



TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church Street, Suite B, Visalia 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

LAFCO MEETING AGENDA November 5, 2014 @ 2:00 P.M. BOARD OF SUPERVISORS CHAMBERS COUNTY ADMINISTRATIVE BUILDING 2800 West Burrel Avenue Visalia CA 93291

COMMISSIONERS:
Steve Worthley, Chair
Juliet Allen, V-Chair
Allen Ishida
Rudy Mendoza
Cameron Hamilton

ALTERNATES:
Mike Ennis
Janet Hinesly
Dennis Mederos

EXECUTIVE OFFICER:
Ben Giuliani

- I. Call to Order
- II. Approval of Minutes from October 1, 2014 (Pages 1-4)
- III. Public Comment Period

At this time, members of the public may comment on any item not appearing on the agenda and that is within the scope of matters considered by the Commission. Under state law, matters presented under this item cannot be discussed or acted upon by the Commission at this time. So that all interested parties have an opportunity to speak, any person addressing the Commission may be limited at the discretion of the chair. At all times, please use the microphone and state your name and address for the record.

IV. Action Items

- 1. Annexation to the Orosi Public Utility District (PUD) Case #1508 (Pages 5-14)
[Public Hearing].....Recommended Action: Approval

The Orosi Public Utility District is proposing the annexation of 1.08 acres of land located on State Highway 63 just north of Ave 416 surrounded by the unincorporated community of Orosi. In compliance with the California Environmental Quality Act, the Orosi PUD prepared an initial study/negative declaration for proposed annexation. As a Responsible Agency, LAFCO will consider the initial study/negative declaration before any action is taken.

- 2. Amendment to Policy B-2 (Processing Fees) (Pages 15-16)
[No Public Hearing].....Recommended Action: Approval

Enclosed is a proposed amended policy to amend the fee for special district applications to activate latent powers.

- 3. 2015 Proposal Deadline and Meeting Schedule (Pages 17-18)
[No Public Hearing].....Recommended Action: Adoption

The Commission will consider a schedule of meeting dates and application deadlines for 2015. All dates are tentative and subject to change.

V. Executive Officer's Report

1. Williamson Act Contract Determination Process **(Pages 19-26)**

Enclosed is a summary of the law and processes and LAFCO responsibilities regarding Williamson Act protests and the annexation of land under Williamson Act contract.

2. ESAs 2014-08 through -11 (City of Porterville) **(Pages 27-36)**

Pursuant to Policy C-6, the Executive Officer approved four ESAs between the City of Porterville and four individual property owners for the provision of domestic water to existing development. A fifth ESA was approved between the City of Porterville and the Akin Water Company for the provision of domestic water service to existing development on 23 parcels. Enclosed are the approval letters and location maps.

3. Legislative Update **(Pages 37-40)**

Enclosed is the end of session legislative summary.

4. Upcoming Projects **(No Page)**

The Executive Officer will provide a summary and tentative schedule of upcoming LAFCO cases and projects.

VI. Correspondence

1. Thank you letter from CALAFCO **(Pages 41- 42)**

VII. Other Business

1. Commissioner Update **(No Page)**

2014 CALAFCO Board Meeting and Annual Conference

2. The Sphere, October, 2014 Issue **(Pages 43-58)**

3. Request from LAFCO for items to be set for future agendas

VIII. Setting Time and Place of Next Meeting

1. December 3, 2014 @ 2:00 P.M. in the Board of Supervisors Chambers in the County Administration Building.

IX. Adjournment

TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION
Summary Minutes of the Meeting
October 1, 2014

Members Present: Allen, Ishida, Mendoza, Hamilton
Members Absent: Worthley
Alternates Present: Mederos
Alternates Absent: Ennis, Hinesly
Staff Present: Ben Giuliani, Cynthia Echavarria, Alyssa Blythe
Counsel Present: Lisa Tennebaum

I. Call to Order

Vice Chair Allen called the Tulare County Local Agency Formation Commission meeting to order at 2:02 p.m.

II. Approval of the August 6, 2014 Minutes:

Upon motion by Commissioner Hamilton and seconded by Commissioner Ishida, the Commission unanimously approved the August 6, 2014.

III. Public Comment Period

Public Comments opened/closed at 2:03 p.m. There were no public comments.

IV. Action Items

1. **Adoption of the City of Porterville Municipal Service Review Update**

Staff Analyst Echavarria presented for adoption of the Municipal Service Review Update for the City of Porterville and stated that before the commission can approve a major amendment or a comprehensive update of the SOI, the MSR Update determinations need to be adopted. Staff Analyst Echavarria stated the draft was available for review 21 days prior to the adoption of the MSR.

Staff Analyst Echavarria requested the Commission adopt the Municipal Service Review and statement of determinations for the City of Porterville.

Vice-Chair Allen opened the Public Comment Session at 2:06 p.m.

John Lollis, City Manager for Porterville, stated he and staff were available for any questions.

Vice-Chair Allen questioned if this SOI included East Porterville and if so does this change the average density between single and multi-family homes to reflect the Blue Print?

Mr. Lollis stated although the General Plan Update was adopted prior to completion of the Blue Print, it is in full compliance with the Blue Print and HCD's Housing element requirements. Mr. Lollis stated there has continued to be additional land set aside for high-density and multi-family housing.

Vice-Chair Allen closed the Public Comment Session at 2:14 p.m.

Upon motion by Commissioner Hamilton and seconded by Commissioner Ishida, the Commission approved the Adoption of the City of Porterville Municipal Service Review Update.

2. City of Porterville Sphere of Influence (SOI) Amendment LAFCO Case 1507

Staff Analyst Echavarria presented the proposed update of the Sphere of Influence for the City of Porterville and noted that the county and city have agreed on the proposed SOI Boundary with the exception of an identified community of interest to include the remainder of the area served by Porter Vista PUD in the SOI.

Vice-Chair Allen opened the Public Comment Session at 2:18 p.m.

Paul Boyer, Self Help Enterprises, questioned if the decision will have an effect on whether or not the City or county will serve the number of private homes with drying wells with water.

Commissioner Hamilton stated water could be provided through extraterritorial service agreements and the decision to provide service would be up to the city council.

Vice-Chair Allen closed the Public Comment Session at 2:25 p.m.

Upon motion by Commissioner Hamilton and seconded by Commissioner Ishida, the Commission approved the City of Porterville Sphere of Influence (SOI) Amendment LAFCO Case 1507.

3. Annexation to the City of Visalia Case # 1505-V-446

Staff Analyst Echavarria reported the City of Visalia is proposing the annexation of 135 acres of land located east of Dinuba Blvd. between Shannon Parkway and the St. John's River.

Staff Analyst Echavarria stated approximately 73 acres of the site are under two separate Williamson Act contracts. The property owner of the parcels within Ag Preserve 3595 filed a Full Non-Renewal Application (Tulare County FNR 08-002) on February 4, 2008. The Application has been approved and recorded. The contract will expire on January 1, 2019. There was no protest on the Ag Preserve or contract so the City will need to succeed to the contract upon annexation.

The City protested the formation of Ag Preserve 647. A timeline of events relating to the preserve and contract execution and the city protest was presented to the commission. The City wishes to exercise its right not to succeed to the contract pursuant to G.C. Section 51243.5, therefore terminating the contract once and if annexation is approved.

Staff Analyst Echavarria stated LAFCO indicated that the City protested the original agriculture preserve located on the west side of Dinuba Blvd. Staff Analyst Echavarria informed the Commission the Williamson Act contract was entered into as a result of the later expansion of the preserve and was not protested by the City. There is some question as to whether the City does not have a valid protest and will need to succeed to the contract.

Vice-Chair Allen opened the Public Comment Session at 2:59 p.m.

Brandon Smith stated, on behalf of the City of Visalia, the City is appreciative of LAFCO and expressed their support of the action to approve the annexation.

Josh McDonnell, on behalf of the City of Visalia stated that city staff and council had followed the process as they saw it at the time and supported determining a valid protest of the Williamson Act contract.

Mr. Lane, Lane Engineers, speaking on behalf of the property owners stated the staff report previously stated this property was proposed to be annexed, had determined that the protest was valid, and questioned why that had changed after the Department of Conservation letter was recently submitted to the Commission. Mr. Lane supported determining a valid protest of the Williamson Act contract.

EO Giuliani clarified that the recent Department of Conservation letter led to more research which determined that the subject parcel was part of an expansion of the Ag Preserve and wasn't identified in the original protest.

Mr. Rich Rodriguez, spoke on behalf of his wife who represented the Bianco Family and the property of the parcel with the protested Williamson Act contract. Mr. Rodriguez supported the determining of a valid protest of the contract.

Joann Cuarda, a property owner within the annexation area, spoke in support of the annexation.

Commissioner Mederos supported determining that the city protest was valid.

The commission came to an agreement that the city had submitted a valid protest for the subject Williamson Act contract.

Vice-Chair Allen closed the Public Comment Session at 3:32 p.m.

Upon motion by Commissioner Hamilton and seconded by Commissioner Mendoza, the Commission approved the Annexation to the City of Visalia Case #1505-V-446, with the amendment determining that the City of Visalia shall record a Certificate of Contract Termination for Contract No. 4060 pursuant to GC 51243 with the County Recorder at the same time as the Executive Officer of LAFCO files a Certificate of Completion.

4. Sphere of Influence (SOI) Update, LAFCO Case 1506

Staff Analyst Echavarria presented the proposed Sphere of Influence Update for consideration for the Tulare County Resource Conservation District (TCRCD).

Vice-Chair Allen opened the Public Comment Session at 3:42 p.m.

On behalf of TCRCD, Bob Puls expressed support for the SOI update.

Vice-Chair Allen closed the Public Comment Session at 3:51 p.m.

Upon motion by Commissioner Hamilton and seconded by Commissioner Mendoza, the Commission approved the Sphere of Influence (SOI) Update, LAFCO Case 1506.

5. Amendment to Policy C-6 (Extraterritorial Service Agreements)

EO Giuliani reviewed Policy C-6, streamlining the ESA approval process and recommended approval.

Vice-Chair Allen opened the Public Comment Session at 3:53 p.m.

Paul Boyer, spoke on behalf of Self-Help Enterprises, and stated they are in full support of the Amendment to Policy C-6.

Vice-Chair Allen closed the Public Comment Session at 3:54 p.m.

Upon motion by Commissioner Hamilton and seconded by Commissioner Mendoza, the Commission approved the Amendment to Policy C-6 (Extraterritorial Service Agreements).

VI. Executive Officer's Reports

1. Draft Amendment to Policy B-2 (Processing Fees)

EO Giuliani reviewed the proposed amendment to Policy B-2. EO Giuliani stated a district must receive the approval from LAFCO before a latent power can be activated by the district. EO Giuliani stated the current cost for a change of an organization, which includes city annexations along with activating a latent power is \$3,476 and proposed setting the rate for the review of an activation of a latent power at \$500 plus any actual costs exceeding \$500 as used in Kings County. EO Giuliani stated that the \$500 fee would cover most requests and that the provision for "plus any actual costs exceeding" would cover any complicated cases requiring more in-depth analysis and review by LAFCO staff.

Commissioner Ishida stated he was in agreement with the proposal.

EO Giuliani stated Policy B-2 would come back to the November meeting for action.

2. ESA's 2014 - 04, - 05, - 06 and - 07 (City of Porterville)

EO Giuliani reported on the four ESAs for the City of Porterville. All four agreements have domestic well failures and that the city will be providing water to the residents.

3. Legislative Update

EO Giuliani presented handouts from CALAFCO that provided the change by Senate Bill 614 Wolk and a summary of the ground water bill with a timeline for projects to be completed.

4. Upcoming Projects

EO Giuliani reported staff is currently working on an Orosi annexation, 2015 LAFCO meeting and deadline calendar, final Policy B-2 and the upcoming CALAFCO conference.

VII. Correspondence

There are no items

VIII. Other Business

There are no items

IX. Setting Time and Place of Next Meeting

The next meeting will be Wednesday, November 5, 2014. The meeting will be held in the Board of Supervisors Chambers in the County Administration Building.

XI. Adjournment

The meeting adjourned at 4:01 p.m.

**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT**

November 5, 2014

**LAFCO Case #1508
OROSI PUBLIC UTILITY DISTRICT (PUD) ANNEXATION 2014-1**

- PROPOSAL:** The annexation of certain territory to the Orosi PUD District within the County of Tulare. The annexation includes 1.08 acres of commercial use surrounded by the unincorporated community of Orosi.
- PROPONENT:** Orosi Public Utility District
- SIZE:** Approximately 1.08 acres
- LOCATION:** One developed segment of land surrounded by the unincorporated community of Orosi.
- APNs:** **023-150-029**
- NOTICE:** Notice has been provided in accordance with GC §§56660 & 56661.

ANALYSIS

1. Conformity with Plans:

A. Site Information

| | County | City |
|---------------------------------|--------------------|-------------|
| Zoning Designation | C-2 | n/a |
| General Plan Designation | General Commercial | n/a |
| Uses | Commercial | n/a |

Surrounding land uses include commercial, residential and government. This proposal does not conflict with the Tulare County General Plan.

2. Impact on Prime Agricultural Land, Agriculture and Open Space:

Williamson Act and Agricultural Preserves:

No

3. Population:

There are less than than 12 inhabitants within the proposed annexation. Therefore, pursuant to GC Section 56046, the annexation is uninhabited.

4. Services and Controls - Need, Cost, Adequacy and Availability:

The District does not currently serve the proposed annexation area. The proposal will allow Orosi PUD to provide water, sewage disposal and street lighting. The area is currently not being provided these services by any agency. The proposal will not change which agencies are providing other services or utilities in the parcels being annexed.

5. Boundaries and Lines of Assessment:

The boundaries of the proposal area are definite and certain and conform to the lines of assessment and ownership. A map sufficient for filing with the State Board of Equalization should be received prior to filing with the Board of Equalization.

6. Environmental Impacts:

In compliance with the California Environmental Quality Act, the Orosi PUD prepared an initial study/negative declaration for proposed annexation. As a Responsible Agency, LAFCO will consider the initial study/negative declaration before any action is taken. A copy of the document is included in the application materials.

7. Landowner and Annexing Agency Consent:

Consent to this annexation was received from the affected landowner. Therefore, the protest proceedings may be waived in accordance with Government Code Section 56662.

