end, however, SB 375 answers the questions "how?" and "when?" by choosing regional agencies (controlled by cities and counties) rather than the CARB to lead the effort in this area; and by integrating RHNA with transportation planning to allow cities and counties to align existing mandatory housing element requirements with transportation funding. Those cities and counties that find the CEQA streamlining provisions attractive have the opportunity (but not the obligation) to align their planning decisions with the decisions of the region.

II. SB 375 in Context: AB 32, CARB, and Global Warming

AB 32 granted CARB broad authority over any "source" of GhG emissions.[4] The definition of "source" includes automobiles and light trucks,[5] which account for more than 30 percent of the state's GhG emissions. AB 32 authorizes the CARB to require "participation" in CARB's program to reduce greenhouse gas emissions and to "monitor compliance" with the statewide greenhouse gas emissions limit.[6]

SB 375 represents a "program" for the automobile and light truck sector.[7] It provides a means for achieving the AB 32 goals for cars and light trucks. This is important to understanding why the agreement on SB 375 was reached: SB 375 provides more certainty for local governments and developers by framing how AB 32's reduction goal from transportation planning for cars and light trucks will be established. It should be noted, however, that SB 375 does not prevent CARB from adopting additional regulations under its AB 32 authority.[8] (However, given the degree of consensus that emerged on SB 375, such actions should be politically difficult for CARB at least for the foreseeable future).

SB 375 requires the CARB to establish the GhG emission reduction targets for each region (as opposed to individual cities or households) and to review the region's

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[4] Cal. Health & Safety Code § 38560

[5] Cal. Health & Safety Code § 38505(i)

[6] Cal. Health & Safety Code § 38562 and following

[7] Cal. Health & Safety Code § 38562.

[8] This is because the scope of authority granted to CARB to regulate any "source" of GHG emissions is very broad.

determination that its plan achieves those targets. Each Metropolitan Planning Organization (MPO) must include a sustainable communities strategy (SCS) in the regional transportation plan that seeks to achieve targeted reductions in GhG emissions from cars and light trucks if there is a feasible way to do so. CARB establishes the targets for each region in accordance with the following:

- *CARB must take other factors into account before setting target.* Before setting a reduction target for the reduction of GhGs from cars and light trucks, CARB must first consider the likely reductions that will result from actions to improve the fuel efficiency of the statewide fleet and regulations relating the carbon content of fuels (low carbon fuels). [9]

- *Targets are set regionally, not locally.* SB 375 assures that the target to reduce GhGs from cars and light trucks will be regional. (CARB has received many comments and suggestions on its Scoping Plan that it should adopt targets and enforce requirement on an agency-by-agency basis).

- *Committee to advise CARB.* A Regional Targets Advisory Committee, which includes representation from the League of California Cities, California State Association of Counties, metropolitan planning organizations, developers, planning organizations and other stakeholder groups, will advise the Board on how to set and enforce regional targets.

- *Exchange of technical information.* Before setting the targets for each region, CARB is required to exchange technical information with the MPO for that region and with the affected air district. The MPO may recommend a target for the region.

The CARB's role in SB 375 is limited. Although the CARB retains its broad grant of authority to act independently under AB 32, SB 375 provides the framework for reducing greenhouse gas emissions in the car and light truck sector through the tie between land use and transportation planning.

Moreover, SB 375 indirectly addresses another longstanding issue: single purpose state agencies. The League, among others, has argued that these agencies often fail to recognize other competing state goals enforced by a different state agency. SB 375 takes a first step to counter this problem by connecting the Regional Housing Needs Allocation (RHNA) to the transportation planning process. As a result, SB 375 will require CARB to look at how new climate regulations could affect state and regional transit and housing policies; likewise, Department of Housing and Community Development (HCD) will have to consider the effects of housing policy on state and regional efforts to address climate change.

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[9] Cal. Gov't Code § 65080(b)(2)(A)(iii). Citations to language in SB 375 is to the section of the code as it proposed to be amended based on the August 22 version of SB 375 that was approved by the Assembly and concurred with by the Senate.

III. Planning for Greenhouse Gas Emission Reduction within the RTP

Regional transportation plans have long been a part of the transportation planning horizon in California. Federal law requires regional transportation plans (RTPs) to include a land use allocation and requires the metropolitan planning organizations that prepare RTPs to make a conformity finding that the Plan is consistent with the requirements of the federal Clean Air Act. Some regions have also engaged in a regional "blueprint" process to prepare the land use allocation.

1. The Sustainable Communities Strategy (SCS)

SB 375 integrates AB 32's goal to reduce GhG emissions into transportation planning by requiring that a sustainable communities strategy (SCS) be added to the RTP. SB 375 recognizes that, because of the constraints of federal law and inadequate funding for infrastructure and public transit, an SCS may not be able to achieve the region's targets. If the metropolitan planning organization (MPO) determines that the SCS cannot achieve the targets, then the MPO must develop an Alternative Planning Strategy (APS) (see discussion below). The biggest single difference is that the SCS is part of the RTP and the APS is not.

To fully understand what an SCS is—and is not—it's worth taking a step back and look at what is required in existing regional transportation plans. RTPs are regulated by a conglomeration of state and federal law. State law requires that an RTP include "clear, concise policy guidance to local and state officials" regarding transportation planning.[10] The federal law requires that RTPs, among other things, work toward achieving the goals of the Clean Air Act.

One important component of the RTP for federal purposes is an estimate of a likely or realistic development pattern for the region over the next 20 to 30 years. This estimate informs the decision-making process for transportation funding. The forecasted growth pattern must be based upon "current planning assumptions" to assure that the air conformity provisions are meaningful. Put another way, if the growth pattern is not realistic, then the accompanying policies to achieve air quality conformity relating to air pollutants from traffic are not likely to work. If the federal government determines that the projected growth development pattern is not realistic, it can withhold federal transportation funding.

Like the federal Clean Air Act, SB 375 requires the growth pattern in the SCS to be based upon the "most recent planning assumptions considering local general plans and other factors."[11] It also requires that the SCS be consistent with the federal regulations that require a realistic growth development pattern. In addition, the SCS must consider or address several additional factors:

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[10] Cal. Gov't Code § 65080(a).

[11] Cal. Gov't Code § 65080)b)(2)(B).

- Consider the spheres of influence that have been adopted by the local agency formation commission (LAFCO).[12]

- Identify the general location of uses, residential densities, and building intensities within the region;

- Identify areas sufficient to house all economic segments the population of the region over the long term planning horizon of the RTP;

- Identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region;

- Identify a transportation network to service the transportation needs of the region;

- Gather and consider the best practically available scientific information regarding resource areas and farmland in the region (note, there is no requirement to act on this information);

- *S*et a forecasted development pattern for the region, which, when integrated with the transportation network and other transportation measures and policies, will reduce the GhG emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the GhG emission reduction targets approved by the state board: and

- Quantify the reduction in GhG emissions projected to be achieved by the SCS and, if the SCS does not achieve the targeted reductions in greenhouse gas emissions, set forth the difference between the amount that the SCS would reduce GHG emissions and the target for the region.[13]

Of all these requirements, the one that has generated the most concern to date is the requirement that the RTP include a development pattern which, if implemented, would achieve the GHG emissions targets if there is a feasible way to do so. It is important to emphasize that this development pattern must comply with federal law, which requires that any pattern be based upon "current planning assumptions" that include the information in local general plans and sphere of influence boundaries. If a certain type of development pattern is unlikely to emerge from local decision-making, it will be difficult for the regional agency to say that it reflects current planning assumptions.

