

February, 2010

## Moving Government Closer to the People of California

By Bob Hertzberg and Thomas McKernan, Co-Chairs, California Forward

The only time most Californians think about the arcane subject of plate tectonics is right after an earthquake.

When the ground stops shaking, a seismologist from CalTech or Berkeley will calmly explain how normal it is for the giant segments of the earth's crust to push against each other for years, only to move suddenly and disconcertingly in opposite directions.

So it is with California's government. When things are quiet, we don't give much thought to the great fault lines running between our state and local governments. We Californians are busy people, and few of us find the daily machinations of government a fascinating topic.

Besides, part of the genius of our system is that it should be self-correcting. Our founders created these distinct and separate centers of

power - designed them to push against one another to keep things working.

But it's no secret that California's government seems to have lost its ability to respond and right itself when things go wrong.

At California Forward, we've spent the last 18 months on the equivalent of a geologic study of our state. We've found that the very core of the way we govern ourselves - those tectonic plates of power - have seriously eroded over time.

We believe there's tremendous opportunity for work to be done at the structural level - the complex relationship between state and

local government.

The Community Funding Protection and Accountability Act, shifts power away from Sacramento and gives more responsibility to local government - your own county, city and town and your own local school board.

It reduces the tendency for Sacramento to take tax dollars from our counties, cities and schools to balance the state budget. The plan also gives cities, counties and schools new incentives to work together, eliminate overlapping programs and become more efficient.

The California Forward plan gives us the tools to fix what's broken in our state. It means less partisan posturing and more problem-solving, less finger-pointing and more accountability. And ultimately, it means more stable, long-term funding for what matters most: our schools and universities, our police and firefighters and the roads and highways we need for the future.

The plan recognizes that most services are best

delivered at the local level, and gives communities the freedom to get out from under the Sacramento bureaucracy to solve their own problems and meet their own needs.

The tendency over the last 30 years has been just the opposite, with revenues and decision-making increasingly concentrated at the state level. The result? No one's accountable.

It's time to rethink the relationship between the state and local government, with a strong preference for government that's closer to people - and that fosters the kind of collaboration that lets communities capitalize on their strengths.

"It's time to rethink the relationship between the state and local government, with a strong preference for government that's closer to people."

CAforward



Co-Chairs Bob Hertzberg and Thomas McKernan

**Editor's Note:** This article follows up on the popular session by CalForward at the CALAFCO conference. Bob Hertzberg is former Speaker of the Assembly and author of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

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# The Sphere

## CALAFCO Journal

February, 2010

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

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Сalifornia Association of  
Local Agency Formation Commissions  
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## FROM THE CHAIR

# LAFCos Will Soon Vote on Changing How Board Members are Chosen



**Roger Anderson**  
Chair, CALAFCO  
Board of Directors

As I write this article, the CALAFCO Board is about to send to all LAFCos proposed bylaw changes. When the CALAFCO membership approves these changes, future Board members will be chosen from four regions in the state. As presently constituted these regions correspond approximately to Southern, Central and North Coast, Northern Inland, and Central Inland counties. The Board unanimously supported these bylaw changes at its January 2010 meeting, because we were convinced that this change in Board membership promotes the best interest of the Association and each LAFCo.

The change in the Board election procedures will not affect the educational and legislative activities of CALAFCO, but it will assure that there will be geographical diversity on the Board. The change in Board composition will add little if any costs to the CALAFCO organization. The bylaw changes do not require any regional meetings except for a caucus of the regions at the annual conference.

The reorganization of the Board will not require any collaboration or sharing of resources amongst LAFCos within a region, but we hope that a more regional emphasis on the Board will promote educational and policy discussions among LAFCos. My belief is that the proposed bylaw amendments will result in a stronger Board and Association to continue and promote the work of CALAFCO in helping individual LAFCos deal with their individual responsibilities.

Readers of *The Sphere* will realize that the present regional proposal is different from the proposal

discussed at the 2009 Annual Conference. At that time we asked the membership to consider regions to foster communication among LAFCos. However the Board learned from members both at and after the conference that there was little support for regional meetings. We heard from LAFCos that they already had communications with adjacent counties, and that more extensive regional contact was not going to be useful.