8. Discussion:

Annexation to the Orosi Public Utility District

The annexation site consists of 1.08 acres of commercial use within the unincorporated community of Orosi.

The subject parcel currently utilizes a septic tank and subterranean disposal system for the treatment and disposal of sewage generated on the subject parcel. Annexation into the District and the future provision by the District of sanitary sewer service would eliminate the potential for any additional contamination of the soil profile and/or the underlying groundwater, thus providing an improved condition for the currently compliant domestic well water source of the District.

The PUD was formed in 1922, for the Provision of domestic water, sewer services, street lighting.

The Commission may, as a result of the hearing, approve boundaries for the proposed annexation that differ from and/or include more or less territory than that described. This is an administrative action and will not authorize, require, or cause any construction, grading, or other physical alterations to the environment.

RECOMMENDED ACTIONS:

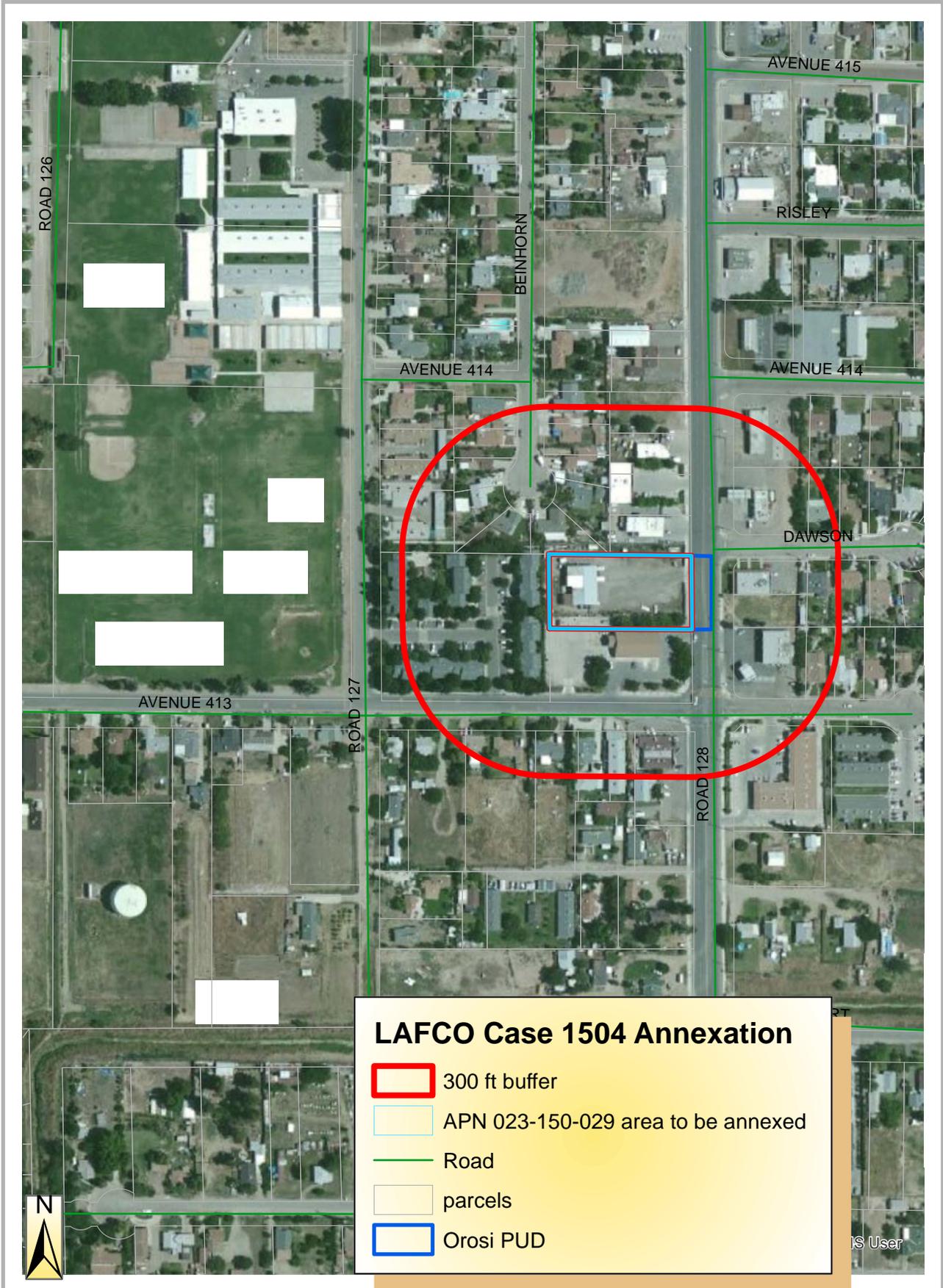
It is recommended that this proposal be approved and that the Commission take the following actions:

1. Certify that the Commission has reviewed and considered the Negative Declaration prepared by the Orosi Public Utility District for this project and find that the project will not have a significant effect on the environment.
2. Find that the proposed annexation to the Orosi Public Utility District complies with the policies and priorities of the Cortese-Knox-Hertzberg Act, Section 56377.
3. Pursuant to LAFCO Policy and Procedure Section C-1.6, find that:
 - a. A demonstrated immediate need exists for the required services and there is no reasonable alternative manner of providing them.
 - b. The proposed annexation represent a logical and reasonable expansion of the district.
 - c. The proposed annexation reflects the plans of the adjacent governmental agencies.
 - d. The proposed annexation does not represent an attempt to annex only revenue-producing property.
 - d. The proposed boundaries are definite and certain and conform to lines of assessment.
4. Find that the territory proposed for the annexation to the Orosi Public Utility District is uninhabited and 100% consent to annexation has been received.

5. Approve the annexation as proposed by Orosi PUD, to be known as LAFCO Case Number 1508, Orosi PUD District-Annexation 2014-02.
6. Waive the protest hearing for this proposal in accordance with subsection (c) of Government Code section 56663 and order the annexation without an election.
7. Authorize the Executive Officer to sign and file a Notice of Determination with the Tulare County Clerk.

Figures:

- Figure 1 Site Location Maps
Figure 2 Resolution



LAFCO Case 1504 Annexation

- 300 ft buffer
- APN 023-150-029 area to be annexed
- Road
- parcels
- Orosi PUD



IS User

the Orosi Public Utility District for the proposed annexation in compliance with the California Environmental Quality Act of 1970, as amended, prior to taking action on said annexation, and that said Notice of Determination and all information relied thereon is incorporated by reference herein.

3. The Commission has reviewed and considered, in accordance with GC §56668, the information, materials and facts presented by the following persons who appeared at the public hearing and commented on the proposal:

Cynthia Echavarria, LAFCO Staff Analyst
XXXX,XXXX

4. All notices required by law have been given and all proceedings heretofore and now taken in this matter have been and now are in all respects as required by law.

5. Based upon the evidence and information on the record before it, the Commission makes the following findings of fact:

- a. The annexation site consists of 1.08 acres of commercial within the unincorporated community of Orosi.
- b. Notice was mailed to all landowners and registered voters within the annexation. The proposed annexation is uninhabited and 100% landowner consent has been received.
- c. No change in services other than those provided by Orosi PUD will result from this annexation.
- d. The proposed annexation represents a logical and reasonable adjustment of the district's boundaries.
- c. This proposal is in compliance with the policies and priorities of the Cortese-Knox-Hertzberg Act, GC §56377.

6. Based upon the evidence and information on the record before it and the findings of fact made above, the Commission makes the following determinations:

- a. The proposed annexation reflects the plans of the adjacent governmental agencies.

- b. The proposed annexation does not represent an attempt to annex only revenue-producing property.
- c. The proposed boundaries are definite and certain and conform to lines of assessment.
- d. The proposed annexation represents a logical and reasonable adjustment to the Orosi PUD boundaries.
- e. The proposed annexation demonstrates an immediate need for the required services and there is no reasonable alternative manner of providing them.

7. The Commission hereby waives the protest hearing and orders the annexation without an election in accordance with Section 56663 (c) of the Government Code.

8. The proposed annexation of the territory described in Exhibit "A" attached hereto, is hereby approved.

9. The following short form designation shall be used throughout these proceedings:

LAFCO Case Number 1508, Orosi PUD District-Annexation 2014-01.

10. The Executive Officer is hereby authorized and directed to sign the Notice of Exemption on behalf of the Commission and file said notice with the Tulare County Clerk pursuant to Section 21152 (a) of the Public Resources Code.

The foregoing resolution was adopted upon motion of Commissioner XXXXXX, seconded by Commissioner XXXX, at a regular meeting held on this 5th day of November 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

Ben Giuliani, Executive Officer

ce



TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
*Steve Worthley, Chair
Juliet Allen, V-Chair
Rudy Mendoza
Allen Ishida
Cameron Hamilton*

November 5, 2014

ALTERNATES:
*Mike Ennis
Dennis Mederos
Janet Hinesly*

TO: LAFCO Commissioners, Alternates, Counsel
FROM: Ben Giuliani, Executive Officer
SUBJECT: Proposed Amendment to Policy B-2 (Processing Fees)

EXECUTIVE OFFICER:
Ben Giuliani

Background

Government Code section 56021, in addition to annexations, detachments and formations, defines the activation of a special district's latent power as a change of organization. A latent power is a service that a district is authorized to perform but is not currently being exercised. A district must receive approval from LAFCO before a latent power can be activated by the district. Currently, Policy B-2 lists the fee for a change of organization as \$3,476.

Discussion

Most cases involving the activation of a district's latent power would require substantially less analysis and staff time to process than most other changes of organization like an annexation or formation. Fee options were presented to the Commission at the October 1st meeting. The proposal is to set the fee at \$500 plus any actual costs exceeding \$500 as is used in Kings County. The base fee would cover the required public notice and enough staff time for simple cases while allowing for the flexibility of charging for additional actual costs for the occasional more complicated cases that would require more in-depth analysis and review. As with other changes of organization, the project proponent for the activation of a latent power must arrange for a pre-consultation meeting with staff pursuant to Policy B-1 (Pre-Consultations) prior to the submission of the project to review the details of the proposal.

Recommendation

Approve the amendment to Policy B-2, Processing Fees.

Attachments

Resolution

BEFORE THE LOCAL AGENCY FORMATION COMMISSION
OF THE
COUNTY OF TULARE, STATE OF CALIFORNIA

In the Matter of the Amendment)
Of Policy and Procedure B-2)
Processing Fees)

RESOLUTION NO. 14-0##

Upon motion of Commissioner x, seconded by Commissioner x, Tulare County LAFCO Policy B-2 (Processing Fees) is hereby amended to reduce fees for the activation of latent powers to \$500 plus any actual costs exceeding \$500, at a regular meeting held on this 5th day of November, 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

Ben Giuliani, Executive Officer



TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

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COMMISSIONERS:
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Juliet Allen, V. Chair
Allen Ishida
Cameron Hamilton
Rudy Mendoza

ALTERNATES:
Mike Ennis
Janet Hinesly
Dennis Mederos

EXECUTIVE OFFICER:
Ben Giuliani

To: LAFCO Members, Alternates and Executive Officer
From: Alyssa Blythe, Secretary I
Subject: Proposed 2015 LAFCO Meeting and Application Deadline Schedule

The following meeting dates and application deadlines are proposed for 2015. Complicated proposals or those which have not been "pre-noticed" by the initiating agency may require additional time to process. Staff will make every effort to place the proposal on the corresponding agenda, however, unforeseen circumstances (i.e. missed publication dates, need for further information, incomplete applications etc.) may require placement of the proposal on another agenda.

APPLICATION DEADLINE

December 17, 2014
January 14, 2015
February 11, 2015
March 18, 2015
April 15, 2015
May 13, 2015
June 17, 2015
July 22, 2015
August 19, 2015
September 16, 2015
October 21, 2015
November 18, 2015

TENTATIVE MEETING DATE

February 4, 2015
March 4, 2015
April 1, 2015
May 6, 2015
June 3, 2015
July 1, 2015
August 5, 2015
*September 9, 2015**
October 7, 2015
November 4, 2015
*December 9, 2015***
January 6, 2016

*2nd Wednesday in September to avoid CALAFCO Annual Conference.

**2nd Wednesday in December to avoid CSAC Annual Conference.

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COMMISSIONERS:
*Steve Worthley, Chair
Juliet Allen, V-Chair
Rudy Mendoza
Allen Ishida
Cameron Hamilton*

November 5, 2014

TO: LAFCO Commissioners, Alternates, Counsel
FROM: Ben Giuliani, Executive Officer
SUBJECT: Williamson Act Contract Protest Process

ALTERNATES:
*Mike Ennis
Dennis Mederos
Janet Hinesly*

EXECUTIVE OFFICER:
Ben Giuliani

Background

The California Land Conservation Act of 1965 (Williamson Act) includes requirements for the determination of valid city protests of Williamson Act contracts (GC §51243.5). There were two distinct protest processes allowed under the Williamson Act, prior to 12/8/1971 and between 12/8/71 and 1/1/1991. After 1/1/1991, city protests could no longer be submitted. LAFCOs are required to make certain determinations regarding the validity of city protests and when Williamson Act land is annexed into a city. Attached to this memo are the pertinent code sections regarding the city protest processes and LAFCO determinations regarding protests and the annexation of Williamson Act (WA) contracted land to a city.

Discussion

The first flowchart shows the WA contract creation process and city protest process prior to 12/8/1971. The cities of Visalia and Tulare are shown as examples. All the cities in Tulare County either used a blanket protest with a follow-up letter or resolution like the City of Visalia or used a single specific resolution for each proposed contract like the City of Tulare. The requirements for this protest at this time included the contract area being located within one mile of the existing city limits and the city filing a resolution protesting the execution of the contract with the board of supervisors. The protest must identify the affected contract and the subject parcel.

The Department of Conservation (DOC) has consistently determined that the “blanket protest” methodology is not valid because the resolution does not identify a specific parcel or contract. Tulare County LAFCO has consistently determined that this type of protest is valid because the resolution and the follow-up letter containing the specifics of the protest are inseparably linked.

The DOC has consistently determined that the specific protests (as done by the City of Tulare and others) are also not valid because the resolution does not identify a contract number. Tulare County LAFCO has consistently determined that this type of protest is valid because there was no way for the cities to know what the contract number was before the contract was actually executed. The inclusion of the County’s application number (which included a legal description of the affected land) and identification of the property owner in the city resolution leaves no doubt as to what affected contract the city was protesting.