In addition, the SCS will not directly affect local land use decisions. The SCS does not in any way supersede a local general plan, local specific plan, or local zoning. SB 375 does

[12] Cal. Gov't Code § 65080(b)(2)(F).

[13] Cal. Gov't Code § 65080(b)(2)(G).

not require that a local general plan, local specific plan, or local zoning be consistent with the SCS.[14]

2. The Alternative Planning Strategy (APS)

In the case where the SCS does not achieve the GhG emission reduction target, the MPO must develop an Alternative Planning Strategy (APS).[15] The APS is a separate document from the RTP[16] and therefore does not automatically affect the distribution of transportation funding. The APS must identify the principal impediments to achieving the targets within the SCS. The APS must also include a number of measures—such as alternative development patterns,[17] infrastructure, or additional transportation measures or policies—that, taken together, would achieve the regional target.

The APS must describe how the GHG emission reduction targets would be achieved and why the development pattern, measures, and policies in the APS are the most practicable choices for the achievement of the GHG targets. Like the SCS the APS does not directly affect or supersede local land use decisions; nor does it require that a local general plan, local specific plan, or local zoning be consistent with the APS.[18]

In addition, SB 375 provides that the APS does not constitute a land use plan, policy, or regulation and that the inconsistency of a project with an APS is not a consideration in determining whether a project may be deemed to have an environmental effect for purposes of the California Environmental Quality Act (CEQA).

Some have asked about the purpose of the APS: Why should an MPO spend the time to develop an alternative planning strategy if there is no requirement to actually implement it? The answer is two-fold. First, a general consistency with a CARB approved plan—whether it's an SCS or APS—allows projects to qualify for the CEQA streamlining provisions in the bill (see Part IV, below). Second, it adds a new focus for the regional transportation planning and housing allocation: reductions in GhG emissions.

3. CARB's Role in the Approval of the SCS or APS

CARB's role in reviewing the SCS or APS is very limited. It can only accept or reject the MPO's determination that the plan would, if implemented, achieve the regional GHG

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[14] The CEQA changes made by the bill require residential projects to be consistent with the SCS in order to take advantage of streamlined CEQA processing.

[15] Cal. Gov't Code § 65080(b)(2)(H).

[16] Government Code 65080(b)(2)(H).

[17] The development pattern must still comply with the provisions of the SCS that require consistency with the RHNA distribution and other factors.

[18] The CEQA changes made by the bill require residential projects to be consistent with the APS in order to take advantage of streamlined CEQA processing.

emission reduction target established by CARB.[19] CARB must complete its review within 60 days. It may not issue conditional approvals or otherwise interfere in any way with local decision-making.

In addition, the process is designed so that there will be an extended exchange of information between the MPO and CARB about the technical methodology that the region intends to use to estimate the GHG emissions reduction. SB 375 encourages the MPO to work with CARB until it concludes that the technical methodology it intends to use operates accurately. CARB must respond to such consultations in a timely manner. This type of communication before the actual submission should reduce the chance that CARB will find a particular plan does not achieve the regional target.

4. Setting the Regional Target for GhG Emissions

There are two questions relevant to setting the regional targets. The first is: How much of the overall AB 32-imposed reduction will be required from transportation planning for cars and light trucks statewide? This amount will be set by CARB in the AB 32 Scoping Plan, which assigns reduction targets for the 2020 goal on a sector-by-sector basis and lays the framework for achieving that goal.

In the early draft of the Scoping Plan released in June 2008, CARB called for a reduction of 2 million metric tons of GhG statewide (out of a total of 169 million metric tons needed to achieve AB 32's 2020 target).[20] This amounts to approximately 1.2 percent of the total reductions. This number is likely to go up in the final Scoping Plan, but should remain small in proportion to total amount of GhGs generated by cars and light trucks (at least for the 2020 target).

Once the statewide target is set, the second question is: How will it be assigned to the individual regions? SB 375 requires CARB to set regional targets by September 30, 2010 (draft targets will be released to the regions by June 30).[21] The target may be expressed in gross tons, tons per capita, tons per household, or in any other metric deemed appropriate by the state board.

To assist in this process, the CARB's board appoints a Regional Targets Advisory Committee to recommend factors and methodologies to be used for setting these targets.[22] The committee is made up of representatives from the League of California Cities, California State Association of Counties, MPOs, affected air districts, planners, homebuilders, affordable housing organizations, environmental justices organizations, and others. The committee will make its report to CARB by September 30, 2009.

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[19] See 65080(b)(2)(I)(ii).

[20] See California Air Resources Board, Climate Change Draft Scoping Plan (June 2008 Discussion Draft), pages 11 and 33.

[21] Cal. Gov't Code § 65080(b)(2)(A).

[22] Cal. Gov't Code § 65080(b)(2)(A)(i)

In addition, prior to setting the target for the region, CARB must exchange technical information with the MPO and affected air district. The MPO may also recommend its own target for the region. The MPO must hold at least one public workshop within the region after receipt of the report from the Advisory Committee. CARB shall release draft targets for each region no later than June 30, 2010. In setting these targets, CARB must first consider the GhG reductions that will be achieved from improved vehicles emission standards (overall fuel efficiency improvements), changes in fuel composition (such as low carbon fuels) and other measures that CARB has adopted to reduce GhGs from other emissions sources.[23]

Once set, the targets must be updated every 8 years, which is consistent with the new RHNA planning cycle and two RTP planning cycles in non-attainment areas. The board can also, at its discretion, revise the targets every four years based on changes in fuel efficiency, use of low carbon fuels, or other factors that CARB can take into account in setting the target.[24] Before revising or updating the regional targets, CARB must engage the primary stakeholders (Dept. of Transportations, MPOs, air districts, and local governments) in a consultative process.

5. What SB 375 means for transportation funding

SB 375 requires the RTP to be internally consistent much like the internal consistency requirement of a city or county's general plan. This means that the "action element" and the "financial element" of the RTP must be consistent with the SCS, since the SCS is part of the RTP. (The "action element" and the "financial element" of the RTP, however, do not need to be consistent with the APS, since the APS is not part of the RTP.) This means that decisions about the allocation of transportation funds must be consistent with the SCS, its land use plan, and its transportation policies. The land use plan must be based upon the most recent planning assumptions. These are taken in part from local city and county general plans. As cities and counties use the CEQA streamlining in SB 375, their planning assumptions will align more closely with those in the SCS or APS, whichever CARB agrees would achieve the region's GhG target, if implemented.[25]

SB 375 makes explicit the authority that already exists in the law. MPOs already have authority to impose policies or condition transportation funding. The Metropolitan Transportation Commission, for example, does not fund certain types of transit projects

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[23] Cal. Gov't Code § 65080(b)(2)(A)(iii).

[24] 65080(b)(2)(A)(iv).

[25] This is because the CEQA streamlining should act to change some of the projects as they are proposed to be built by developers. Assuming that the CEQA streamlining is sufficient to motivate developers to propose projects that are consistent with the SCS or APS, this may impact the "current planning assumptions" for the region. Nothing requires local agencies to approve such proposals, but if local agencies indicate a willingness to support such proposals, the projected development pattern for the region will change accordingly.

unless they serve areas that meet minimum density standards.[26] Even without SB 375, MPOs were likely to take additional steps in the direction of adopting policies related to reducing GhG emissions within their RTPs planning because the California Transportation Commission recently amended its RTP Guidelines to require that MPOs consider GhG emissions as part of the RTP process.

