Will There be a 479th?
Prepared by Bill Chiat and Bob Braitman

There are 478 cities in California. As adopted the FY 2004-2005 State budget threatens to bring a halt to the creation of new cities. Rancho Cordova, incorporated in Sacramento County in 2003, could be the last municipality in the Golden State.

A provision in the budget negotiated by the Governor’s office and the Legislature “swaps” property taxes for Motor Vehicle License Fees (VLF) for cities. While it might represent an even trade of revenue for existing cities this change removes a significant financial incentive that allowed and facilitated the incorporation of new cities.

VLF funds earmarked for cities, specifically the portion based on the “value tax” on automobiles, are distributed to cities on a per capita basis.

The amount a city realizes is based on its respective population, as reported by the State Department of Finance, to the total population of all cities.

A new city receives a portion of these funds based on its population. As a result, when a new city is born all existing cities experience a small decrease in their VLF funds to accommodate the newest “member of the family.”

For the first seven years of their existence the “assumed population” of new cities is three times the number of registered voters in the city on the date it incorporates. This can be a much larger figure than the actual population and thereby provides additional start-up funds.

This incentive is largely absent in the new budget because fewer VLF funds are going to cities, having been replaced by property taxes that previously went to school districts. Since property taxes are not distributed to cities based on their populations but rather represent a finite amount of money within each tax rate area, a new city will not receive the “boost” in revenues that in many cases has funded communities to incorporation.

At the 2004 CALAFCO Annual Conference the presentations by Michael Coleman, special consultant to the League of California Cities, and Richard Berkson of the consulting firm Economic and Planning Systems (EPS) underscored this new reality of municipal finance.

This same phenomena is occurring with annexations of inhabited areas. Several LAFCo’s have reported that cities are now seeing a financial disincentive to annex islands and other developed areas. Without a legislative “fix” this situation will continue to exist and it will be extremely difficult if not impossible to incorporate new cities in California.

Discussions are underway to find solutions to this dilemma, but funding sources are scarce, and few want to give up additional revenue. CALAFCO will keep members informed as the issues continue to evolve.
FROM THE EXECUTIVE DIRECTOR

On Being Proactive

Recent discussions amongst the Executive Officers has focused on how their commissions can be more proactive with their constituencies. It reminded me of some valuable lessons I learned over the years in my public information officer roles. They seem particularly instructive for LAFCOs, given our mandate to involve the public in our deliberations, and because many of our decisions will impact resource conservation and urban growth for decades to come.

In the early 1980’s, as fresh park ranger with Minnesota State Parks, I was assigned as public information officer for the first-ever urban deer hunt at Fort Snelling State Park. The park lies in the heart of the Minneapolis/St. Paul urban area along the Mississippi River. We knew that being proactive with a variety of stakeholders would be critical in assuring both the success of this hunt and maintaining the credibility of the state’s resources management agency.

The approach used was typical of public agencies. Expert biologists prepared data and information justifying the need for the hunt, and the wardens created a plan to assure the safety of the hunt participants and the park neighbors. News releases and information sheets were prepared and sent to hunting organizations, major environmental groups, news media, and neighborhood groups. Plans were created for responding to the media on the day of the hunt: we even established a “protest zone” near the hunt headquarters in case protestors showed up. We thought we were set.

While there was a lot of interest among hunters for the limited number of permits, there did not seem to be much interest from the media or the public, beyond a handful of calls about public safety and killing innocent deer. The big day arrived. The hunt went without a hitch and was successful in meeting deer management objectives. Our success in meeting the needs of other stakeholders, however, was a little more questionable—particularly when it came to the credibility of the agency.

The first indication that we may not have been as proactive as we thought came shortly after sunrise. A hunter arrived at headquarters to check-in the first deer of the day. It was an enormous buck. Just as he arrived, a gentleman got out of a car in the parking lot, and approached the hunter and the collected media. He carried what turned out to be a large mounted photograph of that very deer taken a week earlier. The visitor from the car was a well-known wildlife photographer/environmentalist. You can just imagine how the interview went and what the lead story and picture were in the evening news and papers the next day. And that was before the protesters showed up with their red paint.