The second flowchart shows the WA contract creation process and city protest process between 12/8/1971 and 1/1/1991. This process was dependent on LAFCOs making the determination of the validity of city protests. Instead of submitting the protests to the county BOS, cities were required to submit the protests to LAFCO. Unfortunately, Tulare County LAFCO did not start determining the validity of protests until early 1973. This leaves a one year gap from the end of 1971 to the beginning of 1973 where there are no valid city protests. Additional requirements were added in determining a valid protest. In addition to the requirements under the prior process, LAFCOs also needed to hold a hearing to consider the protest, determine that the contract would be inconsistent with the publicly desirable future use and control of the land and take action to approve the protest. An added local determination in Tulare County was that, with rare exception, our LAFCO denied protests that were outside the existing SOI even if all the other requirements were met.

The DOC has consistently determined that even these previously LAFCO approved protests are not valid because the protest didn't identify the contract number. Tulare County LAFCO has consistently upheld the previously approved protests because there was no way for the contract number to be known until the contract was executed. The identification of the County application number, Ag Preserve number, APN(s) and property owner(s) leaves no doubt as to what affected contract protest LAFCO was acting on.

The third flowchart shows the determination of the validity of a city protest and the annexation of Williamson Act contracted land as part of the current LAFCO annexation process. Certain determinations need to be made whether or not a city protest is deemed valid. If contracted land is annexed to the city, to remove the contract the property owner would need to either file a notice of non-renewal which will run 10 years (with a year by year reduction of property tax benefit) or go through the city's cancellation process which is subject to approval by the city and if approved, the property owner would be subject to an early cancellation penalty.

Attachments:

Williamson Act Contract Protest Determination Process

-Williamson Act Contract Creation and Protest Flowchart (Prior to 12/8/1971)

-Williamson Act Contract Creation and Protest Flowchart (12/8/1971 to 1/1/1991)

Williamson Act Contract – LAFCO Annexation Process

-LAFCO Annexation Process Flowchart

Williamson Act Contract Protest Determination Process
(from Government Code)

County Notice

51233 When a county proposes to establish, disestablish, or alter the boundary of an agricultural preserve it shall give written notice at least two weeks before the hearing to the local agency formation commission and to every city within the county within one mile of the exterior boundaries of the preserve.

LAFCO and Department of Conservation Responsibilities

51242.5(b) For any proposal that would result in the annexation to a city of any land that is subject to a contract under this chapter, the local agency formation commission shall determine whether the city may exercise its option not to succeed the rights, duties, and powers of the county under the contract.

51242.5(c) In making the determination required by subdivision (b), pursuant to section 51206, the local agency formation commission may request, and the Department of Conservation shall provide, advice and assistance in interpreting the requirements of this section. If the department has concerns about an action proposed to be taken by a local agency formation commission pursuant to this section or section 51243.6, the department shall advise the commission of its concerns, whether or not the commission has requested it to do so. The commission shall address the department's concerns in any hearing to consider the proposed annexation or a city's determination whether to exercise its option not to succeed to a contract, and shall specifically find that substantial evidence exists to show that the city has the present option under this section to decline to succeed to the contract.

Protest Requirements Prior to 12/8/1971

51243.5(d) A city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract if both of the following had occurred prior to December 8, 1971:

- (1) The land being annexed was within one mile of the city's boundary when the contract was executed.
- (2) The city had filed with the county board of supervisors a resolution protesting the execution of the contract.

Protest Requirements from 12/8/1971 to 1/1/1991

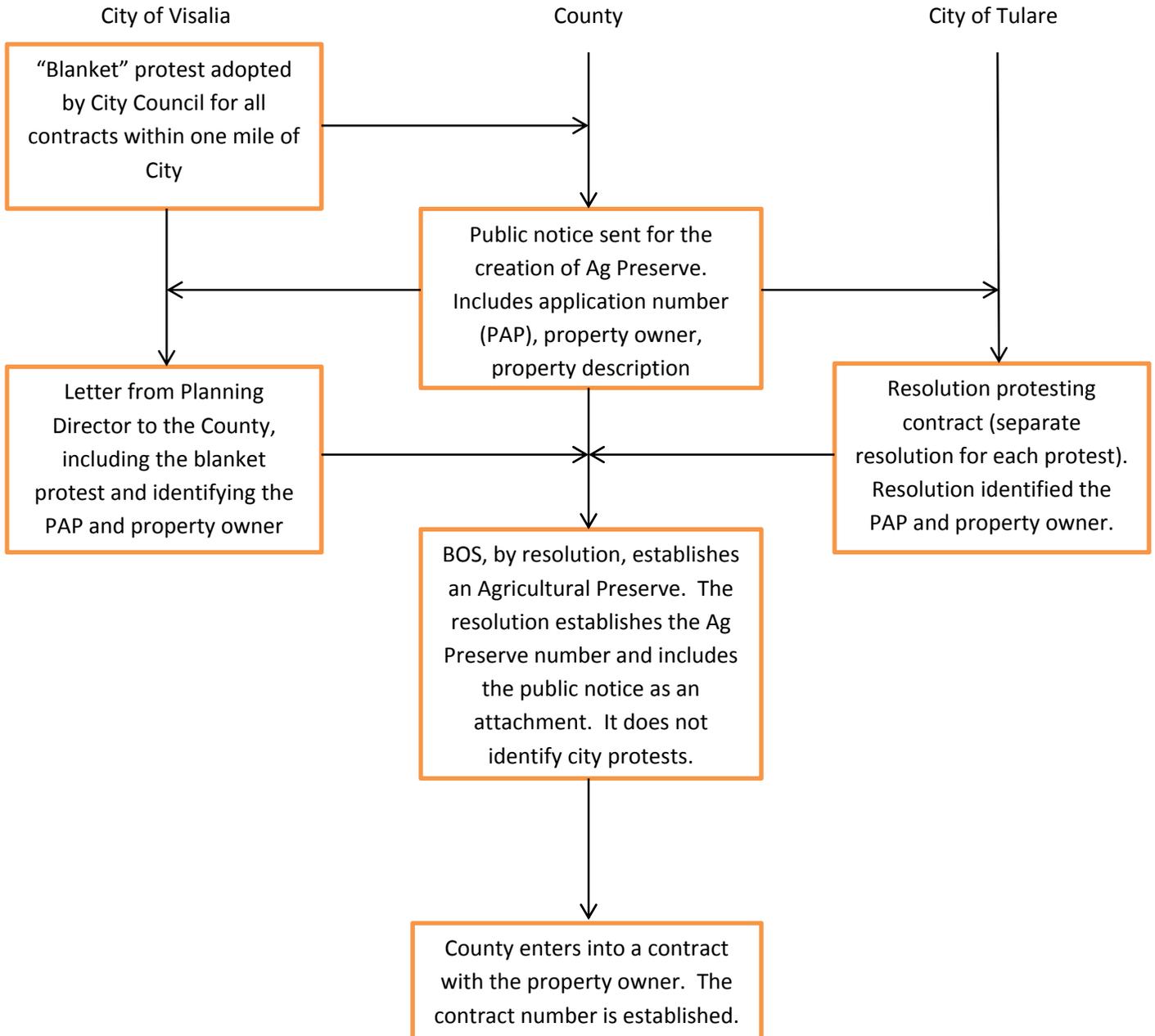
51243.5(e) A city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract if all of the following had occurred prior to January 1, 1991:

- (1) The land being annexed was within one mile of the city's boundary when the contract was executed.
- (2) The city had filed with the local agency formation commission a resolution protesting the execution of the contract.
- (3) The local agency formation commission had held a hearing to consider the city's protest to the contract.
- (4) The local agency formation commission had found that the contract would be inconsistent with the publicly desirable future use and control of the land.
- (5) The local agency formation commission had approved the city's protest.

Protest Filing and Content Requirements

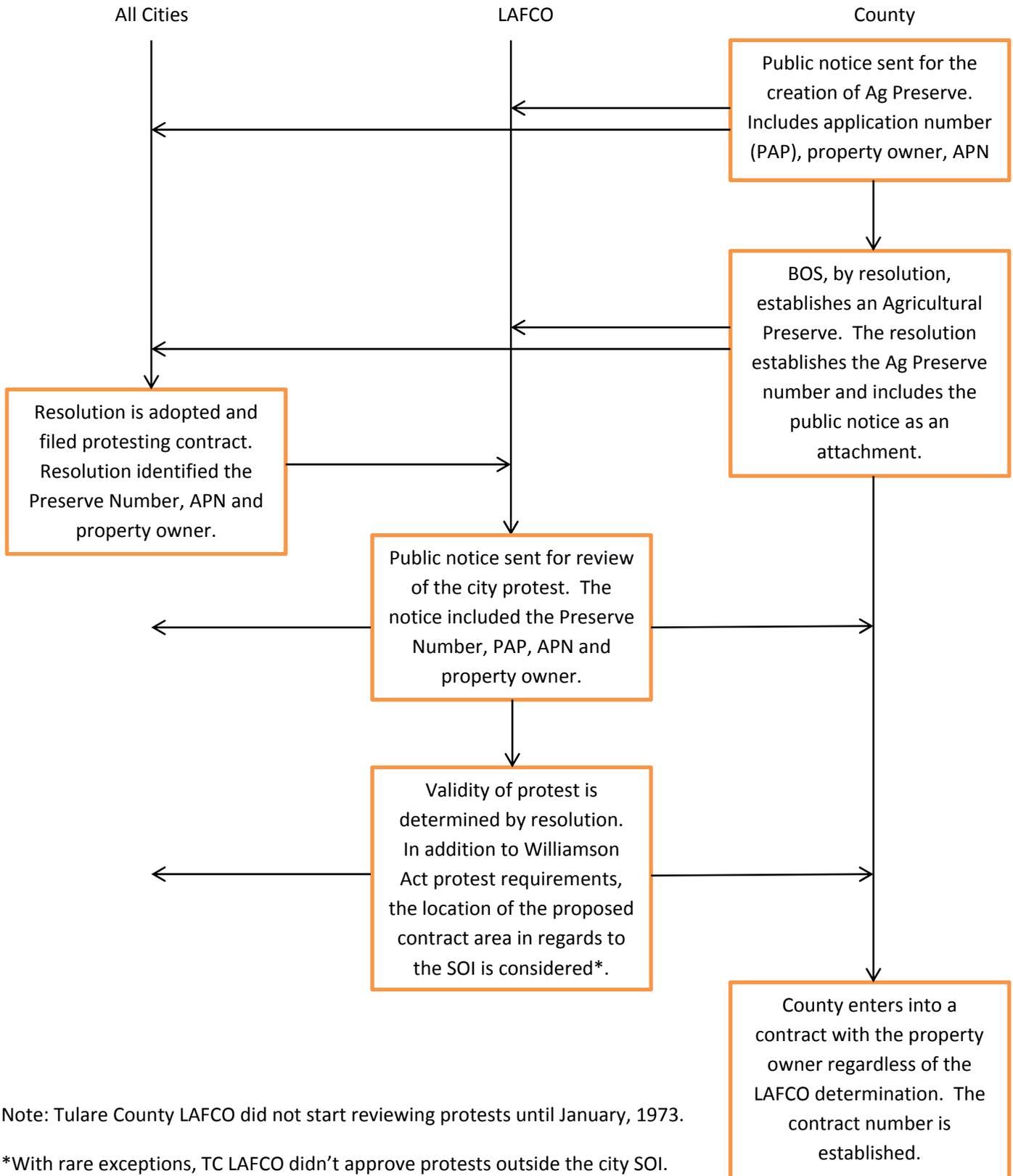
51243.5(f) It shall be conclusively presumed that no protest was filed by the city unless there is record of the filing of the protest and the protest identifies the affected contract and the subject parcel. It shall be conclusively presumed that required notice was given before the execution of the contract.

Williamson Act Contract Creation and Protest Flowchart – Prior to 12/8/1971



Cities of Visalia and Tulare are shown as examples. Other cities either used a blanket protest like Visalia while others issued council resolutions for each PAP like Tulare.

Williamson Act Contract Creation and Protest Flowchart – 12/8/1971 to 1/1/1991



Note: Tulare County LAFCO did not start reviewing protests until January, 1973.

*With rare exceptions, TC LAFCO didn't approve protests outside the city SOI.

Williamson Act Contract – LAFCo Annexation Process

City Resolution

56752 If the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act, then the resolution shall state whether the city shall succeed to the contract pursuant to section 51243 or whether the city intends to exercise its option to not succeed to the contract pursuant to section 51243.5.

LAFCO Responsibilities to the Department of Conservation

56375.5 Within 10 days after receiving a proposal that would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act, the executive officer shall notify the Director of Conservation of the proposal. The notice shall include the contract number, the date of the contract's execution, and a copy of any protest that the city had filed pursuant to section 51243.5.

56753 The executive officer shall give mailed notice of any hearing by the commission, as provided in sections 56155 to 56157, inclusive, by mailing notice of the hearing to the Director of Conservation if the proposal would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act.

LAFCO Determination

56754 If a change of organization would result in the annexation to a city of land that is subject to a contract executed pursuant to the Williamson Act, the commission, based on substantial evidence in the record, shall determine one of the following:

- (a) That the city shall succeed to the rights, duties and powers of the county pursuant to section 51243, or
- (b) That the city may exercise its option to not succeed to the rights, duties, and powers of the county pursuant to section 51243.5

Williamson Act Annexation Limitations

56856.5(a) The Commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a city or special district of territory that is subject to a contract entered into pursuant to the Williamson Act if that city or special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads to the territory, unless these facilities or services benefit land uses that are allowed under the contract.

(b) This section shall not be construed to preclude the annexation of territory for the purpose of using other facilities or services provided by the agency that benefit land uses allowable under the contract.