It is worth noting that the decision-makers on the regional MPOs are made up wholly of local elected officials. Accordingly, MPOs are not likely to support measures that limit the discretion of cities and counties, particularly in those MPOs where every city and county in the region has a seat on the MPO board. Only two regions, SCAG and MTC, do not fit that model. SB 375 provides an exception for the SCAG region that allows for sub-regional development of the SCS and APS, where local representation is more broadly reflected.

6. How are Local Officials and the Public involved in Developing the SCS/APS

Once the region has its target, the question turns toward developing a regional plan to achieve GhG reductions. SB 375 requires the following public and local official participation processes before the plan can be adopted:

- *Local Elected Official Workshops.* MPOs must conduct at least two informational meetings in each county within the region for local elected officials (members of the board of supervisors and city councils) on the SCS and APS. The MPO may conduct only one informational meeting if it is attended by representatives representing the county and a majority of the cities representing a majority of the population in the incorporated areas of that county.
- *General Public Participation.* Each MPO must adopt a participation plan consistent with the requirements of the participation plan required by federal law that includes a broad range of stakeholder groups. These workshops must be sufficient to provide the public with a clear understanding of the issues and policy choices. At least one workshop shall be held in each county in the region. For counties with a population greater than 500,000, at least three workshops shall be held. Each workshop, to the extent practicable, shall include urban simulation computer modeling to create visual representations of the SCS and the alternative planning strategy. The MPO must also provide a process where members of the public can provide a single request to receive notices, information, and updates.
- *Circulation of Draft SCS/APS.* A draft of the SCS and APS must be circulated at least 55 days before the adoption of the RTP.
- *Public Hearings.* The MPO must hold at least three public hearings on the SCS and APS in multiple county regions, and two public hearings in single county regions. To the extent feasible, hearings should be in different parts of the region to maximize the opportunity for participation.

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[26] See MTC Policy 3434 (www.mtc.ca.gov/planning/smart_growth/tod/TOD_policy.pdf)

7 Agencies and Regions Affected by SB 375

SB 375 applies to the 17 metropolitan planning organizations (MPOs) in the state. Together, these organizations cover 37 counties and represent almost 98 percent of the state's population.

These include four multiple county MPOs, including the Association of Monterey Bay Area Governments (AMBAG - Monterey, San Benito, and Santa Cruz counties), Metropolitan Transportation Commission (MTC - Alameda, Contra Costa, Solano, Marin, Napa, Sonoma, San Francisco, San Mateo, an Santa Clara counties), Sacramento Area Council of Governments (SACOG – Sacramento, Yolo, El Dorado, Placer, Yuba, and Sutter counties) and the Southern California Association of Governments (SCAG—Los Angeles, Ventura, San Bernardino, Riverside, Imperial, and Orange counties).

Affected single county MPOs include Butte, Fresno, Kern, Kings, Madera, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Shasta, Stanislaus, and Tulare counties.

8. Exempt transportation projects

Transportation projects funded by the MPO must be consistent with the SCS except that projects programmed for funding on or before December 31, 2011 are not required to be consistent if (1) they are contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program; and (2) they are funded pursuant to Section 8879.20 of the Government Code; or (3) were specifically listed in a ballot measure prior to December 31, 2008 approving a sales tax measure for transportation purposes. In addition, a transportation sales tax authority need not change funding allocations approved by the voters for categories of transportation projects in a sales tax measure adopted prior to December 31 2010.

10. Exceptions for the SCAG region

SB 375 provides a special set of exceptions for the development of the SCS/APS within the region of the Southern California Association of Governments (SCAG)[27]. Here, a subregional council of governments and the county transportation commission may work together to propose a SCS or APS for the subregional area. Although SCAG may still address interregional issues in the SCS/APS, SCAG must include the subregional SCS or APS to the extent that it is consistent with the requirements of a regional transportation plan and federal law. SCAG is still responsible for creating an overall public participation plan, ensuring coordination, resolving conflicts and making sure that the plan complies with all applicable legal requirements.

[27] Cal. Gov't Code § 65080(b)(2)(C).

11. Special Provision for the Eight San Joaquin Valley MPOs

In order to encourage regional cooperation among the 8 counties in the San Joaquin Valley, SB 375 specifically encourages two or more counties to work together to develop cooperative policies and develop a multiregional SCS or APS.

12. MPOs in Attainment Areas and RTPAs Not Within an MPO

There are a few counties in the state that are actually in "attainment" for air quality purposes. Federal law requires that these regions update their RTPs at least every five years instead of every four years (the requirement for non-attainment MPOs). In addition, there are a number of other counties that are not included within an MPO at all. Given that SB 375 is based on a eight year cycle that includes one RHNA planning period and two RTP planning periods, the five year requirement would place attainment MPOs out of sync with the non-attainment MPOs.

SB 375 solves this by allowing attainment MPOs, or a regional transportation planning agency (RTPA) not within an MPO, to opt into an 8 year planning cycle.[28] In other words, they may maintain their status quo with a five-year RHNA planning cycle that may or may not be aligned with their RTP planning cycle. Or they may opt into the 8-year cycle upon meeting the following conditions:

- Opting to adopt a plan not less than every four years
- This election must be made prior to June 1, 2009 or at least 54 months prior to the deadline for the adoption of housing elements for jurisdictions within the region (in order to afford HCD with sufficient time to develop and distribute an 8 year number).
- Public hearing

13. Rural Sustainability

MPO or county transportation agency must consider financial incentives for cities and counties that have resource areas or farmland. The idea is that to the extent that SB 375 drives more transportation investments to existing urban areas, some consideration should be given to rural areas that nevertheless help address the emissions targets by not building. An MPO or county transportation agency shall also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the GhG emissions reductions targets by implementing policies for growth to occur within their cities.

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[28] Cal. Gov't Code § 65080(b)(2)(L).

IV. NEW CEQA EXEMPTIONS AND STREAMLINING

The EIR prepared for a RTP will consider the impact of the Plan on global warming and the growth-inducing impacts of the Plan. SB 375's CEQA incentive eliminates the requirement to analyze the impacts of certain residential projects on global warming and the growth-inducing impacts of those projects when the projects achieve the goals of reducing greenhouse gas emissions by their proximity to transit or by their consistency with the SCS or APS.

1. Two Types of CEQA Streamlining

SB 375 includes two types of CEQA streamlining. One is for residential projects that are consistent with the SCS (or APS) that CARB agrees is sufficient to achieve the GhG targets for the region if it was implemented.[29] The other is for Transportation Priority Projects (which also must be consistent with the SCS/APS). Each of these is discussed in more detail below.

2. Projects consistent with the SCS/APS

A residential or mixed-use project which is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a SCS/APS is not required to reference, describe, or discuss (1) growth-inducing impacts; or (2) project specific or cumulative impacts from cars and light-duty truck trips on global warming or the regional transportation network if the project incorporates the mitigation measures required by an applicable prior environmental document.

In addition, an environmental impact report prepared for this type of project is not required to reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project.