We may have been technically and legally right, but didn’t do as well on the credibility side. Some important lessons came from that experience which I continue to find critically relevant:

1. Chiat’s Axiom: When you think you’ve communicated enough, you’re about 10% of the way there. Communication is about relationships, it’s about listening to and understanding interests and perspectives. Whether you agree with them or not. It’s recognizing that people today are bombarded with thousands of messages every day. So if you think that single letter, or article or announcement in the local paper, or a posting on your web page is enough … well, you’re about 10% of the way to effective communication. Communication is an on-going commitment through a variety of media. We often need to see and hear a message four or five times before we really hear it.

Take time to assess your communication efforts: Is your message clear and consistent? Is it repeated through several different media? Is it tied to the interests of the audience? Is there a feedback loop so you know if you’re
MODOC
We anticipate completing the municipal service review report for the City of Alturas within the next two months and a Consolidated Fire District MSR soon thereafter. We are finding it very difficult to obtain the necessary information to draft quality MSRs. Funding is very tight and there is a different way of doing business at elevations this high! Projects have slowed back down to a more rural speed, after a flurry of reorganizations and a district formation.

SHASTA
LAFCo has multiple irons in the fire. We have several annexations in the works, as well as multiple MSRs in process. The City of Redding and the City of Anderson MSRs should both be completed by spring, with the City of Shasta Lake just beyond that. The Fire Districts are working together to submit information for their districts. We have a possible Mosquito and Vector Control annexation that is currently being discussed. We have lots of hot topics, but have not yet had "official" LAFCo applications on any of them ... let's hope to get through the holidays!

ALAMEDA
We just completed the first of three countywide municipal service reviews (MSR) on Public Safety Services (covering police, fire, emergency medical and health care). The Commission adopted the determinations for all agencies covered in the review, and approved sphere updates (for the limited purpose agencies only). The review covered all 14 cities, six special districts, two CSAs and a host of state, regional and private service providers. We recently initiated our second MSR covering utilities (water, wastewater, flood control, resource conservation, waste management). We anticipate completing utilities by spring/summer, 2005. Then on to our final countywide review covering "All Other Municipal Services" (parks & recreation, library, street maintenance, vector control, resource conservation). We expect to meet the January 1, 2006 deadline.

In addition to MSRs, we have several large, complex reorganizations in the pipeline along with a potential incorporation proposal.

SAN LUIS OBISPO
SLO LAFCo continues to chip away at Sphere of Influence Updates and Municipal Service Reviews. We recently completed the SOI/MSR update for our fastest growing city, Paso Robles. This marks the fifth out of seven city sphere updates. We are now in the midst of the SOI/MSR for our largest and most challenging city sphere to-date, the City of San Luis Obispo. Adoption of this SOI update is scheduled for early spring, 2005.

EL DORADO
We have an administrative draft EIR for the El Dorado Hills incorporation and expect the draft CFA soon. Also underway is the county-wide MSR for fire and emergency services, being prepared "in house". We have also completed sphere actions for those agencies included in our last MSR. The final steps in our administrative reorganization will be complete when we assume responsibility for payroll functions at the first of the year. It's amazing how much easier our financial processes are running now that we have separated from El Dorado County. Proposals continue at a slower pace due to the County's continued difficulties with establishing a legally operative General Plan and the resulting restrictions on growth.
News from Sacramento
By Bill Chiat

Legislative Appointments

With the elections, there are lots of changes in the air in Sacramento! New leadership has been appointed to the Senate Local Government Committee. Former LGC Chair Tom Torlakson (D-Antioch) has been appointed Chair of the newly formed Senate Transportation and Housing Committee. Tom McClintock (R-Thousand Oaks) has been appointed Vice Chair of that Committee.

Chairing the Senate Local Government Committee is newly elected Senator Christine Kehoe (D-San Diego). She brings a background in local government to the committee. From 1993 to 2000, Senator Kehoe served as a member of the San Diego City Council. She represented the city on San Diego’s Regional Planning Agency (SANDAG) and chaired Sandbag’s Regional Economic Prosperity Board. Most recently Kehoe served as an Assembly member from San Diego. In accepting the appointment, Senator Kehoe commented that “one of the many challenges facing Californians is how to improve communication and coordination between local and state governments,” adding, “as chair of the Senate Local Government Committee I will address this issue.”

Appointed as Vice Chair is another newly elected Senator, Dave Cox (R-Fair Oaks). Cox also brings an extensive background in local government, having served as Sacramento County Supervisor for six years and as a member of the Sacramento Municipal Utilities District Board of Directors. Cox has served in the Assembly since 1998.