(c) Notwithstanding subdivision (a), the commission may nevertheless approve a change of organization or reorganization if it finds any of the following:

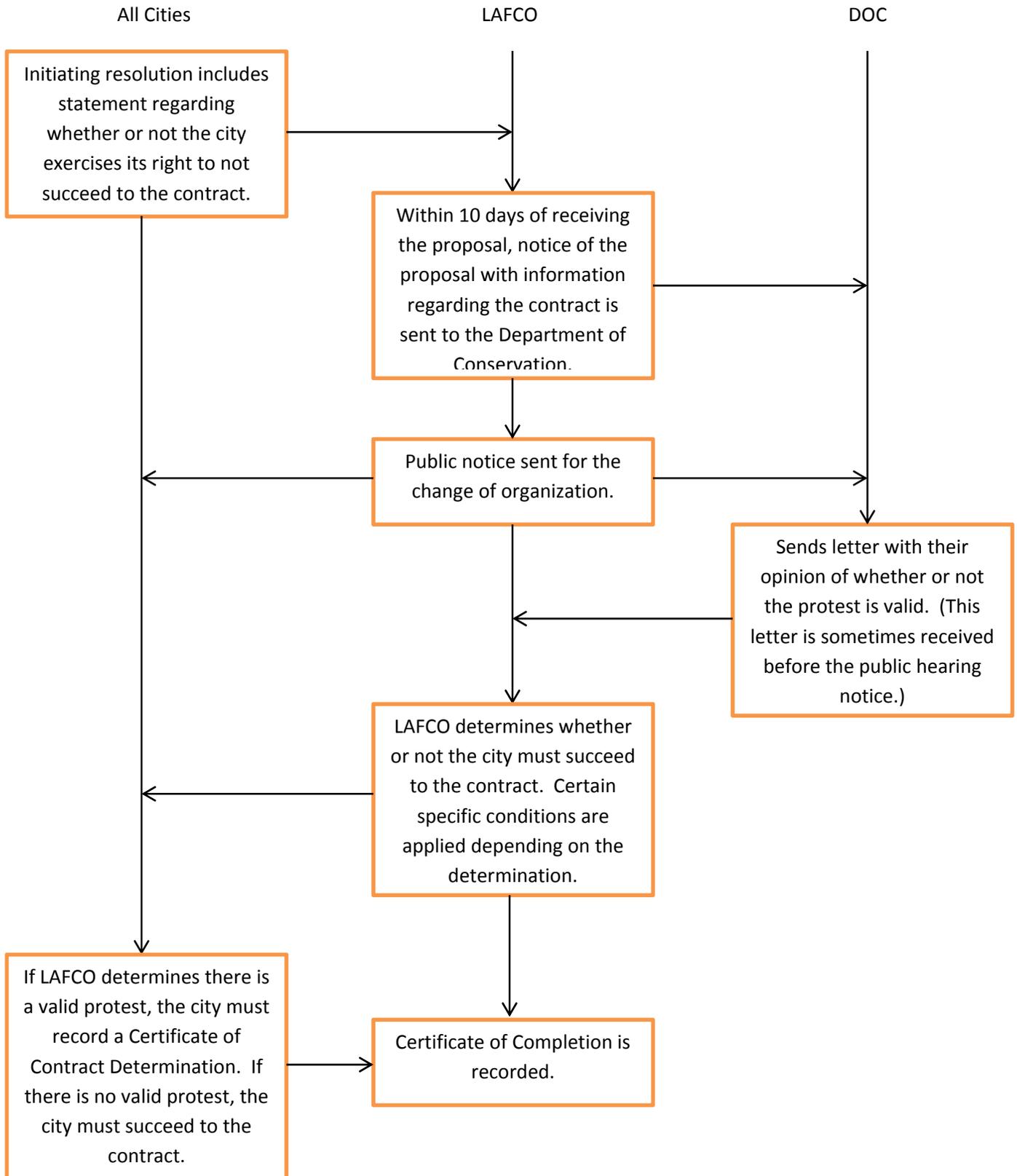
- (1) The city or county that would administer the contract after annexation has adopted policies and feasible implementation measures applicable to the subject territory ensuring the continuation of agricultural use and other uses allowable under the contract on a long-term basis.
- (2) The change of organization or reorganization encourages and provides planned, well-ordered and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns.
- (3) The change of organization or reorganization is necessary to provide services to planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns.

- (d) This section shall not apply to territory subject to a contract for which either of the following applies:
- (1) A notice of nonrenewal has been served pursuant to section 51245, if the annexing agency agrees that no services will actually be provided by it for use during the remaining life of the contract for land uses or activities not allowed under the contract.
 - (2) A tentative cancellation has been approved pursuant to section 51282.

City Responsibility for Termination

51243.5(h) If the city exercises its option to not succeed to a contract, then the city shall record a certificate of contract termination with the county recorder at the same time as the executive officer of the local agency formation commission files the certificate of completion pursuant to section 57203. The certificate of contract termination shall include a legal description of the land for which the city terminates the contract.

Williamson Act Contract – LAFCo Annexation Process Flowchart





**TULARE COUNTY
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
Steve Worthley, Chair
Juliet Allen, Vice-Chair
Rudy Mendoza
Allen Ishida
Cameron Hamilton

ALTERNATES:
Mike Ennis
Dennis Mederos
Janet Hinesly

EXECUTIVE OFFICER:
Ben Giuliani

September 24, 2014

City of Porterville
291 N Main St
Porterville, CA 93257

Re: Extraterritorial Service Agreement No. 2014-08 (City of Porterville/Ornelas)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on September 24th, 2014, (ESA No. 2014-08), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the City of Porterville to provide municipal water service for existing development on APN 247-010-008 (340 E Worth Avenue).

Should you have any questions, please contact me at 623-0450 or bgiuliani@tularecog.org.

Sincerely,

Benjamin Giuliani, Executive Officer
Tulare County LAFCO

Cc: Mario Ornelas



**TULARE COUNTY
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
Steve Worthley, Chair
Juliet Allen, Vice-Chair
Rudy Mendoza
Allen Ishida
Cameron Hamilton

ALTERNATES:
Mike Ennis
Dennis Mederos
Janet Hinesly

EXECUTIVE OFFICER:
Ben Giuliani

October 13, 2014

City of Porterville
291 N Main St
Porterville, CA 93257

Re: Extraterritorial Service Agreement No. 2014-09 (City of Porterville/Escobar)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on October 13th, 2014, (ESA No. 2014-09), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the City of Porterville to provide municipal water service for existing development on APN 261-243-016 (775 E Orange Avenue).

Should you have any questions, please contact me at 623-0450 or bgiuliani@tularecog.org.

Sincerely,

Benjamin Giuliani, Executive Officer
Tulare County LAFCO

Cc: Jorge Escobar



**TULARE COUNTY
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
Steve Worthley, Chair
Juliet Allen, Vice-Chair
Rudy Mendoza
Allen Ishida
Cameron Hamilton

ALTERNATES:
Mike Ennis
Dennis Mederos
Janet Hinesly

EXECUTIVE OFFICER:
Ben Giuliani

October 20, 2014

City of Porterville
291 N Main St
Porterville, CA 93257

Re: Extraterritorial Service Agreement No. 2014-10 (City of Porterville/Gutierrez)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on October 15th, 2014, (ESA No. 2014-10), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the City of Porterville to provide municipal water service for existing development on APN 261-243-019 (287 S Leggett Street).

Should you have any questions, please contact me at 623-0450 or bgiuliani@tularecog.org.

Sincerely,

Benjamin Giuliani, Executive Officer
Tulare County LAFCO

Cc: Victor Gutierrez



**TULARE COUNTY
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
Steve Worthley, Chair
Juliet Allen, Vice-Chair
Rudy Mendoza
Allen Ishida
Cameron Hamilton

ALTERNATES:
Mike Ennis
Dennis Mederos
Janet Hinesly

EXECUTIVE OFFICER:
Ben Giuliani

October 20, 2014

City of Porterville
291 N Main St
Porterville, CA 93257

Re: Extraterritorial Service Agreement No. 2014-11 (City of Porterville/McDaniel)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on October 15th, 2014, (ESA No. 2014-11), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the City of Porterville to provide municipal water service for existing development on APN 243-210-072 (1624 N Prospect Street).

Should you have any questions, please contact me at 623-0450 or bgiuliani@tularecog.org.

Sincerely,

Benjamin Giuliani, Executive Officer
Tulare County LAFCO

Cc: Jim McDaniel



**TULARE COUNTY
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
Steve Worthley, Chair
Juliet Allen, Vice-Chair
Rudy Mendoza
Allen Ishida
Cameron Hamilton

ALTERNATES:
Mike Ennis
Dennis Mederos
Janet Hinesly

EXECUTIVE OFFICER:
Ben Giuliani

October 28, 2014

City of Porterville
291 N Main St
Porterville, CA 93257

Re: Extraterritorial Service Agreement No. 2014-12 (City of Porterville/Akin Water Co.)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on October 28th, 2014, (ESA No. 2014-12), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the City of Porterville to provide municipal water service for existing development within the Akin Water Company service area (Exhibit B attached).

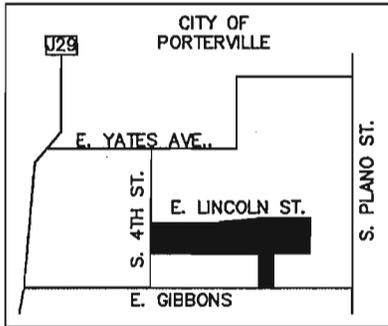
Should you have any questions, please contact me at 623-0450 or bgiuliani@tularecog.org.

Sincerely,

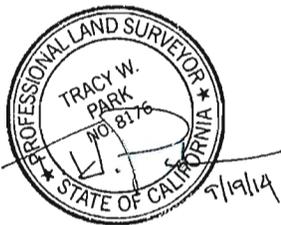
Benjamin Giuliani, Executive Officer
Tulare County LAFCO

Cc: Jim Akin, Akin Water Company

A = RODRIGUEZ 270-140-082
 B = DEES 270-140-081



VICINITY MAP
 NOT TO SCALE

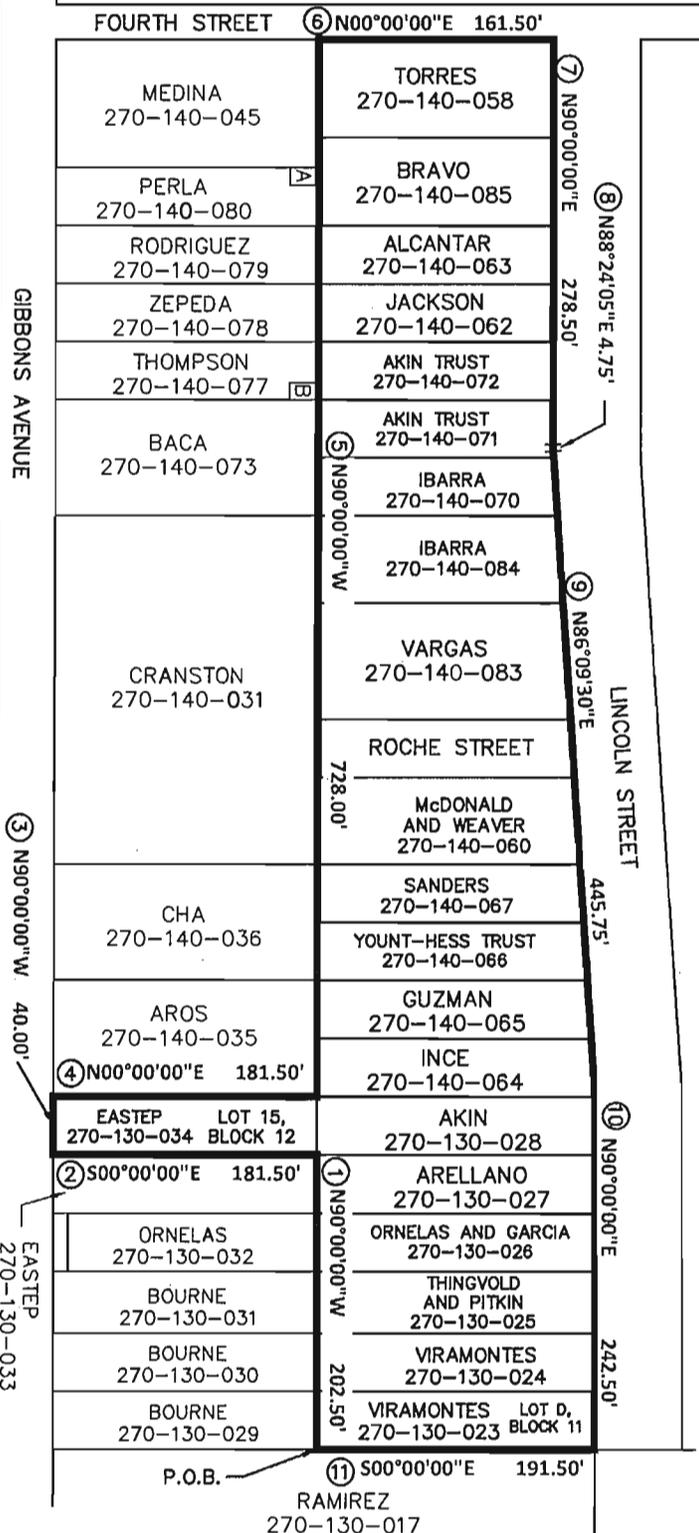
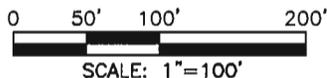


LEGEND:

- ① COURSE NUMBER
- BOUNDARY
- P.O.B. POINT OF BEGINNING

NOTES:

- 1) SEE SHEET 2 OF 2 FOR TITLE INFORMATION.
- 2) ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.