3. Three Types of Streamlining for Transit Priority Projects

SB 375 amends CEQA in three ways for "transit priority projects" (or TPPs). A TPP is a new type of project created by SB 375 that must meet the three requirements: (1): contains at least 50% residential use; commercial use, if any, must have floor area ratio (FAR) of not less than 0.75; (2) have a minimum net density of 20 units per acre; and (3) be located within one-half mile of a major transit stop or high quality transit corridor included in a RTP.[30]

- *Total CEQA Exemption for a Sub-Set of TPPs.* A TPP is exempt from CEQA if it complies with a long list of criteria including the following:
  - Not more than 8 acres and not more than 200 residential units

[29] Cal. Gov't Code § 65080(b)(2)(I)

[30] "Major transit stop" is defined at Section 21064.3 of Public Resources Code and in SB 375 in Section 21155(b). "High quality transit corridor is defined in SB 375 in Section 21155(b).

- Can be served by existing utilities
- Does not have a significant effect on historical resources
- Buildings are 15% more energy efficient than required and buildings and landscaping is designed to achieve 25 percent less water usage
- Provides EITHER a minimum of 5 acres per 1,000 residents of open space, OR 20 % housing for moderate income, or 10% housing for low income, or 5% housing for very low income (or in lieu fees sufficient to result in the development of an equivalent amount of units). [31]

- *TPP: Sustainable Communities Environmental Assessment.* A TPP that does not qualify for a complete exemption from CEQA may nevertheless qualify for a sustainable communities environmental assessment (SCEA) if the project incorporates all feasible mitigation measures, performance standards, or criteria from prior applicable environmental impact reports. A SCEA is similar to a negative declaration in that the lead agency must find that all potentially significant or significant effects of the project have been identified, analyzed and mitigated to a level of insignificance. There are four significant differences:
  - Cumulative effects of the project that have been addressed and mitigated in prior environmental impacts need not be treated as cumulatively considerable.
  - Growth-inducing impacts of the project are not required to be referenced, described or discussed.
  - Project specific or cumulative impacts from cars and light duty truck trips on global warming or the regional transportation network need not be referenced described or discussed.

  A SCEA is reviewed under the "substantial evidence" standard. The intent of the author was to eliminate the "fair argument" test as the standard of review for a sustainable communities environmental assessment.

- *Transit Priority Projects – Traffic Mitigation Measures*. SB 375 also authorizes the adoption of traffic mitigation measures that apply to transit priority projects. These measures may include requirements for the installation of traffic control improvements, street or road improvements, transit passes for future residents, or other measures that will avoid or mitigate the traffic impacts of transit priority projects. A TPP does not need to comply with any additional mitigation measures for the traffic impacts of that project on streets, highways, intersections, or mass transit if traffic mitigation measures have been adopted.

[31] This is a partial listing of the criteria.

V. Changes to the Housing Element Law

Before SB 375, federal and state law ignored the fact that in most areas in California, regional transportation plans and regional housing allocation plans are prepared by the same regional organization. Conflicting deadlines policies have historically caused a disconnect between regional transportation planning and regional housing policy. SB 375 eliminate this disconnection by requiring the RTP to plan for the RHNA and by requiring the RHNA plan to be consistent with the projected development pattern used in the RTP.

This will make two significant changes in this regard. First, cities and counties in Clean Air Act non-attainment regions will have an 8-year planning period,[32] which means that the housing element must be updated every 8 years rather than every 5 years.

Second, cities' and counties' RHNA will change because consistency between the regional housing needs allocation plan and the RTP means that the concept of "fair share" will change. Under existing law, the COG adopts the regional housing allocation plan. The plan distributes to each city and to each county its fair share of the regional housing need.[33] Under SB 375 the plan must be consistent with the development pattern included in the SCS (although each jurisdiction still must receive an allocation).[34] In trying to encourage a growth development pattern for residential housing that would reduce GhGs, SB 375 had to address the potential conflicts with the existing RHNA and housing element goals and process.

1. Establishing an Eight Year Planning Period in Non-Attainment Regions

Local governments within a region classified as "non-attainment" under the Clean Air Act and local governments within a region that has elected[35] to adopt a regional transportation plan every four years are required to revise their housing element every eight years (instead of the current 5 years).[36] All other local governments remain on the five-year schedule (see "*12. MPOs in Attainment Areas and RTPAs Not Within an MPO*" on page 11).

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[32] SB 375 allows attainment regions to elect to prepare an RTP every four years which will then mean that cities and counties in that region to have an 8-year planning period.

[33] SB 375 changes the methodology that HCD uses to calculate the existing and projected regional need. This number must now reflect "the achievement of a feasible balance between jobs and housing within the region using the regional employment projects in the applicable regional transportation plan" Cal. Gov't Code § 65584.01(d).

[34] See Cal. Gov't Code § 65584.04(i)..

[35] Cal. Gov't Code § 65080(b)(2)(L).

[36] See Cal. Gov't Code §§ 65588(b). and (e)(7)

2. When the Eight Year Planning Period Starts

Local governments in non-attainment areas are required to adopt their fifth revision of the housing element no later than 18 months after the adoption of the first RTP adopted after September 30, 2010. Local governments that have elected to adopt the RTP every four years are required to adopt their next housing element 18 months after the adoption of the first regional transportation plan following the election. All local governments within SANDAG are required to adopt their fifth revision no more than 5 years from the fourth revision and their sixth revision no later than 18 months after adoption of the first RTP adopted after the fifth revision due date.

3. Timeline for RHNA Allocation and the Housing Element

In areas where the 8-year planning period applies, the MPO will allocate the RHNA number to the individual cities and counties at approximately the same time it adopts the RTP (which includes the requirement that the SCS must accommodate the 8 year RHNA allocation). Once the city receives its RHNA allocation, it has 18 months to prepare its housing element and submit it to the Department of Housing and Community Development (HCD).

All local governments within the jurisdiction of an MPO, except those within the San Diego Association of Governments, shall adopt its next housing element 18 months after adoption of the first RTP that is adopted after September 30, 2010.

4. Consequence of Failing to Submit a Timely Housing Element

Local agencies that fail to submit a housing element to HCD within the 18 month timeline fall out of the 8 year housing element cycle and must submit their housing element every four years to HCD.[37] These agencies must still complete their zoning within three years and 120 days of the deadline for adoption of the housing element of or be subject to the sanctions provision described below. [38]

5. Timeline to Re-Zone Sites to Meet RHNA Need

Each housing element includes an inventory that identifies sites to accommodate the jurisdiction's RHNA. Jurisdictions with an eight-year housing element must rezone sites to accommodate that portion of the RHNA not accommodated in the inventory no later than three years after the date the housing element is adopted or the date that is 90 days after receipt of the department's final comments, whichever is earlier.[39]

Rezoning of the sites includes adoption of minimum density and development standards. A local agency that cannot meet the 3-year requirement may be eligible for a 1-year

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[37] Cal. Gov't Code § 65588(b)

[38] Cal. Gov't Code § 65583(c)(1)(A)

[39] Cal. Gov't Code § 65583(c)(1)(A).

extension if it can prove that it has completed 75 percent of its zoning requirement and was unable to rezone for one of the following reasons: (1) because of an action or inaction beyond the control of the local agency, (2) because of infrastructure deficiencies due to fiscal or regulatory restraints, (3) because it must undertake a major revision to its general plan in order to accommodate the housing related policies of an SCS or APS.[40]

6. Scheduling Actions Required by the Housing Element Program

Current law also requires a housing element to include a program of actions that the local agency intends to undertake during the planning period to encourage that the needs of all economic segments of the community will be met. SB 375 requires local agencies to develop a schedule and timeline for implementation as to when specific actions will have "beneficial impacts" within the planning period. [41]

7. Public Hearing for HCD Annual Report.

Local governments must now hold a public hearing and provide a annual report on the progress made during the year on the programs within the housing element. This requirement to make this report on an official form approved by HCD has been in the law since 1995, but has not been officially applicable because HCD has not yet finalized the form under the administrative rulemaking process[42].