On the Assembly side, the Local Government Committee continues to be chaired by Assembly member Simon Salinas (D-Salinas). Additional appointments to both committees will be made when the legislature convenes in early January.

Community Services District Law Rewrite

Currently the Senate Local Government Committee is working on a rewrite of the Community Services District law (Gov’t Code §61000 et seq.). Over the years the Senate LGC has sponsored clean-up legislation on a number of local agency laws, such as the recreation & park district law and the cemetery district law. A significant review of the CSD law has not occurred since it was enacted in 1955. A broad working group and advisory panel have been brought together to work on the 300+ sections of the act. Paul Hood (San Luis Obispo EO) and Bill Chiat (Executive Director) are representing CALAFCO.

On January 7th 2005 the group completed its first review of the law. The LGC staff is now in the process of drafting the rewrite, taking into consideration the input and comments of the group. A preliminary draft of the new law will be reviewed by the Working Group on February 11th and 18th. The intent is to have draft legislation ready for action by the LGC in early 2005.

Much of the rewrite has focused on clarifying the Legislature’s intent and purpose of CSDs, ensuring consistency with other statutes and local agencies— including Cortese-Knox-Hertzberg, accountability of CSDs, governance issues, expansion of the powers of a CSD along with over-all language clean-up and consolidation.

The goal is to broaden the powers of a CSD in an effort to limit the need for district-specific legislation and allow the possibility of a single special district to serve a local community with multiple services.

Some specific LAFCo-related issues addressed include:

♦ Expand potential powers to allow a CSD to be able to perform most all of the services that any special district can do
♦ Governance: requiring CSD to have (at least) five board members
♦ Provisions to strengthen CSD management and accountability, including the designation of a general manager
♦ Allow LAFCo to include conditions to require a vote on independence of a CSD where they are being formed as dependent districts
♦ Use and management of zones within CSD to fund and provide specific facilities and services

Once the circulation draft is available, it will be made available to CALAFCO members.

HOT OFF THE PRESS!
New state publications available

From: Assembly Publications, 1020 N St, Rm 151, Sacramento, CA 95814. 916/319-3997

From: Senate Publications, 1020 N St, Rm B-53, Sacramento, CA 95814. 916/227-2155

Also available from Senate Publications:

♦ For Years to Come: A Legislative History of Senate Bill 341 and the “Public Cemetery District Law” (August, 2004) $6.20
♦ It’s Time to Draw the Line: A Citizen’s Guide to LAFCo’s (May, 2003)
♦ Science, Service, and Statutes: A Legislative History of Senate Bill 1588 and the “Mosquito Abatement & Vector Control District Law” (September, 2003) $6.20
♦ Parks, Progress, and Public Policy: A Legislative History of Senate Bill 707 and the “Recreation & Park District Law” (Oct, 2001) $6.73
Coordination Between LAFCOs and the State Board of Equalization

Besides deciding such weighty matters as orderly boundaries, adequacy of public service and preservation of agriculture, LAFCOs are also responsible to ensure the technical details of maps and descriptions that describe boundary changes are complete and accurate.

Filing boundary changes with the State Board of Equalization (SBE) and County Assessor is essential to maintain the property tax allocation system in each county. For more than 15 years the Property Tax Division of the SBE has been the contact point for LAFCos to file completed boundary changes with the State. The SBE has developed standards to which maps and descriptions must adhere or they are returned, unfiled, to the individual LAFCo.

Geographic Information Systems (or GIS) are emerging in many counties. A new question is whether maps and descriptions prepared by this technology are acceptable to County Assessors and the SBE to file completed boundary changes. And what is the role of County Surveyors in this boundary change process?

Another emerging technology deals with “digital filing” of maps and legal descriptions. Presently 18 counties are able to file digitally, soon to be 23 counties.

Last fall, the Executive Officers listed below met with the SBE property tax staff. Also present were representatives of the Central Contra Costa Sanitary District, a district with a lot of annexation activity that would like to be able to file with GIS and digital technology, as opposed to references to deeds and other instruments that are traditionally relied on by LAFCos for map and legal description purposes.