However in late 2009 five Southern California LAFCos expressed their intentions to withdraw from the Association effective June 30, 2010; the key issue being under representation of Southern California on the CALAFCO Board. Today there is just one out of 15 Board positions from Southern California. The Board was quick to realize the deleterious consequences of five large LAFCos leaving the Association:

- a. Loss of revenue, leading to lower levels of training and other activities of the Association that support individual LAFCos
- b. Loss of political influence at the state capitol
- c. Loss of contributions of knowledge, expertise and participation in CALAFCO committees and Board.

As a result of the lukewarm reception to regional organization and the withdrawal of important members, the CALAFCO Board reached consensus to abandon the concept of setting up regions to

foster regional coordination, and to propose a bylaws amendment that would provide for the Board to consist of 16 members with four Board members (county, city, district, and public) being elected by each region. The regions would be used solely for electing Board members. This regional election of board members was a concept that was developed and recommended in 2009 by a committee of two southern and two northern California Board members.

I believe that several events must happen to maintain the effectiveness of CALAFCO:

- a. The membership needs to vote for the bylaws amendment in a mail ballot this spring.
- b. The Southern California LAFcos need to decide that the bylaws amendment constitutes a sufficient sign that the Association values them as critical members, and that they will therefore stay in the Association.
- c. The revised Board that is elected at the Annual Business Meeting in October needs to work in a cooperate manner to improve the services that the Association provides to its members.

On behalf of the Board, I urge each LAFco to vote for the bylaws revisions in the ballot that you will soon receive, and to support the other actions needed to keep CALAFCO together and improve the Association.

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FROM THE EXECUTIVE DIRECTOR

## Finding Common Ground

*It's easier to disagree than agree*



**Bill Chiat**  
Executive Director

Public service often places elected officials and staff at the crossroads of complex intersecting interests and positions. Finding balance in reaching decisions and finding common ground is difficult. When people find it, the feeling of reward is incredible. Getting there can be a long and circuitous route.

Is it worth the effort? It depends. It can be time intensive, emotionally demanding, fun, frustrating, rewarding and a rollercoaster.

Experience has taught me that when you are able to find common ground, when you can find a solution by collaboration, it tends to be a decision that is sustainable over time and is owned by all the participants – regardless of whether the ultimate decision was one they initially supported. A collaborative solution, while following a chaotic path, can be a better decision than one reached by other methods.

For the last 30 years I have facilitated community, organizational and intergovernmental groups trying to find common ground on a myriad of multifarious issues. In most cases the root cause had simmered for years, resulting in a toxic drain on the organization. In one case a dispute between two departments within an agency 25 years earlier had resulted in an amazingly inefficient structure simply to avoid the possibility of the two department executives interacting directly.

Here are a few of the things I've learned about helping groups find common ground. Perhaps they will be of value as LAFcos work on complex issues.

**Guiding Principles Are a Touchstone.** At the end of the day what does the group want to accomplish? I ask groups to identify four or five big ideas they want to accomplish through the process. These become interests they can keep going back to throughout the process to remind everyone why they came together.

**Ground Rules Help.** Sounds childish, but we all work better together when there are basic rules and expectations on how we will behave with each other. For many groups this is the first opportunity to find common ground. Don't interrupt; come prepared; no personal attacks; stick to the agenda; be on time; listen. All are examples. They form a foundation of accountability and trust on how members will treat each other.

**80/20 Rule: Find the 80% First.** I find most groups – even those deep in conflict – have more areas where they agree than disagree. But because they have been focused on the disagreements, they've lost sight on where they agree. The Italian economist



Vilfredo Pareto once made the observation that 80% of Italy's wealth was owned by 20% of the population. Since then the 80/20 rule (Pareto Principle) has been applied to many circumstances. I find it is generally true here too: groups agree on 80% of the issues (or more!) but get caught up on the 20% where they disagree. Find the 80% first. Groups have much more success in finding common ground when they realize how much they already can agree upon.