8. Extension of Anti-NIMBY for Affordable Housing Projects

SB 375 extends a strict anti-NIMBY law protection (now called the Housing Accountability Act) for housing development projects, which are defined as projects where at least 49 percent of the units are affordable to families of lower- income households. [43](In most circumstances, a development that meets the 49 percent threshold is a development where 100 percent of the units are affordable to lower-income households.),

The new anti-NIMBY provision applies to an agency's failure to zone a site for low- and very low-income households within the three year time limit (four years if an agency qualifies for an extension). If an affordable project is proposed on that site and the project complies with applicable, objective general plan and zoning standards, including design review standards, then the agency may not disapprove the project, nor require a conditional use permit, planned unit development permit, or other discretionary permit, or impose a condition that would render the project infeasible, unless the project would have a specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the adverse impact.

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[40] Cal. Gov't Code § 65583(f).

[41] Cal. Gov't Code § 65583(c);

[42] Cal. Gov't Code § 65400(a)(2)(B).

[43] Cal. Gov't Code § 65583(g)

9. Potential "Sanctions" for Failing to Meet Zoning Timeline

Any interested person may bring an action to compel compliance with the zoning deadline and requirements for the new 8-year housing element.[44] If a court finds that a local agency failed to complete the rezoning, the court is required to issue an order or judgment, after considering the equities of the circumstances presented by all parties, compelling the local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out, the court is required to issue further orders to ensure compliance and may impose sanctions on the local agency[45], but must consider the equities presented by all affected parties before doing so.

10. Adoption or Self Certification of Housing Element Remains the Same.

Although SB 375 changed the housing element planning period from 5 years to 8 years for some jurisdictions, and added time frames for completing certain actions which must be taken during the planning period, SB 375 did not change either the way in which the housing element is adopted except to the extent that the regional housing allocation plan must be consistent with the SCS. The RHNA process remains itself. Self-certification of the housing element remains an option (and triggers the three year requirement to zone).– SB 375 did nothing to alleviate the struggle that some cities and counties face in trying to plan for their entire RHNA except that HCD review of the housing element will occur less frequently for jurisdictions that move to an 8 year planning period.

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[44] Cal. Gov't Code § 65587.

[45] This provision is similar to the requirement to file an annual housing element report on form approved through the state rulemaking process. See Cal. Gov't Code § 65400(a)(2)(B). A local agency that fails to file such a report is subject to sanctions. Most agencies are not familiar with this provision, however, because HCD has not yet formally adopted the forms that would trigger this requirement (though a draft of such a form is posted on the HCD website—it has not yet been formally approved).

KEY DATES IN THE IMPLEMENTATION OF SB 375

December 31, 2008*	Projects specifically listed on a local ballot measure prior to this date are exempt from the requirement to be consistent with the SCS
January 1, 2009	CARB adopts Scoping Plan, which will include the total reduction of carbon in million metric tons from transportation planning
January 31, 2009	CARB shall appoint a Regional Targets Advisory Committee (RTAC) to recommend factors to be considered and methodologies to be used for setting reduction targets
June 1, 2009	MPOs in attainment areas and Regional Transportation Planning Agencies not within an MPO may elect to opt into the 8 year planning cycle.
September 30, 2009	RTAC must report its recommendations to the CARB
June 30, 2010	CARB must provide draft targets for each region to review
September 30, 2010	CARB must provide each affected region with a GHG emissions reductions target.
October 1, 2010	Beginning this date, MPOs updating their RTP will begin 8 year planning cycle that includes SCS-APS and alignment for the RHNA process.
December 31, 2010*	Transportation sales tax authorities need not change allocations approved by voters for categories of projects in a sales tax measure approved by voters prior to this date.
December 31, 2011	Federal Statewide Transportation Improvement Projects programmed before this date are exempt from the requirement to be consistent with the SCS

* *A project category is different from a specifically listed project insofar as a local initiative may authorize funding for a certain type of improvement without specifying a specific location.*

NEW RTP – RHA PLANNING CYCLE

(Highlighted, underlined provisions indicates new law. Plain text represents current law).

RHNA PROCESS	YEAR	RTP PROCESS
▪ HCD consults with COG regarding assumptions and methodology to be used to determine housing needs ▪ COG Develops Regional Growth Forecast ▪ COG conducts survey of its member jurisdictions ▪ HCD gives regional housing number to COGs ▪ COG develops methodology for distributing RHNA consistent with development pattern in SCS	-2 to -1	▪ MPO begins forecast process for RTP including involvement of broad stakeholder groups ▪ MPO holds informational meetings for local elected officials ▪ MPO circulates a draft SCS, and possibly a draft APS if needed, at least 55 days prior to final adoption ▪ MPO quantifies the reduced GhG emissions from SCS or APS ▪ MPO holds public hearings ▪ SCS is approved by MPO; APS may also be approved ▪ CARB agrees or disagrees with MPO's assessment that SCS or APS would, if implemented, achieve the GhG target
▪ COG distributes draft RHNA allocation consistent with SCS; every agency must within SCS must get some of the housing allocation.	0	▪ MPO adopts RTP that includes the SCS
▪ First six months, agencies may request COG reconsider allocation and file subsequent appeal ▪ Local agency starts drafting housing element ▪ Final RHNA allocation adopted by COG at 6 months ▪ Housing element due to HCD 18 months after local agency receives RHNA allocation (one year after final RHNA) ▪ Local agency must adopt housing element 120 days after statutory deadline to HCD to avoid a 4 year cycle; ▪ 90 days after receiving final comments on housing element from HCD, or date housing element adopted by local agency, 3 year time period to complete zoning of sites not within inventory begins ▪ Annual housing report with hearing to discuss	1 to 3	▪ Transportation investments are consistent with forecasted development pattern in SCS ▪ Projects that are consistent with the CARB approved APS/SCS are eligible for CEQA exemption and streamlining provisions ▪ MPO reviews and updates forecasts and assumptions in RTP (including SCS) for second RTP cycle
▪ Deadline to complete zoning of sites not within inventory if no extension applies; Failure to meet timeline can trigger court-imposed sanctions and new anti-NIMBY remedy ▪ New Anti-NIMBY provision applies to affordable housing projects on sites designated in the element program to be zoned at densities consistent with affordable housing (the "Mullin densities") but not yet zoned.	4	▪ MPO submits RTP that is consistent with the RHNA allocation four years earlier..
▪ Local agencies that did not file a timely housing element in year one must file another housing element that covers Years 5 through 8 of the planning period ▪ Local agencies that qualified for a one year extension are required to complete their zoning of sites not in inventory	5	
▪ HCD provides MPO with regional number for next 8 year cycle; COG begins process of developing next SCS/APS	6	▪ COGs begins forecast for next RTP planning cycle
▪ If agency has not zoned adequate sites in previous planning period, zone or rezone in 1st year of planning period unaccommodated portion of RHNA from previous period	8	▪ Possible "Analysis Year" – Fed regs require MPOs to include "analysis years" within RTP forecast period to take a hard look at its assumptions. The first analysis year is 5 to 10 years out. The 8 year RHNA cycle makes the 8th year a good analysis year for the fed regs.
Repeat Process		**Repeat Process**

KEY LEAGUE AMENDMENTS TO SB 375

Over the course of the SB 375 negotiations, the League identified a number of key amendments it required in order for the board to consider supporting it. This table summarizes many of those issues and explains the resulting outcome of the negotiations.