It is clear from this discussion that the area of LAFCO maps and legal descriptions to complete boundary changes will require greater coordination in coming weeks and months to ensure that everyone’s needs are being met efficiently and economically while the essential validity of materials describing boundary changes is not compromised.

In the world of mapping some items that are essential to a land surveyor may be unnecessary for the SBE which has no access to local deed records. The SBE is driven by the need for a geographical description of boundary changes. Some LAFCo staff feel it may be timely for the SBE to update its 1997 instructions for descriptive materials, perhaps to show a simplified process for digital submission.

Look for a session on this topic at the Staff Workshop in Bakersfield next April.

Submitted by:
Bob Braitman, Contra Costa LAFCO, Peter Brundage, Sacramento LAFCo, Roseanne Chamberlin, El Dorado LAFCo, and Dan Schwarz, Napa LAFCo

CALAFCO Board of Directors
New Board Members and Officers Elected at Annual Conference

At the CALAFCO Annual Conference in September, six Executive Board members were re-elected to two year terms and three new Board members were elected.

Board members re-elected to two-year terms include Kathy Long, Ventura LAFCo; Matt Gourley, Monterey LAFCo; Elliot Mulberg, Sacramento LAFCo; Ron Wootton, San Diego LAFCo; Roger Anderson, Santa Cruz LAFCo, and Chris Tooker, Sacramento LAFCo. In November Ron Wootton subsequently lost his seat on the Vista Fire Protection District and his seats on LAFCo and CALAFCO. The Board will discuss his replacement at their January meeting.

Newly elected Board members include Paul Biane, San Bernardino LAFCo; Gary Lewis, Lake LAFCo; and Sepi Richardson, San Mateo LAFCo.

Paul Biane serves as a Supervisor in San Bernardino County, and Gary Lewis serves Lake County as a Supervisor. Sepi Richardson is a Councilmember from the City of Brisbane.

Future issues of The Sphere will profile Board members.

CALAFCO officers were also elected. Tim Campbell, Santa Barbara LAFCo was re-elected as Board Chair. Other officers reelected include Vice Chair Kathy Long, Secretary Roger Anderson, and Treasurer Peter Herzog (Orange LAFCo).
CALAFCO Opens New Sacramento Office

CALAFCO has established its first permanent office in Sacramento. Located at 801 12th Street, the office is at the corner of 12th and H. The building houses the Regional Council of Rural Counties (RCRC) as well as several other association offices.

Executive Director Bill Chiat is excited about the location. “It provides a wonderful space for CALAFCO and affords us the opportunity to build stronger relationships with the rural counties.” The office is a block from the Sacramento LAFCo and CSDA offices, and an easy walk to the Capitol as well as CSAC, ACWA, and the League.

In addition to the office, CALAFCO has access to several small conference rooms (8-15 people) at no cost. Please contact Bill Chiat if you are interested in reserving a meeting room.

CALAFCO is on the sixth floor in Suite 611. Office phone number is 916/442-6536.

EXECUTIVE DIRECTOR

At its annual conference in Anaheim, the CALAFCO Executive Board unanimously selected William S. (Bill) Chiat as its new Executive Director. Chiat replaces Scott Harvey who accepted an appointment with the State Integrated Waste Management Board.

Chiat most recently served as County Executive Officer of Napa County. Previously he served as Director of Organizational Effectiveness for Santa Barbara County, Director of the Governor’s Office for Excellence in Government under Arizona Governor Fife Symington, and Director of Planning and Development for the Ventura Regional Sanitation District. Chiat also serves as an organizational development consultant for local governments.

In addition to his expertise in local government, Chiat brings experience in intergovernmental collaboration, particularly as it relates to LAFCo issues. Chiat led the County negotiations that resulted in the successful incorporation of the City of Goleta. In Napa County, he built relationships needed to craft landmark housing allocation sharing agreements between the county and its two largest cities. The agreements help assure availability of housing sites while preserving agricultural and open space lands.

Chiat has a B.S. in field biology from the University of Minnesota, and a M.S. in natural resource management from the University of Michigan. He is a graduate of the Senior Executives in State and Local Government from the J.F.K. School of Government at Harvard University. He resides in Napa.
On Being Proactive
(continued from page 2)

getting heard? Are you addressing a variety of stakeholder interests?