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# REPORT FROM THE CALAFCO BOARD OF DIRECTORS



## Board Revisits Regional Proposal

### *Takes New Approach With Regional Elections*

At its January 15, 2010 meeting the CALAFCO Board devoted most of the time to revisiting the regional proposal presented at the annual meeting last October. That proposal would have created regions for the purpose of enhancing regional communications among LAFCOs, sharing ideas and resources, and providing the Board with input from members. The Board carefully reviewed the comments and feedback from members, results from the 'clicker session' at the conference, and the staff reports and comments. Feedback suggested that members did not want the additional burden and costs of regional meetings, or to feel required to collaborate within the regions. In addition, five LAFCOs indicated that they would leave CALAFCO if another path was not found. These five commissions indicated they don't believe the interests of their region are currently represented within the Association.

### **Proposal to Create Regions Radically Modified**

The Board held a thoughtful discussion on how to proceed. Paramount in its consideration was the best interest of CALAFCO and the critical importance of preserving the membership of all LAFCOs. The Board recognized that without the current 57 members, CALAFCO would no longer carry the influence that it currently enjoys with state decision-makers and would face severe budget deficiencies. It would also lose the expertise and involvement of members who have made significant contributions to CALAFCO and member LAFCOs over the past 38 years.

As a direct result of this new information, the Board moved for a change in direction.

The Board chose not to proceed with the proposal that was presented to the membership at Tenaya Lodge last October. That approach was to established regions for the purpose of meeting, sharing ideas or sharing resources. It recognized that those relationships were already happening where appropriate and the Board did not want to create the need for additional meetings or for LAFCOs to incur additional costs. More important, the October proposal did not address the fundamental concern about lack of balanced representation on the CALAFCO Board of Directors.

### ***New Members Elected to the Board***

At the annual membership meeting two new members were elected to the Board of Directors and five Board members were re-elected. Joining the CALAFCO Board as new members are:

**Bill Connelly**, Butte LAFCo Commissioner and County Supervisor, 1<sup>st</sup> District

**Stephen Souza**, Yolo LAFCo Commissioner and a member of the Davis City Council

Board members re-elected include: **Kay Hosmer** (Colusa LAFCo - city), **George Lange** (Ventura LAFCo – special district), **Ted Novelli** (Amador LAFCo – county), **Cathy Schlottmann** (Santa Barbara LAFCo – special district), **Susan Vicklund Wilson** (Santa Clara LAFCo – public).

Two members concluded their terms and were thanked by the Board for their service to both the Association and LAFCOs across the state: **Cheryl Brothers** (Orange LAFCo – city) and **Simón Salinas** (Monterey LAFCo – county).

### ***Board Re-Elects Officers and Appoints Committee Chairs***

At its first meeting following the annual conference, the 2010 Board elected its officers for the year. It has been the tradition of the CALAFCO Board to elect its officers to serve two-year terms. On 30 October 2009 the Board reelected its four officers to the second year of their terms:

**Roger Anderson** (Santa Cruz LAFCo), Chair

**Susan Vicklund Wilson** (Santa Clara LAFCo), Vice Chair

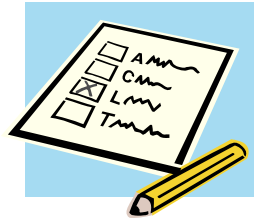
**Jerry Gladbach** (Los Angeles LAFCo), Treasurer

**Sepi Richardson** (San Mateo LAFCo), Secretary

Committee chairs were also appointed. Board Chair Roger Anderson appointed **George Lange** to serve as Chair of the 2010 Conference Committee, **Ted Novelli** to continue service as the Chair of the Awards Committee, and **Susan Vicklund Wilson** as Chair of the Recruitment Committee.

## Modified Recommendation Focused Only on Board Elections by Region

Instead, the Board reconsidered and approved a variation of a committee recommendation it had reviewed last May to elect Board Members by region rather than statewide, as currently done. The Board recognized that by spreading the seats around the state, the result is a Board that better represents the diversity of interests and perspectives across the state. It recognized that under the current system the Board can become unbalanced in that representation. Board members acknowledged that the key value will be to permanently ensure that the Board of Directors is balanced and representative of the broad range of LAFCo interests: rural-urban-suburban; north-south; coastal-mountain-valley; city-county-special district-public. It is in that balance that the Board believes CALAFCO finds its foundation of credibility and objectiveness with state decision makers.