Issues	SB 375 March 24, 2008 Version	SB 375 Final Version
Restrictions on Transportation Funding?	Transportation investments within the RTP were based upon a set of assumptions about resource lands that did not necessarily reflect the content of local general plans.	The requirement for the SCS to identify resource lands is gone. Local officials on MPO boards retain discretion over the funding within RTP. If the SCS cannot achieve the regional GhG target, the region must create an APS that could achieve the GhG target. But the APS is not part of the RTP. Funding for projects must be consistent with the SCS, but not necessarily the APS.
Meaningful CEQA Relief?	CEQA provisions had several preconditions that made it unlikely that they would broadly applied	Contains two forms of CEQA relief. The first exempts residential projects from reviewing the impacts related to cars and light trucks on projects that are consistent with a plan to reduce GhGs from that source. The second is for defined infill projects near transit choices.
Mandatory Growth Allocations in SCS of Regional Transportation Plan?	Required MPOs to do mandatory and heavily prescribed growth management within the regional transportation plan (RTP), which came to be known as "concentric circle" planning	Mandatory growth management has been removed and the requirement in earlier drafts that a region "identify resource lands" has been changed to "gather and consider the best practically available scientific information about resource lands."
Sweeping Resource Land Definitions?	Resource definitions included new ambiguous terms.	The ambiguous environmental land definitions have been clarified to be consistent with current law.
Role for local officials in developing SCS?	None	MPO must adopt an outreach process that includes workshops for local elected officials in each county.
Local Participation Setting Regional GhG Reduction Targets?	Called for a top-down process for setting GHG targets that was unacceptable	Bill now contains a fair process for setting regional targets that includes a statewide advisory committee with League representation. CARB must hold workshops requirements in each region.
Confusion between existing federal laws and SB 375?	It was unclear how the new "Supplement," (now the APS) and the existing federal RTP requirements were related to each other.	Connection between the "Supplement" (now called the "Alternative Planning Strategy or APS)" which is required when a region's RTP cannot meet the regional targets) and the RTP; i.e., the land use pattern in the Alternative Planning Strategy will not affect or be part of the RTP or its funding.
RHNA Consistency and Extension?	The new goal of encouraging infill through transportation investments and the RTP (4 year cycle) directly conflicted with existing RHNA fair share goals (5-year cycle).	The bill achieves a three-year extension of the RHNA process (from 5 – 8 years), making it consistent with the RTP process of two four-year cycles. This achieves a major League goal.

September 12, 2008

SUBJECT: LAFCOs and SB 375

Dear Fellow LAFCO Commissioners:

I am writing you on behalf of the Orange County Local Agency Formation Commission (LAFCO) regarding SB 375.

Each of you represents a unique part of California and that diversity is our strength. One size does not fit all or address the diversity of people and agencies that make up California. And you, as a locally elected representative, truly know and understand how to best enhance the life of the citizens you serve. However we believe that your ability to address the needs of your neighbors is being undermined.

We believe that local control is being undermined by SB 375. The proponents of this bill have called it a "watershed moment", "landmark legislation" and "the most important land use bill" in decades. The many statewide organizations, including CALAFCO, who diligently worked to amend the bill, tell us that it is better now than it was before. That may be true but it is still a problematic bill that erodes local authority.

SB 375 places local control in the hands of regional planning organizations and the California Air Resources Board (CARB), a single purpose regulatory agency with no experience in land use planning or in addressing the myriad of issues that communities must face. CARB does not have the same depth of knowledge or understanding of local issues as an area's locally elected representatives.

In summary, here is how SB 375 will change your decision making authority. CARB now has the statewide authority to regulate greenhouse gas emissions. SB 375 makes CARB the lead agency to decide how much greenhouse gas must be reduced in each area. CARB will then tell the 17 Metropolitan Planning Organizations (MPOs) what those goals are and each MPO must develop a transportation plan and land use plan, known as a Sustainable Communities Strategy, to meet those goals. The

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http://www.oclafco.org

Sustainable Communities Strategy must direct "growth in the right direction" and must be approved by CARB. CARB has the absolute, unilateral authority to reject every Sustainable Communities Strategy even if ALL the local agencies have agreed upon it.

While SB 375 does not technically require agencies to change their land use plans to conform to the Sustainable Communities Strategy, it carries a big stick. State and federal transportation monies would be funneled only to those areas that change their land use plans to conform to the Sustainable Communities Strategy. So you may not be "required" to change your area's development patterns but don't count on getting money to meet your transportation needs!

SB 375 is only the beginning. There is already discussion about additional legislation next year to "implement" the provisions of SB 375. Some have said this is a first step toward regional planning and ultimately regional governance. Centralized land use control and governance should not be supported.

What is most troubling is the haste with which SB 375 was approved. The final version was not put into print until August 13, 2008 and was rushed through the Legislature to meet the August 31 deadline. Eighteen (18) days for a "landmark" piece of legislation with potentially far-reaching consequences prevents the vast majority of Californians and even most elected representatives from knowing the details and impacts of SB 375, much less being able to voice their concerns.

There are two courses of immediate action you can take. First letters requesting a veto of SB 375 should be sent to the Governor immediately. Secondly, we urge you to contact the CALAFCO Board and ask that they re-consider their recent support for SB 375 until there is a full understanding of the consequences of this piece of legislation.

We look forward to working with in the future to support your ability to enhance the unique character of your county and to meet the varied challenges you face without the interference from a centralized control by CARB or other state agencies.

Peter Herzog
Orange County LAFCO Commissioner

Journal of the California Association of Local Agency Formation Commissions

The Sphere

September, 2008

Report to the Membership 2007-08 Activities

An Important Legislative Year

Six Bills Already Signed by Governor

By Bill Chiat, CALAFCO Executive Director and Legislative Chair

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

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

Signed by Governor

Laws take effect 1 January 2009

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

AB 1998 (Silva). This law moves the responsibility for the LAFCo financial disclosure requirements from LAFCo to the Fair Political Practices Commission. More substantially it places that financial disclosure language in the Political Reform Act. While LAFCos value the financial reporting requirements, they benefit significantly by eliminating the workload of reviewing and processing the disclosure forms and enforcing the requirements. These tasks are now in the hands of the FPPC.

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

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

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

Continued on back cover

CONFERENCE EDITION

The Sphere

CALAFCO Journal

September, 2008

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

To submit articles, event announcements, comments or other materials noteworthy to LAFCo commissioners and staff, please contact the Editor at 916-442-6536 or wchiat@calafco.org.

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To the Members:

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

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

FINANCIAL MANAGEMENT

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

Significant additions were made to the Association's fund reserve this year which will help support member services in uncertain economic times and avoid the need to tap members for additional funds. These resulted from financially successful conferences and prudent management of the Association's resources. Several uncertainties exist in 2008-09 with the need to move the CALAFCO office, but the Executive Director is working closely with our current landlord to manage costs. The Board has created a prudent reserve of approximately 34% ($78,345) of the annual operations budget outside of the conference and workshops. The Association has qualified and opened an account with the Local Agency Investment Fund (LAIF) and has significantly increased interest income.