ATTACHMENT
ITEM NO. 32

City of Porterville
ESA 2014-08



SR-190

College

Main

Worth

Yates

2nd

3rd

4th

Lincoln

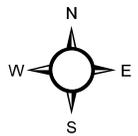
Akin Water Company

Gibbons

Plano

Legend

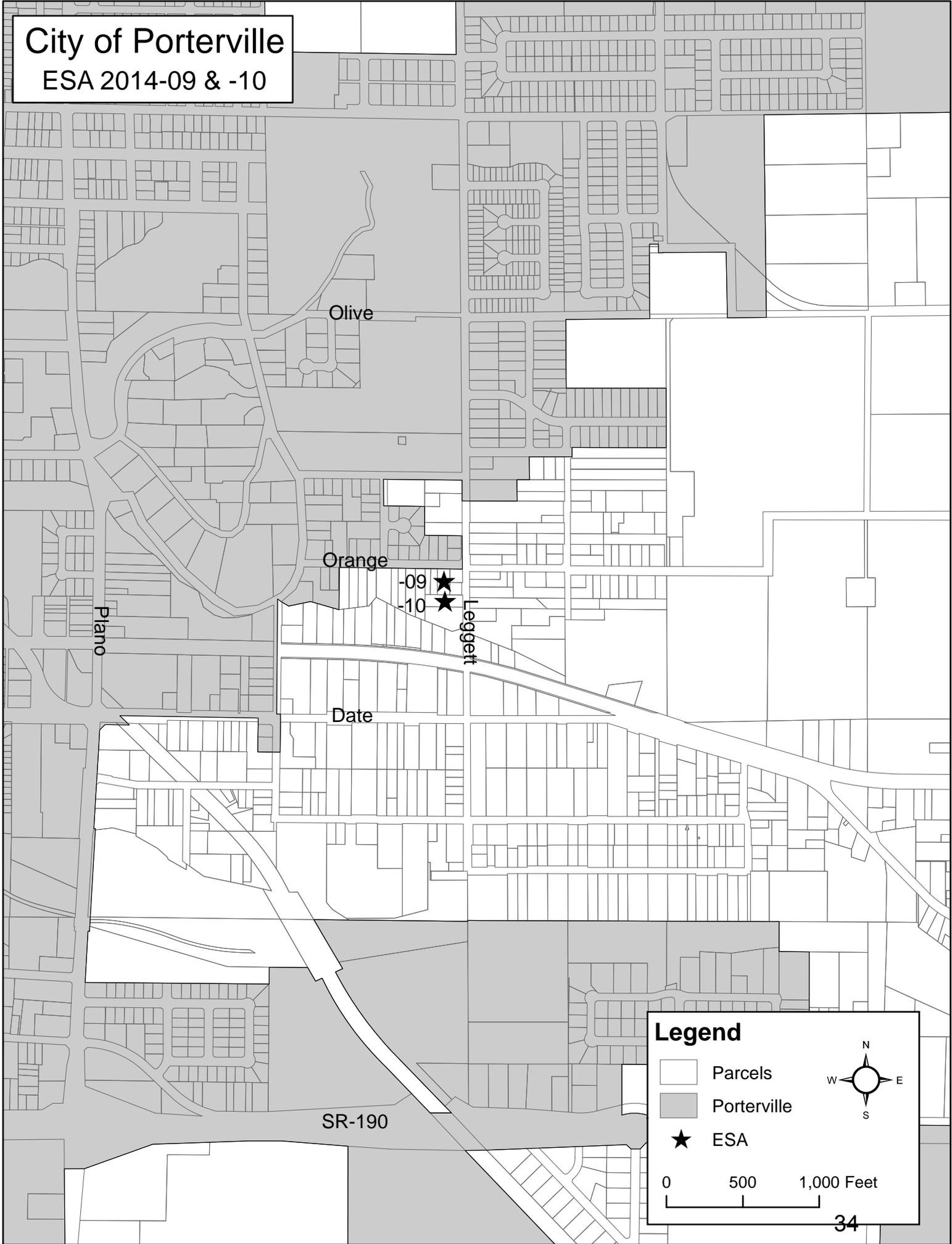
- Parcels
- Porterville
- SOI
- ★ ESA
- ☆ Prior ESAs



0 500 1,000 Feet

City of Porterville

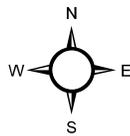
ESA 2014-09 & -10



Legend

- Parcels
- Porterville
- ★ ESA

0 500 1,000 Feet



34

City of Porterville ESA 2014-11



Legend

- Parcels
- Porterville
- SOI
- ★ ESA

0 500 1,000 Feet

35

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Assembly Local Government Committee
Senate Governance and Finance Committee

LEGISLATIVE UPDATE FROM SACRAMENTO
2014 CALAFCO ANNUAL CONFERENCE
October 17, 2014

Groundwater

- AB 1729 (Dickinson) – Requires, together with SB 1168 (Pavley), that in all basins and subbasins designated high and medium priority by the Department of Water Resources that a locally-formed groundwater sustainability agency adopt a groundwater sustainability plan (GSP) unless the basin or subbasin is adjudicated or otherwise being sustainably managed. Requires adoption of a GSP by January 31, 2020, if the basin or subbasin is in a critical condition of overdraft, or by January 31, 2022, for all other high and medium priority basins or subbasins. **SIGNED – Chapter 347, Statutes of 2014.**
- AB 2453 (Achadjian) – Authorizes, under the California Water District Law, the governing board structure and powers of the Paso Robles Basin Water District in San Luis Obispo County, with the District’s boundaries to be established by the San Luis Obispo County Local Agency Formation Commission. **SIGNED – Chapter 350, Statutes of 2014.**
- SB 757 (Berryhill) – Would have required local agencies in high and medium priority basins that are in a condition of long-term overdraft to form a groundwater management agency (GMA) or group of GMAs by January 1, 2018, and to self-certify a groundwater management plan (GMP) or set of GMPs for the basin by January 31, 2020. Would have compelled counties to assume groundwater management duties if no other local agency steps forward in an area. **DIED IN ASSEMBLY RULES.**
- SB 1168 (Pavley) – Requires adoption of a sustainable GSP by January 31, 2020, for all high or medium priority basins that are subject to critical conditions of overdraft and by January 31, 2022, for all other high and medium priority basins unless the basin is legally adjudicated or the local agency establishes it is otherwise being sustainably managed. **SIGNED – Chapter 346, Statutes of 2014.**
- SB 1319 (Pavley) – Amends AB 1739 (Dickinson) of the current legislative session which, together with SB 1168 (Pavley) of the current legislative session, form the Sustainable Groundwater Management Act (Act) and related provisions. **SIGNED – Chapter 348, Statutes of 2014.**

LAFCO-Related Bills

- AB 1521 (Fox) – Would have modified the amount of property tax in lieu of vehicle license fees allocated to counties and cities to include changes in the assessed valuation within annexed areas. **VETOED.**
- AB 1527 (Perea) – Would have required the State Water Resources Control Board to provide incentives for the consolidation of public water systems for funding under the Safe Drinking Water State Revolving Fund based upon a service review developed by a local agency formation commission. **VETOED.**
- AB 2156 (Achadjian) – Adds joint powers agencies and joint powers authorities to the existing list of governmental agencies a local agency formation commission may request information from in order to conduct its studies. **SIGNED – Chapter 21, Statutes of 2014.**
- AB 2480 (Yamada) – Would have required the Controller to appropriate from the General Fund money to a city incorporated before August 4, 2004, based on a specified formula to remedy the loss in vehicle license fee revenue for annexations that had pre-existing residential development. **NEVER HEARD IN ASSEMBLY LOCAL GOVERNMENT COMMITTEE.**
- AB 2762 (Assembly Local Government Committee) – Annual Assembly Local Government Committee Omnibus bill that makes several minor noncontroversial changes to the Cortese-Knox-Hertzberg Act. **SIGNED - Chapter 112, Statutes of 2014.**
- SB 69 (Roth) - Would have provided a city incorporating after January 1, 2004, and on or before January 1, 2012, with property tax in lieu of vehicle license fees. **VETOED.**
- SB 614 (Wolk) – Allows a local agency, until January 1, 2025, to use tax increment financing in a newly formed or reorganized district to fund infrastructure improvements in disadvantaged unincorporated communities. **SIGNED – Chapter 784, Statutes of 2014.**

Agricultural Land and Urban Farming

- AB 1961 (Eggman) – Would have required counties to develop a sustainable farmland strategy, and required the Governor's Office of Planning and Research to include best practices that support agricultural land retention and mitigation in its next update of the general plan guidelines. **DIED IN ASSEMBLY APPROPRIATIONS COMMITTEE.**
- AB 2241 (Eggman) – Changes, until January 1, 2020, the rescission fee charged by a city or county when land under the Williamson Act contract or land designated as a

farmland security zone enters into a solar-use easement, to 10% of the fair market value of the property, and requires 50% of the rescission fees collected to be deposited in the state General Fund. **SIGNED - Chapter 582, Statutes of 2014.**

- AB 2561 (Bradford) – Would have limited the ability of local governments, landlords, and homeowners' associations to restrict the growing of edible plant crops, except as specified. **DIED IN ASSEMBLY APPROPRIATIONS COMMITTEE.**

Life After Redevelopment – Infrastructure Financing Districts (IFDs)

- AB 229 (Assembly Speaker Perez) – Creates infrastructure and revitalization financing districts (modeled after infrastructure financing districts in existing law), authorizes a military base reuse authority to form a district, and allows these districts to finance a broader range of projects and facilities to clean up and develop former military bases. **SIGNED - Chapter 775, Statutes of 2014.**
- AB 471 (Atkins) – Allows infrastructure financing districts to include portions of former redevelopment project areas and amends several statutes governing the dissolution of redevelopment agencies. **SIGNED - Chapter 1, Statutes of 2014.**
- AB 1450 (Garcia) – Would have enacted provisions that would have allowed revenues from a voter-approved pension property tax to be allocated to the city or county whose voters approved the tax, in specified conditions. **VETOED.**
- AB 1582 (Mullin) – Would have increased, from six months to 12 months, the fiscal period covered by a redevelopment successor agency's recognized obligation payment schedule (ROPS). **DIED IN SENATE RULES COMMITTEE.**
- AB 2280 (Alejo) – Would have allowed local governments to establish a Community Revitalization and Investment Authority in a disadvantaged community to fund specified activities and would have allowed the Authority to collect tax increment. **VETOED.**
- SB 628 (Beall) – Allows local agencies to create enhanced infrastructure financing districts to finance specified infrastructure projects and facilities, using tax increment financing. **SIGNED - Chapter 785, Statutes of 2014.**

Issues on Deck for Next Session

- Municipal Bankruptcy
- Mutual Water Companies

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MAIL RECEIVED

October 28, 2014

2014-2015
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Deputy Executive Officer

JENI TICKLER
Executive Assistant

Tulare LAFCo
210 N. Church Street, Ste. B
Visalia, CA 93291

Dear Chair Worthley and Commission:

On behalf of the California Association of Local Agency Formation Commissions (CALAFCO), I would like to thank your commission for allowing some of your members and/or staff the opportunity to attend the CALAFCO 2014 annual conference.

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

A special thank you to Commissioner Allen for her dedicated and ongoing service on the CALAFCO Board of Directors.

Thank you again for your participation in the CALAFCO 2014 annual conference. We truly appreciate your membership and value your involvement in CALAFCO.

Yours sincerely,



Pamela Miller
Executive Director

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October 2014

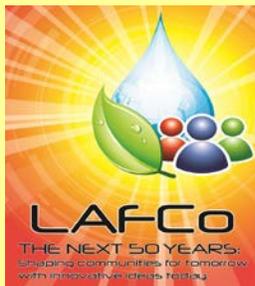
ANNUAL CONFERENCE EDITION

2014 Report to the
Membership

Associate Members'
Corner

Legal Perspectives

Message from the Chair:
CALAFCO
Looking to the Future



CALAFCO Welcomes Tehama LAFCo to the Association

By Pamela Miller, CALAFCO Executive Director

The Association is proud to welcome Tehama LAFCo into the CALAFCO family. Located in the middle of the northern region, Tehama County's population of approximately 63,000 enjoy just under 3,000 square miles of very diverse land. The Sacramento River cuts through the central portion of the county and is one of the largest salmon spawning rivers in the world. With more than 300 miles of trails (including 17 miles of the Pacific Crest Trail) and Lassen Volcanic National Park only forty-five miles to the east, Tehama County offers unlimited recreational opportunities. There are three incorporated cities (Tehama, Corning and Red Bluff), all of which are represented on the LAFCo Commission.

During my visit with Commission Chair Clay Parker (and Councilmember for Red Bluff) and Executive Officer (EO) Sean Moore, AICP, I had the opportunity to drive through Red Bluff's quaint downtown area. Aside from the "at-home" feeling I got, what impressed me the most was there were few vacancies in the stores and buildings lining downtown's main street. I felt like I had taken a step back in time.



Having taken on the responsibility of chairing the Commission as a brand new Commissioner, Clay is now well into his second term as Chair. He enjoys the LAFCo work. "I want to make sure that our decisions don't adversely affect any of our special districts, so we work hard to make sure that nothing falls through the cracks."

As the County's Planning Director, Sean is no newcomer to ag land preservation, which is an experience that benefits him in his role as EO. He says there are strong policies in place to help guide the LAFCo when dealing with significant issues such as water and future growth. When considering any future growth, Sean says, "We make sure we've fully planned ahead, and

Continued on page 10

The Sphere

CALAFCO Journal

October 2014

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

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

The contents of this newsletter do not necessarily represent the views of CALAFCO, its members, or their professional or official affiliations.

1215 K Street, Suite 1650
Sacramento, CA 95814
916-442-6536

www.calafco.org

FROM THE CHAIR OF CALAFCO



Mary Jane Griego
Chair of the Board
CALAFCO

Take a look at the intensity of issues currently facing our state – the lagging economy, scarce resources and a prolonged drought – and the vital mission of CALAFCO becomes increasingly clear. Suffice it to say that the foundational work we accomplished over the past 50 years was crucial but not nearly as important as the work we will do together over the next half a century. So the lessons learned in the past will be useful in molding our approach to the services we provide.

It has been especially great to work with Pamela Miller and glean from her a better understanding of our potential as an organization to assist the 58 counties we represent. She played a huge role in expanding our influence in the halls of the Capitol, as demonstrated by CALAFCO's deep involvement in such landmark issues as the recent groundwater legislation, which will benefit California for decades to come.

Many of our past efforts will likely be seen as good practice for the tasks that lie ahead of us, since we can expect to confront some of the same issues over the coming years. It will again be prudent to work diligently with each standing administration to encourage a focus on steadfast fiscal responsibility and management of budgets that result in strong and secure reserves. On the flipside, we will need to demonstrate a willingness to prioritize our "wants" and take the lead in making tough decisions that preserve the state's safety net.

So, in the same way we devoted last year to reflect upon the previous 50 years of CALAFCO accomplishments, it's now time to shift our gaze to the future and make sure we continue to be an ongoing and reliable influence on the way California is governed. We have positioned our organization as the information hub for California counties, and that makes us a valuable resource to those who form statewide policy. We need

It's now time to shift our gaze to the future and make sure we continue to be an ongoing and reliable influence on the way California is governed.

to step up our efforts to be central to each conversation that has a pivotal impact on our counties and make certain we are there to offer up solutions.

Even as we move forward to take on these tasks, I want to pause long enough to express my gratitude for this opportunity to serve as your chair. Given the quality of CALAFCO's staff and the dedication of its board, I have no doubt we will accomplish great things together.