2. Facts and reasoning are only one element of the communication. In the public sector particularly, we tend to couch our communication in data and logical, coherent arguments. Just like we did with the deer hunt. The reasoning is that if we just prove to people that something is right, they will feel compelled to accept it.

In his book, Rhetoric, Aristotle argued that there are three elements to an argument. First is logos: the logical, reasoned approach using data and facts. We’re pretty good at this one. Second is ethos: the characteristics and credibility of the speaker. What do you do to establish your credibility with the audience? Who you are, the language you use, how you look or come across, the quality of your materials … these are all part of ethos, and part of what an audience considers.

Third is pathos: the motives, feelings, attitudes, and knowledge of the audience. What do you really know about your audience and their interests, fears, perspectives? Respect your audience. Really hear them. Avoid the Mirror Trap: making assumptions about the audience based on your own beliefs and values.

Finally, a fourth aspect should be added, agora or context: where and when you offer your message and provide opportunities for involvement. Consider the needs of your audience.

3. Build an Authorizing Environment. It is by design in American democracy that no single individual, agency, commission, or office has all the formal authority needed to make and carry out decisions. Our system is designed to work by accommodation. In case of the hunt, even though my agency had the formal authority to conduct the hunt, the informal authority held by other stakeholders (environmentalists, animal rights groups, neighbors) greatly impacted the agency’s authority and credibility in future decisions.

As LAFCo, think about all the stakeholder groups who believe they have formal or informal authority to affect your decision. Build a list. Understand who they are and what their interests are. Build relationships with them to better understand. That means more than a letter or a phone call. There are four questions to consider:

a. How might each of the primary stakeholders have to change their ways?

b. What expectations do they have of their authority?

c. What might you be able to do to start reshaping their expectations or positions that respects their interests?

d. What coalitions might develop among the stakeholders (due to common positions or interests) than can either help or hinder your efforts?

Success comes from including as many stakeholder groups as possible in the dialogue, and fostering an environment for them to engage each other in the conversation. The debate that occurs between opposing views can help bring alive the discussion, ripen the issue, and lead to productive and sustainable outcomes.

Being proactive is neither easy nor quick, and it requires an exercise of leadership. It’s also not for the faint of heart! Building on these lessons, we were able to continue to conduct urban hunts, and I learned much about engaging the community on important decisions.

There will be a detailed workshop on “Being Proactive” and these principles and techniques at the CALAFCO Staff Workshop on April 20-22, 2005 in Bakersfield. Be sure to mark your calendars to attend this valuable workshop.
A Tribute to Ron Wootton

On December 3, 2004, Ron Wootton's term on the Board of Directors of the Vista Fire Protection District ended after the election results for his hotly contested board seat were certified in San Diego County. Consequently, Ron's term on the San Diego LAFCo and CALAFCO also abruptly ended in December.

Ron was first elected to the Vista Fire District nearly 20 years ago and had been re-elected every four years until November 2004, when he lost his bid for re-election by only four votes. The fire board race was so close that it took nearly one month for the San Diego County Registrar of Voters to certify the election results.

Ron was first appointed to the San Diego LAFCo in 1993 and served as a member of San Diego LAFCo's Special Districts Advisory Committee from 1988-93. He also served as a member of San Diego LAFCo's Task Force on Fire Protection and Emergency Medical Services.

Ron Wootton won a seat on the CALAFCO Executive Board in 1997 and earned the reputation for participating in every Executive Board meeting. Serving two terms as CALAFCO Chairman, he was responsible for representing the association during the hearings conducted by the Local Governance for the 21st Century.

Ron also was a tireless advocate for CALAFCO during the implementation meetings associated with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Ron Wootton served on the Governor’s Office of Planning and Research’s Municipal Service Review Working Group in 2001 and was awarded the “Outstanding CALAFCO Member” award in 2000.

Not known by many people was the fact that Ron Wootton also served on the Bueno Colorado Municipal Water District Board of Directors --- and was instrumental in the dissolution of the water district in 1993. While Ron will miss his involvement with LAFCO and CALAFCO, he is looking forward to devoting more time to his family and land surveying and consulting firm.

Submitted by: Mike Ott, San Diego LAFCo

FROM ACWA E-NEWS
State Controller’s Office Meets with Special District Organizations

The impacts of the ERAF III property tax shifts have come to the attention of many LAFCO’s as districts assess their ability to fund services. Representatives of ACWA, CSDA, CASA, CSAC and individual county auditors met January 6 with officials from the California State Controller’s Office and Department of Finance to review the calculations used for special districts as part of the property tax shift.