EDUCATIONAL SERVICES

Staff Workshop and Annual Conference

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

CALAFCO University

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

AICP Credit

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

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

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

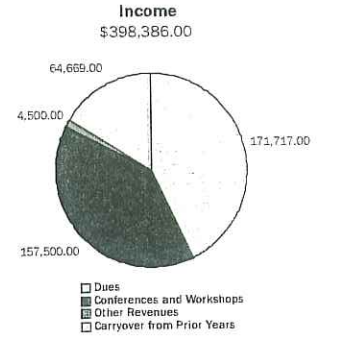
CALAFCO continues to maintain list-serves for staff and counsel which fosters the sharing of information and resources. In addition CALAFCO maintains an up-to-the-minute legislative posting in the members section of the website.

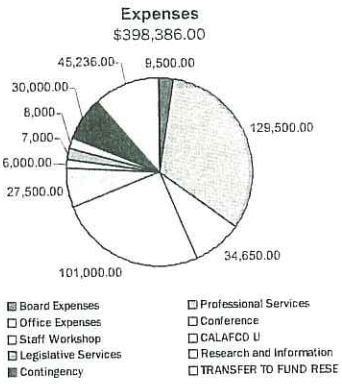
Publications
Published the quarterly journal, *The Sphere,* now with a circulation of over 800. Published the annual *Membership Directory* with regular updates of the on-line version. CALAFCO also began distributing the annual update of Cortese-Knox-Hertzberg Act, at a reduced cost, on behalf of Assembly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

LEGISLATIVE SERVICES

Legislative Policy and Committee
For the first time in over a dozen years the CALAFCO Board thoroughly reviewed and adopted a new set of Legislative Policies to guide the Association. The policies were developed with the input of the Legislative Committee and Association members. It provided a foundation to pursue specific legislative initiatives to clarify LAFCo authority on a number of issues raised by Association members, and to respond to issues that emerged during the year at the Legislature and State regulatory agencies. The Board also established a formal Legislative Committee that met regularly throughout the session to propose and review legislation which affects LAFCos.

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





2008-09 Fund Reserve $78,345.00

CALAFCO Adopted
FY 2008-09 Budget

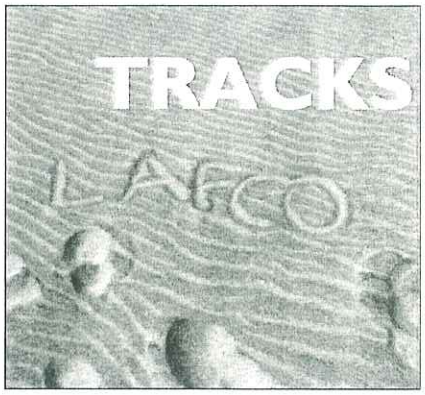
Legislative Agenda
CALAFCO had a broad legislative agenda, sponsoring or supporting eight bills. Please see the separate summary of 2007-08 legislation. In addition, CALAFCO worked to keep several bills that would have adversely affected LAFCo from being heard. Most CALAFCO bills enjoyed bipartisan support.

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

ADMINISTRATIVE SERVICES

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

Sincerely,
CALAFCO Board of Directors



Around the State

AMADOR

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

NAPA

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

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

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

Almost seven years and three analysts later, LAFCo is inching closer to completing its inaugural study schedule with only SOI updates for two cemetery districts remaining. Several important lessons have been learned in the course of preparing this first round of MSRs and SOI updates – most of which are positive with the exception of a few agonizing missteps along the way. In terms of positives, as intended, LAFCo has measurably improved its decision-making by developing a better understanding of the level and range of governmental services in the region and in relationship to local conditions and needs. LAFCo has also leveraged the process to address other important issues, including educating cities and special districts of the Commission's role in approving out-of-agency agreements involving new and extended services. Finally, the process has enhanced local governance, particularly for many of the small special districts that benefit from LAFCo's third-party analysis of their services and structures.

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

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

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

Submitted by: Keene Simonds, Napa LAFCo Executive Officer

ORANGE

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

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

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

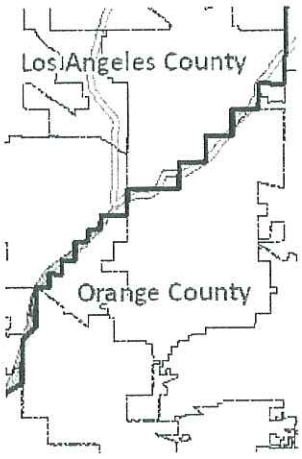
(2) Islands – New Tools to Successfully Annex Remaining Islands

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

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

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

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



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

Rossmoor Incorporation News

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

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

Submitted by: Bob Aldrich, Orange LAFCo

SAN DIEGO

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

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

Governor Schwarzenegger Declares Statewide Drought in June, 2008

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

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

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

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

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

Submitted by: Robert Barry, San Diego LAFCO

SANTA BARBARA

Controversy in Santa Barbara County

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

Does a CSD Preserve or Damage Agriculture?

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

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

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

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

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

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

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

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

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

California Supreme Court

SUPREME COURT STRIKES DOWN OPEN SPACE ASSESSMENT UNDER PROP. 218

By Michael G. Colantuono

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

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

California Supreme Court

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

Implications of the Case

So, what does the case mean in practical terms? A full answer to that question will develop as lower courts apply the case, but we offer a few initial observations: First, open space assessments, regional park assessments and other assessments that provide broad and diffuse benefit to a large area and that benefit all members of society – tenants, landowners and visitors alike – have always been difficult to justify as conferring special benefit sufficient to be assessments and not special taxes (for which ⅔-voter approval is required). This case makes that burden harder still. Thus, great care will now be required in drafting engineer's reports for such assessments and legal review of those reports is essential. For some programs of this type, local governments may wish to consider special taxes, general taxes (which require majority voter approval), or non-property-related fees such as inspection and service fees (which do not require voter or property-owner approval but generally do not raise the substantial sums need for capital improvements).

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

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

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

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

PHILISTINE RETREATS, WATER GETS CHEAPER

By Pat McCormick, Executive Officer, Santa Cruz LAFCo

The Setting

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

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

The Story

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

Thus began a 40+ year experiment to compare whether a private or public operator provided better cost-effective water service in the San Lorenzo Valley. The hilly service areas, the water sources, and the infrastructure needs were similar in Felton and the other valley communities. This as close to a perfect "apples to apples" comparison as could be designed outside of a test tube.

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

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

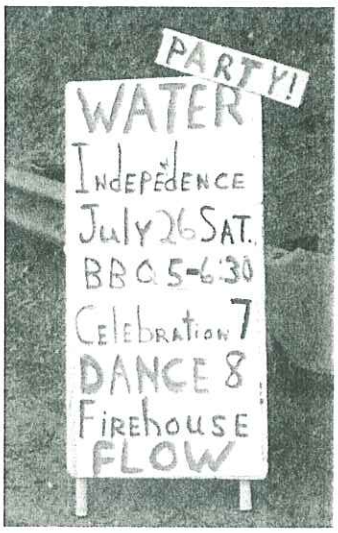
After not being able to get a sympathetic ear with the PUC, the Feltonians convinced LAFCo to amend the water district's sphere to include Felton, and convinced the Board of Supervisors to call an election on an assessment to buy the Felton water system and convey it to the SLVWD for operation. Their theory was that with public ownership of the system, their property tax bills would go up and their water bills would go down. They expected their total water costs would eventually be lower under public ownership.