Thank you,

Mary Jane Griego



Weaving the CALAFCO Blanket with the Threads of Diversity

I continue to be in awe of the diversity of our state and all of us who live here. The traces of what a melting pot California is are everywhere and undeniable.

One of my goals as the Association's Executive Director is to become and stay connected with all of you, our membership. In doing that, I gain a clearer perspective of the challenges faced in your respective areas and by your LAFCoS, and also to better understand how those challenges are being successfully met.

During my first two years, I've been fortunate to visit nine LAFCoS throughout all four regions, attend the Bay Area Executive Officers' meeting and the southern Region meeting, and talk with a number of our Associate Members. What I see and hear at each of these LAFCo meetings is truly representative of the diversity I'm talking about. The commissioners and staff, the people who attend the meetings, the Associate Members who provide services to LAFCoS, and the issues that each LAFCo deals with are unique in their own right, yet connected by the thread of the collective mission of LAFCo and the desire to somehow improve on what is already a pretty good thing – this sometimes wacky and always wonderful state of ours.

Being that melting pot brings its own set of challenges and problems, many of which are dealt with by LAFCoS. Albert Einstein said we cannot solve our problems with the same level of thinking we used when we created them. To solve the issues of today, we can no longer think our way out the same way we thought our way into them.

As we gather in Ontario this year, our conference focuses on shaping communities for tomorrow with innovative ideas today. We face many challenges today in our state – balancing growth with preservation of open space and ag lands; effectively managing our resources including water; providing for low resource communities; creating inclusion for all. Clearly today's issues are more complex than the ones faced in the last

50 years. All the more reason that we must raise our level of thinking for the next 50 years. There is no better way to approach the diverse nature of our challenges than with a more diverse level of thinking. What we need is diversity of thought to face the new challenges. Think about it...the most sustainable solutions come from a composition of diverse perspectives and viewpoints. Often times when there are disagreements on a particular issue and robust discussions occur, the results are creative and innovative solutions – because diversity is a valuable source of innovation and creativity.

This is true *if* we are open to the possibilities and opportunities that can come from this way of thinking. You've no doubt heard the saying, "Think outside the box." I challenge you to ask yourself, "What box? Where is the box?"



The reality is there is no box there. The box is something we have created for ourselves in the patterns of our own thinking. This is what Einstein is talking about – imagine the innovative and creative solutions that can come from totally unconstrained and diverse thinking – untethered by self-imposed constraints of possibilities.

It is that kind of thinking that will generate the solutions for today's problems in creating the kind of communities for tomorrow that we all want. Solutions that will be sustainable and systemic, diverse and inclusive.

I look forward to growing CALAFCO into an even stronger Association, for CALAFCO to be more of an instrument to facilitate the sharing of today's realities and the ideas and solutions for tomorrow. I look forward to visiting more LAFCoS and Associate Members in the coming year and beyond. So remember to leave the light on for me.

Pamela Miller

California Voting Rights Act Applies to Charter Cities, Allows Injunctions for Elections

By Ryan Thomas Dunn

The Los Angeles Court of Appeal recently upheld a preliminary injunction under the California Voting Rights Act (“CVRA”) against the charter City of Palmdale requiring an end to at-large elections for City Council to improve the electoral chances of minority candidates. In doing so, the court held charter cities were subject to the CVRA and even allowed a court to enjoin a regularly scheduled election in enforcing the act. Ironically, the election result to be enjoined produced the City’s first African-American Councilmember.

The plaintiffs in *Jauregui v. City of Palmdale* alleged the city’s at-large elections diluted votes of Latino and African-American residents in violation of the CVRA. Plaintiffs presented statistical evidence from expert witnesses and evidence only one Latino and no African-Americans had served on the Council in a city which is 54% Latino and almost 15% African-American. The trial court found a violation of Elections Code section 14027, which prohibits at-large elections which result in the “dilution or abridgment of the rights of voters who are members of a protected class,” here Latinos and African-Americans. The city did not challenge on appeal the factual findings of vote dilution.

Before a hearing on remedy, the plaintiffs sought to enjoin the city from conducting the November 2013 election on an at-large basis. The trial court granted the injunction, in part, which the Court of Appeal construed to enjoin only certification of election results rather than conducted the election. Palmdale held its election and the Court of Appeal then heard its appeal.

The city asserted two points on appeal: (1) the CVRA does not apply to charter cities; and (2) statute prohibits injunctions that prevent public officials from fulfilling ministerial duties, such as conducting elections.

In rejecting Palmdale’s contentions, the court considered whether the city’s charter provisions could contradict a state statute in this instance. The Court of Appeal agreed with the city that its charter’s at-large provision addressed a municipal affair, but found an actual conflict between the

CVRA and the charter provision because that charter provision, as it applied to Palmdale, impaired the ability of a protected class to select candidates of its choice and thus amounted to illegal vote dilution. The court also held that, the CVRA addressed a matter of statewide concern because preventing vote dilution in any city “goes to the legitimacy of the electoral process.” The CVRA is also narrowly tailored, the court held, because it “can necessarily only interfere with municipal governance when vote dilution is present.”

The court also rejected Palmdale’s argument from state law prohibiting injunctions against performance of official duties, holding the CVRA provision allowing courts to “implement appropriate remedies” to allow the injunction against the City’s certification of the results of the at-large election of November 2013.

The City has sought review in the California Supreme Court. If the Supreme Court does not take the case,

Jauregui will stand as strong precedent that charter cities are bound by the CVRA and that trial courts have wide discretion to prevent at-large voting when there is evidence of vote dilution, which in effect could prohibit at-large voting in cities with significant minority populations. It is notable that Palmdale did not challenge the finding of vote dilution on appeal, and the *Jauregui* court made no ruling on that point.

Plaintiffs’ lawyers are bringing cases under the CVRA against cities, school districts and other local governments around the State with significant minority populations to bring an end to at-large elections. Cities with diverse electorates which rely on at-large elections may wish to consult legal counsel about the requirements of the CVRA.

Ryan Thomas Dunn is an attorney for the law firm Colantuono, Highsmith & Whatley. For more information on this topic, contact Ryan at 213/542-5717 or rdunn@chwlaw.us.



The Smoke Has Cleared: How San Bernardino LAFCo Established Fire Protection Service to Baldwin Lake

By San Bernardino LAFCo

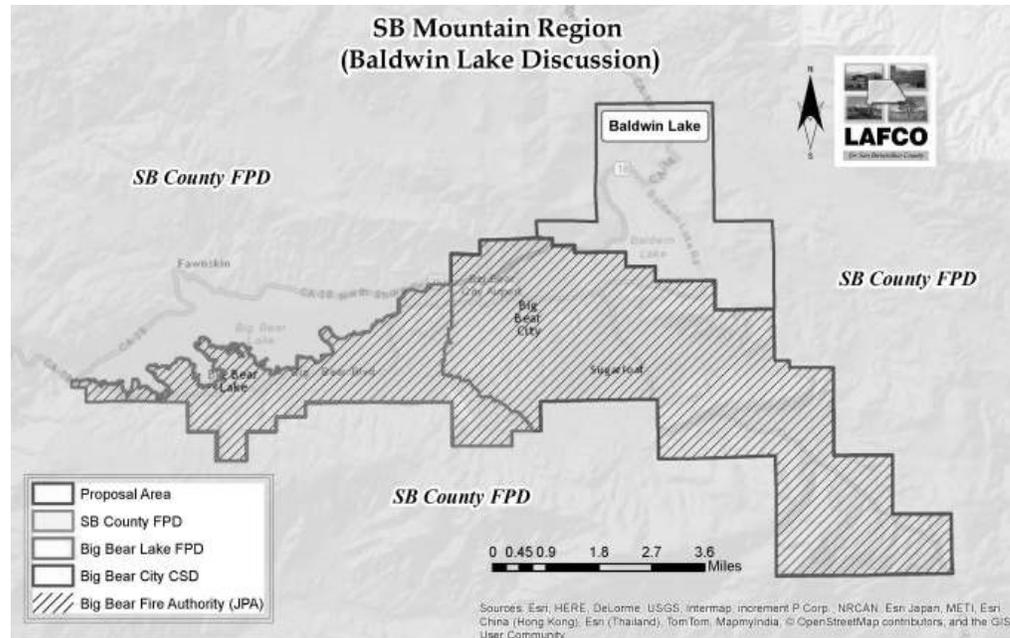
According to the California Department of Forestry and Fire Protection, there have been nearly 1,000 fires this year alone. While California and its firefighters face a perfect storm of hot temperatures and low precipitation, LAFCOs statewide are also facing heated discussions about fire protection. Recently, San Bernardino LAFCO (“SB LAFCO”) successfully processed the annexation of the Baldwin Lake community to the Big Bear City Community Services District (“BBC CSD”). Needless to say this proposal was not a simple annexation. It was a complex reorganization resulting from multiple “sparks” throughout the years. The focus on fire service in the San Bernardino Mountain Region smoldered for over 20 years until the summer of 2014.

Background

The San Bernardino Mountain Region consists of several communities including the City of Big Bear Lake and the unincorporated communities commonly known as Big Bear City, Baldwin Lake, Erwin Lake, Lake Williams, Fawnskin, Sugarloaf and Moonridge. The overall territory encompasses approximately 65 square miles and within that area five (yes, five) service providers deliver fire service – three special districts, Cal Fire and the U.S. Forest Service.

Since the early 90s, our Commission has conducted meetings and negotiations with the local fire agencies: County Fire, Big Bear Lake Fire Protection, a subsidiary district of the City of Big Bear Lake, and the Big Bear City Community Services District (“BBC CSD”).

Throughout these discussions our staff emphasized the position of State law and SB LAFCO that efforts for change should revolve around simplifying the delivery of fire protection and emergency medical response by moving toward a single fire service provider. It has been a long -- some might even say rigorous -- journey but small victories have been achieved. The 2011 service review of the San Bernardino Mountain Region really put the spotlight on the benefits of a single, regional service provider for these communities. One of the most recent triumphs as a result of the



service review was the creation of the Big Bear Fire Authority (a Joint Powers Authority composed of the Big Bear Lake Fire Protection District and BBC CSD). The 2012 collaborative effort phased in historical feats including the shared use of a fire chief and administrative staff and blending of operations and resources. Yet, with these meetings hitting a dry-spell as of late, a new fire burst onto the scene in the shape of an application to form a new independent fire district.

Small Mountain Community

Baldwin Lake is a small yet dense mountain community with approximately 2,000 residents. Even though Baldwin Lake was within the service boundary of County Fire, residents wanted to have local control and eventually formed their own non-profit volunteer fire department in 2007. Similar to other local organizations around the state, the economy impacted the small community. The Baldwin Lake Volunteer Fire Department

continued to face depleting revenues - only to be subsidized by a handful of resourceful residents. However, as the financial drought became more prominent and resources dwindled, the volunteer department feared possible reduction in service delivery. The community sought a sustainable government structure, and independence was at the top of the list. In April 2013, six years after the department was initially formed, members of the Baldwin Lake community submitted an application to SB LAFCO to reorganize the delivery of fire protection and emergency medical response within their community by registered voter petition. The original proposal envisioned the creation of a new independent fire protection district for the Baldwin Lake community with an independently-elected board of directors to take over responsibility for the volunteer fire department. More importantly, the reorganization would include detachment from County Fire with a transfer of property taxes and the imposition of a special tax to provide for a consistent revenue stream (i.e. property taxes).

After reviewing the specific formation guidelines adopted by the Commission and discussing staff's recommendations, the Commission modified the proposal to consider annexation to the Big Bear City CSD first and determined that if the annexation to the BBC CSD and its related changes were terminated due to protest, that the Commission would authorize the waiver of the one year filing restriction on a substantially similar proposal (i.e. formation of a new district).

LAFCO Outreach & Community Input

The Commission's approval to modify the proposal also directed staff to conduct a community meeting and request resident feedback through mailed surveys. Over 60 residents attended the workshop and approximately 50 survey responses were sent back to SB LAFCO. The circulated survey had two simple questions: (1) Which option would you prefer (a) Annexation to the Big Bear City CSD with a cost of approximately \$120 per developed parcel; (b) Formation of the Baldwin Lake Fire Protection District with an estimated cost of \$180 per developed parcel or (c) Status quo under County Fire; and (2) Would you support the creation of a single fire provider within the mountain region – yes or no. In the end, the position taken in response to Question #1 did not provide a clear direction on the question of annexation; however, the support for a single fire provider for the area was

overwhelming with 65% responses in favor of a single fire provider. Historically the communities, most notably Baldwin Lake, opposed inclusion within the BBC CSD.

Final Outcome

The Commission now possessed all the information available to make a sound decision. Following the June 2014 hearing, the Commission approved the annexation of the Baldwin Lake community to the BBC CSD. As we all know in the LAFCO world, the fun was not over yet. Staff did not receive any new information during the 30-day request for reconsideration but did receive several petitions during the protest period. To the surprise of several status quo proponents and some annexation supporters, only 2.19% of landowners (totaling 1.30% land value) and 1% of registered voters opposed the reorganization: the decision was final. After the smoke cleared, the residents of Baldwin Lake got what they wanted and were now part of a sustainable government entity.

So why is this important? The potential formation of another fire district would add only another provider to an already complex situation. Additionally, the residents within the mountain area historically viewed themselves as individual communities and scoffed at merging any sort of service or entity. Yet, for the first time these residents voiced consensus for proper service delivery. In hindsight as communities mature and learn from past experiences, so do we as LAFCOs. While the Commission and staff suit up to battle the next fire, we see this reorganization as a long-awaited success story.

Today the skies are clear.



An Inconvenient Truth: What CEQA Requires, and Many LAFCo's Ignore, in Preparing SOI Updates

Author: P. Scott Browne

Former Vice President Al Gore chose to title his award-winning documentary on global climate change “An Inconvenient Truth.” This title was chosen to reflect his perception that, while the fact of global climate change was clearly established by science, many, particularly in the political field, chose to deny or ignore it because it would require unpopular or expensive remedies. The film proceeds to depict the dire consequences if we continue to deny or ignore the problem of excess CO₂ production.