State Controller’s Office staff briefed special district representatives on the exact process used to calculate the $350 million required by statute to be shifted from special districts to the state. It was made clear at the outset that while the Controller’s Office is open to ideas for improving the process and encourages special districts to notify the office of any errors in the Controller’s report used for the calculations, no changes will be made to the formula or the amount of property taxes to be shifted in 2004-05 and 2005-06.

The amount to be shifted from each special district will remain the same in both years. In an effort to improve the data reported to the State Controller by districts and to better understand the anomalies that have surfaced and the hardships that have occurred among districts, the State Controller’s Office is working with ACWA, CSDA and CASA to put together a series of workshops focused on understanding the State Controller’s reporting for special districts and how to prepare information submitted.

For a good resource on ERAF (and other local govt’ finance issues) check out California Local Finance Almanac at:

CALAFCO RECOGNIZES ACHIEVEMENTS AT ANNUAL CONFERENCE

Winners of the 2004 Achievement Awards were recognized at the CALAFCO Annual Conference in Anaheim. CALAFCO Board Chair Tim Campbell presented the awards and praised each of the recipients for their contributions to the principles and work of LAFCo.

Those recognized included:

Outstanding CALAFCO Member
Scott Harvey

Distinguished Service Award
Julie Howard

Most Effective Commission Award
San Diego LAFCo

Outstanding LAFCo Professional Award
David Kendig

Project of the Year Award
San Luis Obispo LAFCo

Outstanding Commissioner Award
Edith Johnsen

Former CALAFCO Executive Director Scott Harvey (l) is recognized as Outstanding CALAFCO member, and for his five years service as ED by Chair Tim Campbell (r).
This case involved a challenge to the approval by San Diego LAFCo of a sphere of influence amendment and concurrent annexation of a 24-acre middle school site to the Lakeside Sanitation District (“Lakeside SD”), a county sanitation district governed by the Board of Supervisors. The primary applicant for annexation was the Cajon Valley School District, a district providing elementary and middle school instruction in eastern San Diego County. The plaintiff was a coalition of citizens living in the vicinity of the school site who opposed the establishment of a middle school in their neighborhood. The Superior Court upheld LAFCo’s approval and no appeal was filed.

The San Diego LAFCo initially considered the annexation in August 2003 and continued the matter at the urging of staff to obtain more information from Lakeside SD. LAFCo held the second hearing in September 2003 and after considering additional information from staff and listening to substantial public testimony, voted to review and consider the School District’s EIR, adopt the School District’s overriding findings and approve the sphere amendment and annexation.

On December 24, 2003, the Plaintiff filed its complaint with the Superior Court, purportedly as a reverse validation action, challenging LAFCo’s approval (see Gov’t Code § 56103, Code Civ. Proc. § 860 et seq.). On May 13, 2004, the Superior Court issued a tentative ruling upholding LAFCo’s decision to approve the sphere amendment and annexation.

On May 14, 2004, the Superior Court heard oral argument of the parties and affirms tentative ruling.

Plaintiff’s Arguments

The Plaintiff argued that LAFCo should have prepared a sphere update, preceded by a municipal service review (MSR) rather than a sphere amendment and that failure to do so, invalidated the annexation. Plaintiff based its argument on the following contentions:

1. LAFCo violated section 56425(f) (five year sphere updates) by not updating the sphere of influence, which had been adopted in the 1980s and never updated. Essentially, plaintiff contended that section 56425(f) applied retroactively even though it became effective January 1, 2001.

2. LAFCo violated its own policies by considering the sphere amendment to be a “minor amendment.”

3. LAFCo violated OPR guidelines by not treating the sphere amendment as a “substantial amendment” requiring an MSR and sphere update. Plaintiff cited provisions of the guidelines that provide that a substantial amendment is one with the potential to cause “significant . . . environmental consequences.” Since the School District had prepared an EIR for the middle school project finding unmitigable significant environmental effects, plaintiff contended that a sphere update was required.