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

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

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

In calculations done by the Felton customers' group, the



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

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

Points for LAFCos to Ponder

- The company water rate regulation by the California PUC resulted in much higher water rates in Felton than in the nearby non-regulated communities served by the water district.
- Rate cases before the PUC are conducted as administrative law hearings, and effective representation of the customers can require hiring an attorney with special expertise in PUC law and regulations.
- Over 40+ years, the imperfect checks and balances available though a locally elected water board did a better job in balancing improvement needs and water rates than the PUC did in regulating the water company. In the district, if rates went up too fast, or if water supply or quality became inadequate due to underinvestment or mismanagement, the electoral process tended to detect and correct bad decisions.
- The Felton type of water system transfer would not be available to other California communities if Proposition 98 had passed in June 2008. That proposition would have prohibited the use of eminent domain for a public entity to acquire a private asset (e.g., a water company) if the public entity was going to use the asset for a substantially similar purpose (e.g. delivering domestic water). As future proposals are brought forth to limit the use of eminent domain in California, efforts should be made to assure that any community could continue to use eminent domain as a last-chance option to switch between which monopoly operates the water system.
- LAFCos should not presume that the PUC regulation of private water companies results in lower costs than the costs for publicly operated systems. In performing municipal service reviews and reviewing spheres of influence, LAFCos should consider public alternatives in selective situations where private company water costs or other major operational issues appear out of line.

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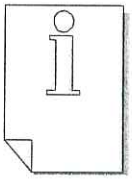
Thank You!

Business Continuity Planning and Management of Records

By Hedy Aref, President, Incrementum Document Solutions



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

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

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

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

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

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

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

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

Budget Model Assists in Plans to Meet Fire Service Needs

By Dawn Mittleman, Senior Consultant, ESCi

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

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

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

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

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

***ESCi** is a CALAFCO Associate Member.*

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

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

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

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

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

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

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

Rather than do that, the proponents chose to challenge the determination that a full EIR was required. In the ruling that was issued by the Superior Court on May 2, 2008, Judge Lydia Villareal made the following determinations:

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

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

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

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

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

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

San Luis Obispo Airport Area Annexed (*Finally!*)

By Paul Hood, Executive Officer, San Luis Obispo LAFCo

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

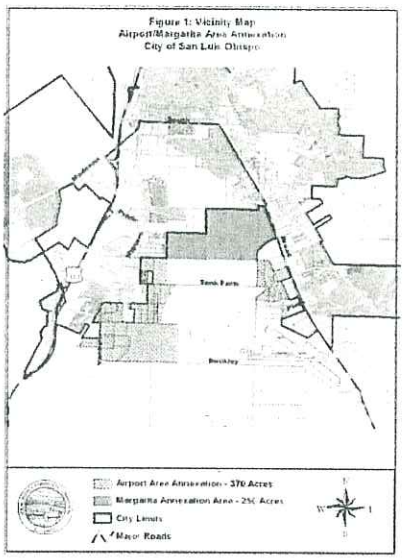
Although development in this area clearly impacts the city, many property owners resisted annexation because of concerns over potential restrictions on development and increases in fees. This led to a number of "interim or piece-meal annexations" initiated by property owners who wanted services from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

In 2002 the Commission made a decision to end the processing of these interim annexations due to concerns over adequate water supplies to serve the area and comprehensive planning issues. LAFCo directed the city to prepare a comprehensive plan for annexing the entire airport area that included a demonstration of an adequate and sustainable water supply. It was clear that piecing together one interim annexation after another was not facilitating planned or orderly growth within the city or the unincorporated area surrounding the airport. In response specific plans were approved by the city for the Margarita Area and Airport Area in October 2004 and August 2005, respectively. A Program EIR was also prepared and certified by the city for each area.

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

After a comprehensive public outreach program that included numerous presentations and public meetings by city and LAFCo staff, the San Luis Obispo City Council adopted a Resolution of Application to LAFCo to annex the airport area in May, 2007. The city decided to split the annexation into three phases based on several factors, including property owner support. Phase 1A comprised of approximately 626 acres and was approved by the Commission on April 17, 2008. This was followed by a June 19 protest hearing which was insufficient to terminate proceedings.

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



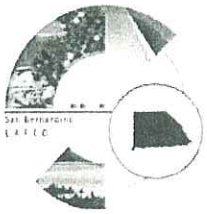
I guess the moral of the story is that sometimes good planning takes time. Also there needs to be a strong element of trust and cooperation among agencies, property owners and the public for good planning to succeed. In this case, LAFCo had the important role of facilitating this trust and cooperation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

Sometimes timing is everything!!

CASE STUDY

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

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



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

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

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

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

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

As population growth in the county increased dramatically over time, public demand within the unincorporated areas for augmented levels of fire service also increased. As new unincorporated communities were formed, numerous fire protection and emergency medical response service agencies were created, many between 1950 and 1980. Some of these districts were formed under the "self governance" model, where the district is governed by an independently-elected board of directors. In other areas, the County Board of Supervisors created entities under its jurisdiction for the provision of these services.

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

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

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

An 18,353 Square Mile Annexation Proposal

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

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

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

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

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

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

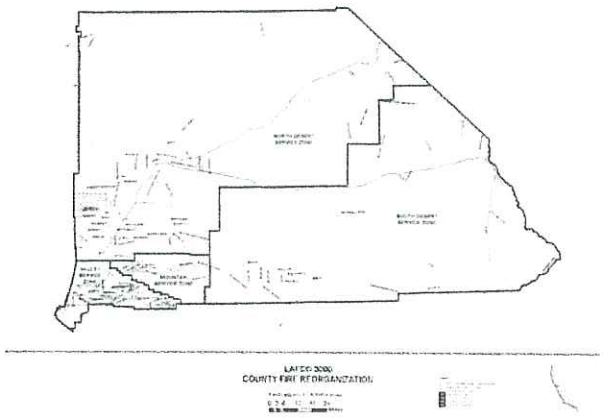
- Remove dissolution of the Central Valley Fire Protection District (CVFPD) from the elements of consideration;
- Detach the territory not currently a part of the City of Fontana or its sphere of influence from the CVFPD and annex them to the Yucca Valley Fire Protection District; and
- Establish the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

Three-year Staff Effort Processing the Proposals

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

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

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



Complex Issues Emerged; Were Resolved

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

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

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

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

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

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

A Successful Result: 2 Districts Emerge

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

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

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

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

Conclusion

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

Report to the Membership 2007-08 Activities

CALAFCO

Annual Business Meeting

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

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

AGENDA

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

The Sphere

CALAFCO Journal

CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS

801 12th Street, Suite 611
Sacramento, CA 95814

www.calafco.org

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

Sharing Information and Resources

Legislation

Continued from front cover

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

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

Awaiting Governor's Signature

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

At Senate for Concurrence

SB 375 (Steinberg). The bill links the Regional Transportation Plan (RTP) with the Regional Housing Needs Assessment (RHNA) and CEQA. Its authors say it will increase community sustainability, make it easier to develop within urban footprints, link transportation and housing, reduce greenhouse gases and carbon emissions, increase affordable housing and increase quality of life by reducing congestion and commutes.

The bill does basically five things:

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

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

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

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