We, in the small world of LAFCo land, have our own “inconvenient truth.” Though not as cataclysmic as global climate change, it nevertheless is an important issue that is, at least in my experience, being frequently ignored or denied because it would require burdensome expense and staff time, not to mention political will to do the right thing when something less would pass. That truth is that, in many instances, when LAFCo acts as lead agency and adopts a sphere of influence update, it should be preparing an environmental impact report (EIR) or supplemental environmental impact report (SEIR). As I will discuss below, I believe that is what the CEQA statute, CEQA guidelines, and case law frequently require. Yet I see very few EIRs being prepared in connection with sphere updates. The avoidance of EIRs persists because LAFCo sphere CEQA decisions are seldom challenged. Nevertheless, staff and commissioners should be aware that the practice puts your LAFCo at significant risk of losing if its sphere decision is challenged under CEQA in court.

Very few staff and even fewer Commissioners like preparing environmental documents, much less environmental impact reports. We at LAFCo are usually sheltered from the CEQA process by our limited role as a responsible agency of reviewing the environmental document prepared by the lead agency. We are therefore less familiar with the process of actually creating such documents and hesitant to embark on the major task that preparing



an EIR may entail. EIRs are expensive, take significant staff time, delay completion of the project, and are frequently perceived as having limited or no impact on the final action. Therefore, quite understandably, the resistance to preparing such documents is high.

Unfortunately, the Cortese Knox Hertzberg Act (CKH) imposes the responsibility for preparation of sphere updates primarily on LAFCo. Because it is LAFCo's project, LAFCo by law is normally the lead agency for the update under CEQA.¹ So unless a LAFCo can persuade the affected agency to assume that burden, it falls on LAFCo to comply with CEQA when preparing the update.

When faced with the task of acting as a lead agency on an SOI, the tendency is to take the simplest possible route. This usually means attempting to get by with a categorical exemption or negative declaration. I have heard a number of common justifications for this approach: 1) a sphere is just drawing lines on paper—how can that create significant environmental impacts? 2) the environmental impacts of any actual development will be reviewed under CEQA when the project moves forward so we don't have to consider those impacts at this stage; 3) the sphere is hardly changed from the old sphere so we only have to look at the minimal impacts produced by the minor change in

¹ I certainly have seen LAFCo's shift the responsibility for initial drafting of the SOI and CEQA document back on to the cities and occasionally other agencies. §56425(b) specifically discusses city applications for sphere updates. As long as the proper formalities of an actual application by the City are followed, then LAFCo may be able to properly limit its CEQA role to acting as a responsible agency for a City SOI update. However there is no similar authority for special districts. The only legal authority in CKH for district involvement is through a formal application for a “sphere amendment” pursuant to §56428. Even if that procedure were legally viewed as including a sphere update, few districts are willing to shoulder the burden of preparing their sphere update by initiating it as a sphere amendment.

the sphere line or 4) the impacts have all been addressed in the County/City's general plan and EIR and we can just refer to those documents in our negative declaration.

However inconvenient, the truth is that none of these justifications is, in my humble opinion, supported by the present state of CEQA law for most sphere decisions. If the LAFCo action is challenged, it would be likely be overturned.

Looking at the first justification, yes, in a literal sense, a sphere is a line drawn on a map and involves no direct physical change to the environment. However, the courts have long since dismissed this simplistic argument. As the California Supreme Court noted in the landmark case of *Bozung v LAFCo*, (1975) 13 Cal.3d 263, such "government paper shuffling" can have significant consequences in the real world. Whether a farm is included in a city or sewer district sphere can make the difference between its eventual conversion to McMansions or its preservation for agricultural production. See the *Bozung v. LAFCo* case and *City of Livermore v. LAFCo* (1986) 184 Cal.App.3d 53. About the only situation where this argument almost always makes some sense is spheres for cemetery districts.

The second argument - that CEQA review can be minimal at the SOI stage because any development contemplated in the sphere will be subject to later environmental review - has also been rejected by the courts. The California Supreme Court in *Bozung* noted that CEQA requires that "at every level of government" decision makers take into account the effects on the environment of their decisions. Consequently the courts and CEQA guidelines make it clear that such later CEQA review cannot be used to avoid consideration of the broader impacts at the policy decision embodied in the sphere. This same argument was made with respect to general plan adoption and was strongly rejected by the courts. (*Christward Ministry v. Superior Court* (1986), 184 Cal.App.3d at page 194; see also *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 370-371)

The third justification for avoiding an EIR is to assume that the baseline for environmental evaluation is the existing sphere or general plan

land-use designations. Then the only impacts that need to be considered are those aspects of the new sphere that constitute changes from the old sphere or that alter development contemplated by the general plan. This is frequently the scenario under the SOI "affirmation" approach.

The problem with this approach is that it also is inconsistent with the requirements of CEQA. The required baseline established in the CEQA guidelines §15152 is "the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation for the project is published..." The courts have made it very clear that it is not differences between planning documents that are to be evaluated in the environmental review. It is the difference between the future development permitted by the new or "affirmed" SOI plan with what is currently *on the ground*. (*Environmental Planning & Information Council (EPIC) v. County of El Dorado* (1982) 131 Cal.App.3d 350, 358) Even where land has been designated for urban development for many years and is a part of an existing SOI, if it is still undeveloped and the sphere plan will facilitate its development, then the environmental analysis for the SOI update must consider the impacts of that development. This means that an EIR is almost certainly required where any significant undeveloped land is included in the sphere for cities and for other agencies that are providers of services such as sewer or potable water that are critical for development.

The final refuge from the dreaded EIR is commonly to rely upon or incorporate the applicable city or county general plan EIR into a negative declaration for the sphere environmental analysis. That general plan EIR can presumably take care of all of the indirect growth-inducing impacts facilitated by the service expansion proposed in the sphere since the impacts of that growth were already addressed by the county or city in the EIR. LAFCo can then simply adopt the negative declaration with that incorporation and move on.

This can work in some limited circumstances where the EIR being relied upon is reasonably current and finds that there are no unavoidable significant impacts remaining after mitigation. Such a finding is rare in EIRs for general plans.

Almost every general plan EIR that I have encountered makes a finding that certain impacts - even after mitigation - such as farmland conversion, impact on air quality, impact on wildlife or traffic, are significant and unavoidable. The agency is then required to make an overriding finding under PRC§21083 and 15093 of the CEQA Guidelines. These regulations require a finding of social or economic considerations that justify approval of the project notwithstanding the significant unavoidable impacts that will result.

If a LAFCo wants to rely upon an EIR that does not identify significant and unavoidable environmental impacts from the planned growth, both case law and the statute make clear that such reliance can only be done in the context of another EIR or Supplemental EIR (SEIR), if the subsequent project will contribute to those unavoidable significant impacts. This is because it is only through the EIR process that the LAFCo can make overriding findings to address the unavoidable significant impacts identified in the EIR being relied upon. As the Court of Appeal said in *Communities for a Better Environment v. Resources Agency* (2003) 103 Cal.App.4th 98

“Even though a prior EIR’s analysis of environmental effects may be subject to being incorporated in a later EIR for a later, more specific project, the responsible public officials must still go on the record and explain specifically why they are approving the later project despite its significant unavoidable impacts.” (id at pg 124-125)



See also PRC Section 21094 which authorizes tiering off EIRs and specifically Subdivision (a)(2) which

was amended in 2010 to allow agencies to incorporate the overriding findings from a prior EIR in a subsequent tiered EIR or “focused EIR.” This does not allow use of a negative declaration as the base for such findings. See also Guideline

sections 15175 to 15179.5 which authorize tiering off a Master EIR but only allow use of a negative declaration where all impacts can be mitigated below the level of significance and the Master EIR is less than 5 years old.

The good news is that the supplemental EIRs (SEIRs) or focused EIRs required for such SOIs are often much simpler than the massive general plan EIRs that they rely upon. For most impacts, the SEIR or Focused EIR can simply summarize the general plan EIR and repeat their conclusions. Issues arise when the SOI contains territory not covered by the general plan EIR. This may require referring to more than one general plan EIR or supplementing the analysis for the additional territory. Here again, because of the relatively “high level” and broad nature of SOIs, the environmental impacts can be analyzed in a fairly broad fashion.

Another issue arises when the general plan EIR being relied upon was done before greenhouse gas emissions (“GHG”) were required to be analyzed. CEQA Guidelines §15064.4 setting forth the required GHG analysis under CEQA was adopted in 2009, effective in 2010. If the EIR being relied upon was prepared without that analysis, LAFCo would be required to do a GHG analysis of the growth facilitated by the extension of services proposed in the SOI as part of the SEIR.

Notwithstanding these complications, case law and current CEQA guidelines all point to the need to do an EIR or SEIR for most spheres of influence that propose extension of public services to undeveloped areas that will facilitate or induce urban development. We ignore this inconvenient truth at our peril.

Scott Browne is the Principal of the Law Offices of P. Scott Browne. He is also legal counsel to a number of LAFCOs including Butte, Colusa, Lake, Nevada, Plumas and Solano. He can be reached at scott@scottbrowne.com or 530-272-4250.



Welcome Tehama LAFCo

Continued from cover

everything is in place to effectively and efficiently handle that growth.”

When asked about the LAFCo’s challenges, Tehama LAFCo is not unlike many others. They are focusing efforts in service reviews and trying to get a clear picture of the spheres and services of their many special districts. Tehama is a small LAFCo that sees few applications; Sean indicates that when they do get one, it is typically an unusual situation.

Both Sean and Clay appreciate the resources available to them as an Association member, especially the EO list serve. For the first time, this year we will welcome Tehama to the Annual Conference as a full LAFCo Member and Voting Delegate; Tehama’s Vice Chair and County Supervisor Bob Williams will participate as a panelist in one of the breakout sessions.

CALAFCO Associate Member Corner

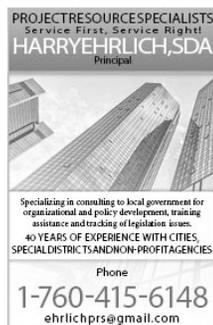
CALAFCO deeply appreciates our Associate Members and, beginning with this Edition, we will highlight several of our Associate Members in each Newsletter.

This past year we welcomed several new Associate Members. All of these members’ contact information is in the CALAFCO Directory as well as on the CALAFCO website.

Gold Associate Member

Project Resource Specialists

We want to acknowledge Harry Ehrlich and *Project Resource Specialists*, which recently transitioned from a Silver to Gold Associate Member. *Project Resource Specialists* provides management and legislative support to all levels of local government including Municipal Service Reviews, agency organization, and project management support.



Silver Associate Members

HdL Coren & Cone



HdL Coren & Cone provides property tax services to cities, counties and special districts. They are very familiar with county property allocation systems and redevelopment (and its dissolution). They have property tax data in 40 California counties going back as far as 25 years.

Planwest Partners, Inc.



Planwest Partners Inc.

provides contract LAFCo staffing services to multiple LAFCos. This includes preparing and conducting Municipal Service Reviews and SOI updates, public noticing, environmental documents, GIS, fiscal and economic studies, website management, application processing, facilitation and training. George Williamson is the Principal at *Planwest Partners*.

Regional Government Services Authority (RGS)



RGS's model is a perfect fit for new city/district start up or LAFCo seeking alternative commission staffing. They are a JPA providing Interim & Long Term public agency professionals including: HR, Payroll or Finance.

SWALE Inc.



SWALE's services include efficient analysis of boundaries and districts in MSRs; knowledgeable solutions to water resource issues; collaboration with Commissioners and elected officials; creative and inclusive methods of engaging the public; experienced problem solving for land-use issues; readable maps using GIS; and straightforward fiscal and economic studies; all powered by the *SWALE Inc.* Consulting Team.

These summaries are written by the Associate Members themselves, not CALAFCO, and can be found in the Membership Directory Associate Members section.



Dear CALAFCO Members:

We are proud to report to you that the Association continues as a strong, vibrant educational resource to members and as an advocate for LAFCo and LAFCo principles to statewide decision makers. In 2014 the Association maintained a high level of educational services as well as a healthy agenda of legislative issues. During the year we saw active involvement of LAFCos from around the state and had the pleasure of welcoming Tehama LAFCo into the Association! We remain proud of both the program quality and participation in the Staff Workshop and the CALAFCO U courses. San Bernardino LAFCo and the Annual Conference planning committee have done an outstanding job with the 2014 Conference. Finally, the Association remains on solid financial ground. The 2014/2015 adopted budget maintains member service levels and retains a healthy reserve.

Our achievements continue to be the result of the dedicated efforts of the many volunteer LAFCo staff who contribute their time and expertise. The Board is grateful to the Commissions that support their staff as they serve in the CALAFCO educational and legislative roles on behalf of all LAFCos. We are also grateful to the Associate Members and event sponsors that help underwrite the educational mission of the Association and allow us to keep registration fees as low as possible to encourage more participation.

EDUCATIONAL SERVICES AND COMMUNICATION

CALAFCO educational and information sharing services are the Board's top priority for member services. The Association focuses its resources in four areas: the Staff Workshop, Annual Conference, CALAFCO University courses, and electronic resources including the web site and the member list-serves.

Staff Workshop and Annual Conference

We continued the tradition of quality education programming with the Staff Workshop held in Berkeley in April and the Annual Conference in Ontario in October. The Workshop, hosted by Alameda LAFCo with support from the Bay Area LAFCos, brought together 106 LAFCo staff from around the state for a three-day workshop at the DoubleTree by Hilton in the Berkeley Marina. With 42 LAFCos and 6 associate member organizations represented, it was one of the higher workshop attendances. An exceptionally diverse program centered on the theme "*Building Bridges to the Future: Collaboration and Cooperation.*" This year's program included a range of both technically-oriented

topics and professional development topics, including collaborating and influencing others, creating and delivering more effective staff reports, two sessions on MSRs, and a look back as we walked with LAFCo "dinosaurs". Again this year a special series of sessions was specifically designed by and for clerks. The distinctive mobile workshop was a boat tour of the new span of the Bay Bridge with a very unique and close-up look at the new part of the bridge. The workshop closed with a unique legislative panel consisting of legislative representatives of our sister Associations: League of CA Cities, CSAC, and CSDA. We would like to thank *Steve Lucas* (Butte LAFCo) who chaired the Program Committee, *Mona Palacios* and *Sandy Hou* (Alameda LAFCo), and all who worked to make this an outstanding staff workshop.