The proposal the Board will be recommending to the membership this spring creates regions within the state solely for the purpose of electing representatives to the CALAFCO Board. The proposal does not require regions to meet or collaborate outside of elections at the conference. It is not expected to add any significant cost to Association operations, and does not require any additional travel or costs for member LAFCos. The only required meeting of regions will be a caucus during the CALAFCO annual conference to elect its members to the Board of Directors.

### Key Components of Recommendation

The components are briefly described below. Member LAFCos will receive detailed information in May.

1. Four regions would be established within CALAFCO (northern, coastal, central and southern). The regions would be established in the Bylaws; however, the specific counties in each region would be established by policy so they can be changed by the Board in the future, if requested by members.
2. Each region would have one city, one county, one special district and one public member, increasing the Board from 15 to 16 voting members.

3. Each region would elect its own four members. Elections would be done in caucus by each region during the CALAFCO annual conference.
4. Regional elections would commence at the Palm Springs conference in October 2010. This will require a change in the Bylaws this spring. The Board directed staff to prepare a mailed ballot for members in late May so that the final results are known in early July for Board nominations and dues notices.
5. The Board agreed to a “fresh start” election in October. All 16 seats will be up for election; eight for a one-year term and eight for a two-year term.

### What Happens Next

In order to implement the regional elections, the membership must approve changes to the CALAFCO Bylaws prior to the annual conference in October 2010. The Board will be distributing a detailed information package along with a mail-in ballot to each member LAFCo for consideration. There is a 54-day voting period to accommodate the various commission meeting dates. Key dates in the process include:

- ♦ 16 April – Discussion at staff workshop
- ♦ Early May – Distribution of information packets to member LAFCos
- ♦ 17 May – Initiation of mail ballot voting period
- ♦ 9 July – Deadline for ballots and announcement of results
- ♦ 9 July – Board Nominations Open
- ♦ 1 September – Deadline for paying 2010-2011 CALAFCO dues
- ♦ 3 September – Deadline for submission of Board nominations
- ♦ 7 October – Annual CALAFCO Business Meeting in Palm Springs

Watch for more information. In the meantime, please contact any Board Member or CALAFCO staff with your questions and feedback. Board members and staff (Bill Chiat, SR Jones, Kate McKenna, Lou Ann Texeira) are also happy to attend commission meetings to answer questions about the proposal and the Board’s recommendation. The Board looks forward to the support of each member to achieve this balanced and representative approach to electing the CALAFCO Board of Directors.

## Finding Common Ground

Continued from page 3

**Focus on Interests; Set Aside Positions.** Interests are what motivates people, what they want to accomplish. Positions are their solutions; how they would like to satisfy those interests. All too often groups progress right through interests and become stuck arguing over positions. And it seems the sooner groups talk about positions, the more stubbornly people cling to their solution. Never lose sight of the interests. That's where the "guiding principles" become valuable. These are the interests of the group. Americans have a tendency to "solution jump." We want to solve problems quickly. And it creates trouble with finding common ground. Help groups keep their focus on interests as they work through the problem. Don't focus on solutions (positions) too early.

**Consensus Does Not Mean Satisfaction.** Groups mistake consensus to mean every individual must believe the group's solution is the best. Finding common ground is not always about an agreement everyone likes. It is about a decision participants can live with and support. This is more than nuance. When people understand they only have to live with and support a decision, not necessarily like it, it allows people to step away from long-held positions and support an idea which may be in the best interest of the whole. When I find a group is close to finding common ground, I will often ask those who are objecting whether they could live with the decision. It makes a difference. Also, check to make sure no one opposes the decision.

**Can't Rush - Patience and Persistence Are Required.** Finding common ground takes time and patience. It cannot be rushed. Allow time for individuals to feel heard and to process ideas and information. It's like a home remodeling project. Whatever the estimate, plan on at least doubling the time! On the other hand, sometimes you have to drive a group to a conclusion. Creating a reasonable deadline that is difficult to move can be helpful. For example, schedule a hearing at a commission to hear from the group.

**Shadow of the Future.** What is the likelihood that group members will encounter each other or the problem again? If the answer is highly likely, then how the people work together to find solutions in this situation will set the stage for future interactions. The shadow of the future can be quite long. How do you want to be remembered?