Defendants Arguments

Defendants contended that LAFCo followed proper statutory procedures and that its decision was supported by substantial evidence in the record. Specifically, defendants argued:

1. Section 56425(f), effective January 1, 2001, did not apply retroactively. In addition, section 56425(f) only required spheres to be updated, “as necessary” and that the five-year time frame established by section 56425(f) was, in any event, “directory,” rather than “mandatory.” § 56106.

2. San Diego LAFCo’s policies provided specifically that a “minor” sphere amendment could be approved in cases involving “health, safety and welfare.” In this case, the School District and its supporters were able to establish that the school was urgently needed due to overcrowding of other middle schools in the district and the need for long-distance busing.

Note: The School District was able to provide over a hundred letters from the community supporting the need for the middle school. This demonstrated an urgent need for the project and public support influenced both LAFCo and the Superior Court.

3. The OPR Guidelines, which are, in any event, advisory only, provide that sphere amendments having the potential to cause “significant . . . environmental consequences” are “substantial amendments” and should not be undertaken prior to the approval of an MSR.

Note: The language “significant environmental consequences” differs from CEQA’s “significant effect on the environment.”

In this case, the project’s environmental effects (short term air quality, cultural resources and cumulative visual impact) did not relate to the amendment, the annexation or the provision of sewer service. Since LAFCo acted only as responsible agency under CEQA, it considered only those environmental effects within its jurisdiction. The record established that substantial sewer capacity was available within Lakeside, that Lakeside owned a sewer line adjacent to the property and that there were simply no public service issues related to sewer service. Therefore, LAFCo acted properly in approving the sphere amendment and annexation. On May 26, 2004, the judgment was entered.
HOUSING ELEMENT LAW BECOMES MORE DEMANDING

By Michael G. Colantuono, Esq.

The past legislative session reflected continued interest in the problem of affordable housing – and in solutions which come at the expense of local control. The housing element statute was the subject of two important bills. One rationalizes the process of assigning each city and county its “fair share” of the regional need for housing. Another greatly increases the requirements of the housing element statute.

AB 2158 (Lowenthal, D-Long Beach) responds to litigation arising from the regional housing needs assessment (RHNA) process in the Southern California Association of Governments (SCAG) region for the current planning period, including suits against both the Department of Housing and Community Development (HCD) and SCAG, that latter by Inland Empire governments arguing they were assigned units which should have been assigned to the coastal areas of the region.

In general, the new law: (i) coordinates the RHNA process with the Regional Transportation Planning process; (ii) details how HCD, Councils of Government (COGs), and cities and counties are to collaborate, share data, and resolve disputes; and (iii) authorizes the delegation of RHNA determinations from HCD to COGs and from COGs to subregional associations of cities and counties. Agencies interested in forming subregional associations to allocate housing needs among their members must notify the COG (or HCD in non-COG areas) of their desire to do so 28 months before the deadline for adoption of new housing elements. The statute also allows local governments to transfer housing obligations between them in settling appeals of housing assignments.

AB 2348 (Mullin, D-So. San Francisco City) amends the housing element statute to require the element not just “identify adequate sites” to accommodate a locality’s regional housing need, but to “[i]dentify actions that will be taken to make sites available” during the planning period if necessary to accommodate all of the city or county’s regional fair share of housing need. The inventory must now include all the units assigned the city or county by the RHNA or allow multi-family housing by right (i.e., without a discretionary approval, or “over the counter”) with densities of at least 16 or 20 units per acre to accommodate that portion of the RHNA goal not accommodated by the inventory. The inventory must list properties by parcel number, provide their size, zoning and general plan designations, identify known environmental constraints, detail utility infrastructure and map the sites.

Specific rules must be followed in determining the number of units which a site can accommodate and, for low- and very-low-income units, a site must have a density of at least: 30 units per acre in metropolitan counties; 20 in suburban jurisdictions; 15 in Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne Counties; and 10 in other non-metropolitan areas. An element must detail the analytical basis for a conclusion that a site can accommodate lower-income units unless these densities are attained.

This new law also amends the density bonus statute to favor affordable housing developers and tightens existing Government Code provisions limiting the ability of local governments to deny approvals of affordable housing projects.

Given the strict requirements of this re-write of the housing element law, cities and counties should give thought to the need to retain consulting services or to reallocate advance planning staff when making budget plans for the coming budget year. The housing element is now, more than ever, a state mandate to increase housing densities everywhere in California.