Over 200 LAFCo commissioners and staff are expected at the 2014 Conference in Ontario. Hosted by San Bernardino LAFCo, the program centers on the theme "*LAFCo the Next 50 Years: Shaping Communities for Tomorrow With Innovative Ideas Today*" and includes a range of sessions focused on sharing creative and innovative perspectives on facing the challenges of tomorrow. Sessions include a close look at water, in particular groundwater basins and new state legislation governing them, as well as policies and practices for water supply and analysis. Other sessions include using next generation technology, understanding the complex world of cyber security, looking closely at LAFCos' relationships with JPAs and COGs, the protection of our mineral resources, hearing best practices on shared services and conducting SOIs, gaining skills in engaging the public in LAFCo actions, and better understanding how to create staff performance evaluation processes that create value. The conference will open with a "walk with dinosaurs" and close with a powerful legislative update that includes panelists from both the Assembly Local Government Committee (ALGC) and the Senate Governance and Finance Committee, along with a special appearance by Assemblymember Katcho Achadjian, Chair of the ALGC.

For the first time this year, we opened up the LAFCo 101 session for attendance at a deeply discounted rate to those who are not attending the full conference. This allows agencies to send staff and elected officials to this very special 2-hour session on understanding and applying the basics of LAFCo.





We acknowledge and thank San Bernardino LAFCo for hosting the Conference, its Executive and Assistant Executive Officer for all of their hard work: *Kathy Rollings-McDonald* and *Sam Martinez*, the Conference Committee Chair *James Curatalo* (San Bernardino), and all who are working on the Program and Host Committees to make this an outstanding Conference.

CALAFCO University



This year there were four CALAFCO U courses scheduled. The courses allow staff, commissioners and other interested parties to explore in depth LAFCo processes, policies and actions. In February of this year the Association hosted a session in Ontario on *Protest Provisions* which was well attended. The session scheduled for June on *LAFCo Best Practices and Greatest Hits* was cancelled due to a low interest level. In August Sacramento was the spot for the next CALAFCO U on *Ag Preservation*, another very well attended session. The final session for 2014 is set for December 8 in Sacramento and will feature an impressive panel of LAFCo attorneys to guide us through the *Legal Interpretations of CKH*.

The low enrollment of the June session prompted CALAFCO to survey the Executive Officers to better understand their educational needs and how we could better design educational offerings that generated the highest level of value. The results indicated that it would be better if CALAFCO offered fewer sessions and rotated the location of the offerings. The CALAFCO Board received the full report and concurred with staff's recommendation to offer two CALAFCO U sessions per year and add additional offerings as the need arises.

These courses are possible only with the volunteer efforts of LAFCo staff and Associate members. Thank you to all who contributed to the classes. A special thanks to *David Church* (San Luis Obispo LAFCo) who has been the lead in coordinating CALAFCO U this year.

Accreditations

CALAFCO's educational activities have all been accredited by the American Planning Association to provide AICP credits for certified planners. This benefit is provided at no cost to LAFCo staff and helps them maintain their certifications. In addition, both the Conference and Workshop have sessions for LAFCo counsel that have been accredited for MCLE credits by the California Bar.

Web Site

The CALAFCO web site is a vital resource for both LAFCos and the community with questions about local government in California. The site consistently attracts between 5,500 and 6,500 visits per week. The vast majority of the visits are for the reference and resource materials found on the site and referral information to member LAFCos. This was the second year of the new website, and we faced a number of challenges. It is a priority for the Association to ensure a secure and stable website and email exchange, and this will be a top priority for CALAFCO staff as we close out 2014.

List-Serves

The list-serves maintained by the Association continue to be an important communication and information sharing tool among LAFCo staff. In total, we maintain eight list serves to help members share information, materials, and expertise.

Quarterly Updates

After each Board meeting, the Association's executive director creates and distributes through the list serves a quarterly report on the activities of the Board and Association. These quarterly reports will be enhanced in the coming year as fewer editions of *The Sphere* are created. These bulletins provide informational updates in a timelier manner and at less cost to the Association.

LEGISLATIVE PROGRAM

While CALAFCO sponsored only one bill, this year's legislative session ended up to be a very busy one for CALAFCO. We were involved in the many stakeholder meetings on the groundwater legislation as well as responding to a number of gut and amend bills that impacted LAFCos. The CALAFCO Legislative Committee began work in November and met regularly throughout the year. The top priority of the Legislative Committee was **AB 2762**, the Assembly Local Government Committee Omnibus bill. This year the bill contained eight different changes to Cortese-Knox-Hertzberg such as clarifying several definitions, making changes to obsolete and incorrect code references, and making minor updates to several outdated sections. Perhaps the most substantial change was made to the independent special district selection committee process. CALAFCO worked closely with CSDA for several





months to ensure that these changes were acceptable to their membership. The bill was signed by the Governor on July 9. We are grateful for the efforts of Legislative Committee member *Paul Novak* (Los Angeles LAFCo) and Assembly Local Government Committee associate consultant *Misa Yokoi-Shelton* for their efforts on shepherding this bill.

Highlights of other legislation on which we worked include:

- **AB 1527** (*Perea*) Substantially amended several times, the bill required the State Water Resources Control Board to provide incentives for the consolidation of public water systems based on LAFCo studies, and to adopt a policy handbook. Eliminated from an earlier version of the bills was the provision that LAFCos be added to the list of eligible entities for receiving grant funding from the Strategic Growth Council. However it still acknowledged the importance and usefulness of Municipal Service Reviews at the state level by requiring the Board to use that data in their processes of consolidation incentives. Ultimately the bill was vetoed by the Governor because the new provision would be repealed. As the bill was amended numerous times, CALAFCO's position changed, ultimately ending in a Support.
- **SB 614** (*Wolk*) This was a gut and amend initiated by the League. The bill is intended to provide an incentive to cities to annex disadvantaged unincorporated communities by creating an option for a funding mechanism using a property tax sharing agreement by affected entities and ensuing tax increment. The bill allows LAFCo to consider, as part of the application, the formation of a new district or the reorganization of an existing district, but only if all of the affected agencies are in agreement. Further, the bill allows a consenting local agency to advance funds to the special district for the sole purposes outlined in the annexation development plan (for specific infrastructure upgrades). There is a ten year sunset on the provisions created by this bill. CALAFCO spent over two months working closely with Senator Wolk's staff and the staff of the Senate Governance & Finance committee on amendments to the bill. All of CALAFCO's concerns were eliminated and ultimately CALAFCO's position was one of Support. The bill was signed into law on September 29.
- **AB 1521** (*Fox*) This bill would have reinstated the VLF payment (through ERAF) and changed the way that the growth in the VLF adjustment amount (property tax in lieu of VLF) is calculated starting in FY 2014-15 to include the growth of assessed valuation, including in an annexed area, from FY 2004-05 to FY 2014-15. Beginning in FY 2015-16, the VLF adjustment amount would have been the jurisdiction's annual change in the assessed valuation. Marked as an urgency bill to take effect immediately, the Governor vetoed the bill stating it would not be prudent to authorize legislation that would result in long term costs to the general fund that this bill would occasion. CALAFCO Support.
- **SB 69** (*Roth*) The bill called for reinstatement of the VLF through ERAF for cities that incorporated between January 1, 2004 and January 1, 2012. There were no provisions for back payments for lost revenue, but the bill did reinstate future payments beginning in the 2014/15 year for cities that incorporated between 1-1-2004 and 1-1-2012. The Governor also vetoed this bill for the same reasons as noted for AB 1521. CALAFCO Support.
- **AB 2156** (*Achadjian*) The bill writes Joint Power Authorities into CKH through definition of both, and as entities from which the LAFCo is authorized to request information for studies, and requires the JPA to respond to the request for information. The bill was signed into law on June 4. CALAFCO Support.
- **AB 1739** (*Dickinson*) and **SB 1168** (*Pavley*) CALAFCO engaged in the months of stakeholder meetings on these two pieces of legislation. With a number of concerns about both bills early on, we shared those concerns and were able to get them written out of both bills. In early July the Board had an opportunity to receive a presentation on these landmark bills from Assm. Dickinson's Legislative Director Les Spahn, ACWA Board member Matt Hurley, and participating co-author of AB 1739 Ryan Bezzera. CALAFCO's concerns were once again heard. As a result of those amendments, our concern was removed and no position was taken. Both bills along with a third bill (SB 1319, Pavley) were signed into law September 16.

For a complete list of CALAFCO bills, please visit the CALAFCO website. Information is updated daily.

The Legislative Committee is currently working on several substantial legislative proposals approved by the Board that will likely be introduced in 2015:



- *Protest Provisions, Phase II:* Retaining the existing protest and election statutes and adding new streamlined provisions that can be followed based upon local conditions and circumstances. The goal of this streamlining is to create a clearer, more purposeful and transparent process when making important electoral-related decisions.
- *Strengthening the relationship between LAFCoS and JPAs:* Building on this year's AB 2156 (Achadjian), JPAs would file their agreements with LAFCo and, should the LAFCo desire, be included in MSR studies.
- *Disincorporations:* The current law is antiquated and in dire need of updating, so a working group from the Legislative Committee was formed to look at this issue.

FINANCIAL POLICIES AND REPORTING

The Association continues to stand on a strong financial base. The Board maintains policies and current filings which are in compliance with all federal and state requirements for 501(c)(3) organizations. The CALAFCO Policy Manual, IRS Form 990 and other key Association documents are available on the CALAFCO web site. The Association also maintains its records with the national non-profit reporting organization, GuideStar (www.guidestar.com). In 2014 CALAFCO once again earned the *GuideStar Exchange Gold Seal* in recognition of its transparency and completeness in documentation.

All financial records are reviewed quarterly by an outside CPA with reports to the Treasurer and the Board. The Board also reviews the annual IRS Form 990 tax filing prepared by the CPA and staff.

2014-15 Budget

The Board continues to manage the financial resources of the Association closely. This year LAFCo dues were increased by the CPI as authorized in the Association Bylaws. While only a 1.5% increase, the Board felt it was necessary to keep up with the increasing costs of operating the Association.

The adopted budget for 2014-15 provides only minor changes from the 2013-14 budget. The close of the fiscal year showed a slightly greater year-end balance than anticipated in the adopted budget, allowing the Association to once again avoid the use of reserve. The approved budget is \$368,273, which includes a \$43,970 contingency.

The Board approved several small allowances for the use of contingency funds this fiscal year to include

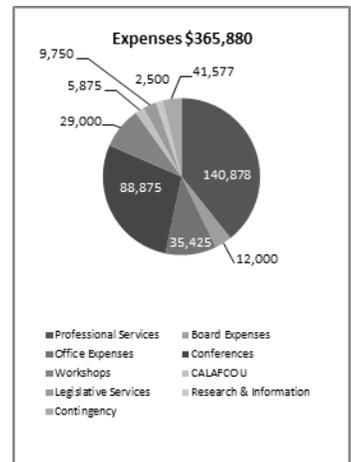
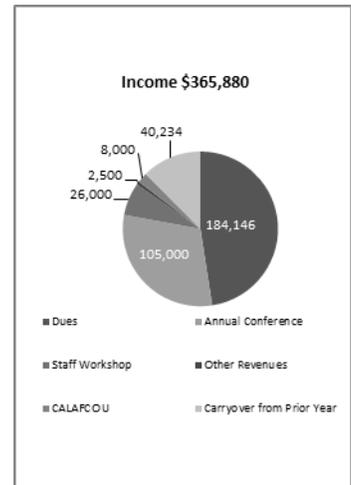
assistance in archiving old Association records, purchasing new office equipment, and the aid of outside legal counsel. In total, the approved funds should not exceed \$5,800 (or 15%) of the total being held in contingency.

For fiscal year 2014-15, there are small increases in rent, professional services, and legislative services expenses in the budget which are offset by increases in revenues from dues and returns from the conference and CALAFCO U as well as a reduction in office and research expenses. The budget is balanced and does not tap any reserve funds.

Restricted Fund Reserve

Since 2005 an important goal established by the Board has been to grow and maintain a fund reserve to support member services in uncertain economic times and to avoid the need to tap members for additional funds, as had been done in the past. With an initial goal of 35% of non-conference operating expenses, the reserve balance at the close of the 2013-14 fiscal year was \$150,754, about 62% of the annual operations budget outside of the Conference and Workshop. The reserve is not part of the annual budget and requires a vote of the Board to use its funds. The Association has not used the fund reserve since the early 2000s. CALAFCO maintains its funds with the Local Agency Investment Fund (LAIF). While the interest rate has remained low again this year, we have not lost any of the principal in our savings or investments. This year the Board amended the organization's policy regarding the reserve fund, changing from having a maximum of 25% held in reserves to having a minimum of 25% held in reserves.

Finally we want to recognize the leadership of our executive director **Pamela Miller** and executive officer **Marjorie Blom** (Stanislaus LAFCo). Added to that is our appreciation for all the contributions of executive



assistant *Jeni Tickler* in the CALAFCO office, deputy executive officers *Steve Lucas* (Butte LAFCo), *Sam Martinez* (San Bernardino LAFCo), and *David Church* (San Luis Obispo LAFCo), Legal Counsel *Clark Alsop* (BB&K), and CPA *Jim Gladfelter* (Alta Mesa Group). These people, along with many other volunteers, associate members, and members of the Board have all

worked together this year to bring many achievements and a strong Association to you, our Member LAFCos and Associate Members.

Sincerely Yours,

The CALAFCO Board of Directors



On the Horizon



2014 CALAFCO University
LAFCo & the Law: Avoiding the Legal Pitfalls and Potholes of CKH
December 8, 2014
Sacramento, CA

2015 STAFF WORKSHOP
April 15 – 17, 2015
Holiday Inn Express and Courtyard Suites
Grass Valley, CA
Hosted by Nevada LAFCo

2015 ANNUAL CONFERENCE
September 2 – 4, 2015
Hyatt Regency
Sacramento, CA
Hosted by Sacramento LAFCo

The Sphere

CALAFCO Journal

CALIFORNIA ASSOCIATION OF LOCAL AGENCY
FORMATION COMMISSIONS

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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

CALAFCO GOLD ASSOCIATE MEMBERS

Thank you for your support

Colantuono
Highsmith &
Whately, PC



The Year In Pictures *Scenes from CALAFCO Activities*

CALAFCO Annual Conference 2013 *Squaw Valley, CA*



CALAFCO Annual Staff Workshop 2014 *Berkeley, CA*



LAFCO 50th Anniversary Symposium *Sacramento, CA*

Co-sponsored by CALAFCO and the UC Davis Extension for Land Use & Natural Resources