**Leadership is Dangerous.** Finding common ground through collaborative approaches is hard, dangerous leadership work. It's easy for those who disagree to try and thwart or discredit the work. Collaborative leadership practices require a focus on principles, to push people out of their comfort zones, to help people deal with loss, and to help people cope with ambiguity. Leadership is not

about having the right – or any – answers. It's about getting people to work together to find their collective common ground.

I once saw a sign in the dentist's office. It was on the ceiling so I could see it at she drilled away at my head. It said:

**THE FIVE WORST WORDS  
IN THE ENGLISH LANGUAGE**  
Maybe it will go away

Toothaches don't  
get better with

time, and neither do conflicts. Finding common ground is difficult. It's much easier to delay, hope it will go away or be "overcome by events." Sometimes it works. Sometimes it doesn't.

That's when leadership in finding common ground and building consensus pays off. The results are invigorating!

### MARK YOUR CALENDARS Upcoming CALAFCO Events



**CALAFCO U: *The Metamorphosis of Fire***  
Protection Districts. Tuesday, 13 April 2010 in  
Santa Rosa.

**Staff Workshop: "Touching All Bases"** 14-16  
April 2010 in Santa Rosa

Visit [www.calafco.org](http://www.calafco.org) for information and  
registration.

## Former ACWA Executive Director Steve Hall Passes Away



*Respected Leader Played Key Role in  
Bringing Diverse Water Interests Together*

Stephen K. Hall, a respected water leader who played a central role in some of the biggest achievements in recent California water policy, died after a lengthy battle with Lou Gehrig's disease. He was 58.

Hall served as ACWA's executive director from 1993 until his retirement in 2007. During his 30-year career in water, he worked to bring diverse interests together and advance policies to address the state's water supply challenges.

A consensus builder who was at the forefront of the water community's work to find solutions, Hall is credited with helping to break long-running gridlock and forge agreements that laid the groundwork for the landmark Bay-Delta Accord signed in 2004. He played a primary role in the negotiations that led to the creation of the CALFED Bay-Delta Program. Hall also led a year-long effort to develop ACWA's recent water policy document, "*No Time to Waste: A Blueprint for California Water.*"

Steve's leadership also led to a strong relationship between ACWA and CALAFCO. He will be missed.

# 2009 CALAFCO ACHIEVEMENT AWARD RECIPIENTS

OUTSTANDING CALAFCO MEMBER  
**Susan Vicklund Wilson**  
CALAFCO Vice-Chair

OUTSTANDING CALAFCO MEMBER  
**Jerry Gladbach**  
CALAFCO Treasurer

DISTINGUISHED SERVICE AWARD  
**William Zumwalt**  
Kings LAFCo

GOVERNMENT LEADERSHIP AWARD  
**Cities of Amador City, Jackson,  
Ione, Plymouth & Sutter Creek;  
Amador County; Amador Water  
Agency; Pine Grove CSD**  
County-wide MSR Project

MIKE GOTCH COURAGE & INNOVATION  
IN LOCAL GOVERNMENT  
LEADERSHIP AWARD  
**Paul Hood**  
San Luis Obispo LAFCo

MOST EFFECTIVE COMMISSION  
**Napa LAFCo**

OUTSTANDING COMMISSIONER  
**Larry M. Fortune**  
Fresno LAFCo

OUTSTANDING LAFCO CLERK  
**Emmanuel Abello**  
Santa Clara LAFCo

OUTSTANDING LAFCO PROFESSIONAL  
**Patrick McCormick**  
Santa Cruz LAFCo

PROJECT OF THE YEAR  
**Orange LAFCo**  
Boundary Report

LEGISLATOR OF THE YEAR  
**Assembly Member Jim Silva**

## Achievement Awards Presented at Annual Conference

CALAFCO Awards Committee Chair Ted Novelli (Amador LAFCo) announced the 2009 CALAFCO Achievement Awards at the annual conference in October. The awards were presented during the western-themed awards banquet on 29 October 2009 at Tenaya Lodge near Yosemite.

Commissioner Novelli praised all of the nominees for the awards this year. He was impressed by the exceptional work on LAFCo issues being done by individuals and commissions statewide. Novelli commented that the quality of work and nominations made the Committee's selection process very difficult.