Michael G. Colantuono is an attorney with Colantuono & Levin, PC, a law firm that represents public agencies throughout California. He can be reached at C&L, 11406 Pleasant Valley Road, Penn Valley, CA 95946-9001, (530) 432-7359. Used with permission.

Helpful Web Sites

A number of sites are available that may be of value to LAFCo’s. Here’s a few that have been reported. If you have found other sites of value, please let us know and they’ll be included in future issues.

California Performance Review
Everything you wanted to know about the CPR and what is currently happening.
http://cpr.ca.gov

Governor’s Proposed 2005-06 State Budget
Check out what is in the proposed budget.
http://govbud.dof.ca.gov

You can find the analysis of the proposed budget from the Legislative Analyst at:
http://www.lao.ca.gov

State Directory
Need to find a state agency or employee telephone number? Here’s a handy resource:
http://www.cold.ca.gov
According to the 2003 Sacramento County Crop and Livestock Report, total crop values for 2003 slightly improved from the previous year, with a total production value of $274,900,000. In light of this vibrant contributing sector of the local economy, Sacramento LAFCo is updating our local “Open Space and Prime Agricultural Land Preservation Policies” for evaluating Sphere of Influence and Annexation Proposals.

As the reader knows, Government Code Section 56377 guides development away from prime agricultural and open-space lands, and directs the Commission to consider:

(a) That development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands, in working landscapes or in open-space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

Sacramento LAFCo has the opportunity to contribute to county-wide considerations by shaping the form and path of growth, through adopted policies. The draft policies reflect the mission of LAFCo as being one to influence and guide development away from prime agricultural land, not to stop growth.

This effort is being conducted in collaboration with the recently adopted SACOG Regional Blueprint for Growth 2050, and the various General Plan Updates underway throughout the County.

LAFCo has broad statutory responsibility to facilitate planned, orderly, efficient patterns of urban development; preserve prime agricultural lands; and discourage sprawl. The intent of the policy update will be to balance the seemingly competing needs of affordable housing, economic opportunities, public safety and the preservation of natural resources.

### THE TEN LEADING FARM COMMODITIES – 2003

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grapes, Wine</td>
<td>$63,003,000</td>
</tr>
<tr>
<td>Milk – Market</td>
<td>38,159,000</td>
</tr>
<tr>
<td>Nursery Stock</td>
<td>31,442,000</td>
</tr>
<tr>
<td>Pears, Bartlett</td>
<td>22,195,000</td>
</tr>
<tr>
<td>Poultry</td>
<td>18,899,000</td>
</tr>
<tr>
<td>Rice</td>
<td>14,022,000</td>
</tr>
<tr>
<td>Cattle &amp; Calves</td>
<td>10,959,000</td>
</tr>
<tr>
<td>Corn, Field</td>
<td>8,669,000</td>
</tr>
<tr>
<td>Hay, Alfalfa</td>
<td>6,655,000</td>
</tr>
<tr>
<td>Corn, Silage</td>
<td>6,002,000</td>
</tr>
<tr>
<td>All Other</td>
<td>54,895,000</td>
</tr>
</tbody>
</table>

Featured guest speaker is Peter Detwiler, consultant to the CA Senate Local Government Committee.

All new LAFCo commissioners, local government officials (special district directors and city councilmembers - even if they are not sitting on LAFCo), and staff are encouraged to attend.

To register for this free workshop, and for additional information, please contact:

Marilyn Flemmer, Commission Clerk
(916) 874-6458
marilyn.flemmer@saclafco.org
2004 Annual CALAFCO Conference Highlights

Over 245 people attended the CALAFCO Annual Conference in September. Held at the beautiful Grand California Hotel at Disneyland, the facilities provided a top quality setting for the three-day series of educational workshops and discussions.

Highlights included keynote presentations from former Assembly Speaker Robert Hertzberg, as well as Housing & Community Development Director Lucy Dunn, and Assemblymember Todd Spitzer. A number of valuable panel discussions were conducted during the conference, and as usual the opportunity to network and share ideas was of value to commissioners and staff.

Hats off to co-chairs Peter Herzog (Orange LAFCo) and Ron Wootton (San Diego LAFCo) for a great conference. An enormous thank you to the Orange LAFCo staff for all their work in hosting the conference. In particular, Danielle Ball was recognized for her incredible effort!

Thanks for a great job!