Committee members included Novelli, Sepi Richardson (San Mateo LAFCo), Cathy Schlottmann (Santa Barbara LAFCo) and Jerry Gladbach (Los Angeles LAFCo). Roseanne Chamberlain (Amador LAFCo) provided the staff support.



Outstanding CALAFCO Members Susan Wilson and Jerry Gladbach



Outstanding LAFCo Professional Pat McCormick



Outstanding LAFCo Clerk Emmanuel Abello



Paul Hood receiving the first Mike Gotch Leadership Award



Outstanding Commissioner Larry Fortune



Carolyn Emery Accepting Orange LAFCo Project of the Year

# Commission on State Mandates Approves Cost Reimbursement for MSRs

By Peter Brundage, Executive Officer, Sacramento LAFCo

The Commission on State Mandates finds that certain independent special districts may be eligible for reimbursement for costs related to the preparation of Municipal Service Reviews.

On May 29, 2003, the Sacramento Metropolitan Fire District filed a claim with the Commission on State Mandates for reimbursement of costs related to preparation of a MSR.

On September 27, 2007, the Commission on State Mandates adopted a Statement of Decision finding that the test claim legislation imposes a partially reimbursable state mandated program upon certain independent special districts as defined by Government Code Section 17514 and Article XIII B, Section 6 of the California Constitution.

On September 25, 2009 the Commission on State Mandates adopted Parameters and Guidelines for filing claims. In addition, the Commission has prepared Draft Claiming Instructions. Both of these documents are rather technical, at least for non-accountant types. However, the claim form appears to be relatively straight forward and standard.

The following summarizes the basic process and procedures for filing claims:

## Eligible Claimants

Any independent special district participating in LAFCo which is subject to the tax and spending limitations of Article XIII A and Article XIII B of the California Constitution and incurs increased costs as a result of this state mandated program, is eligible to claim reimbursement of these costs. *Note: The Commission specifically clarified that LAFCos are not eligible claimants.*

## Claiming Period

Costs incurred pursuant to Government Code §56425 are reimbursable after July 1, 2001.

Actual costs for one fiscal year shall be included in each claim. All claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

## Claim Amount

Each claim must exceed \$1,000 to be eligible for reimbursement; however, the county may submit a combined claim on behalf of special districts if the combined claim exceeds \$1,000, even if the individual claims do not each exceed \$1,000.

## Reimbursable Activities

Only actual costs may be claimed. These costs must be traceable and supported by source documents that show the validity of each cost. Actual costs may include salaries and benefits, materials and supplies, contracted services, fixed assets and equipment, and travel. In addition, indirect costs may be included subject to the Office of Management and Budget (OMB) Circular A-87 or an optional allocation methodology provided.

## Claim for Payment Form

Form FAM-27 should be used to file the claim.

Address for filing claims

Office of the State Controller  
Local Reimbursement Section Division of  
Accounting and Reporting  
P.O. Box 942850  
Sacramento, CA 94259

P.S. Remember to sign the form in *“Blue ink.”*

The Parameters and Guidelines, draft Claiming Instructions and Form FAM-27 may be accessed through the CALAFCO website at: [www.calafco.org](http://www.calafco.org).

## Silva Named Legislator of the Year

CALAFCO named Assemblyman Jim Silva (R-Huntington Beach) Legislator of the Year for his successful work establishing financial disclosure reporting requirements for campaigns associated with local boundary changes. The award was presented at the CALAFCO annual conference at Tenaya Lodge.

“As a former county supervisor and LAFCo Member, I appreciate all that LAFCos do to ensure that any changes in the boundaries of special districts and municipal government are open, orderly and fair. It has been a privilege to have been a part of assisting LAFCo in making these processes even more transparent and efficient,” said Silva.



Mr. Silva’s leadership was instrumental in the passage of three financial disclosure bills important to LAFCos and voters statewide. Signed in 2007, AB 747 requires political contributions and expenditures related to local boundary changes to be reportable as any other local initiative. His companion bills, AB 1998 in 2008 and AB 528 of 2009 further implemented and clarified this disclosure process.

*Assemblyman Jim Silva represents the 67<sup>th</sup> Assembly District in Orange County. He previously served as an Orange County Supervisor and LAFCo Commissioner.*

# Annexation Policy Triggers Civil Rights Liability



By Yvette Abich Garcia, Esq.

The 9<sup>th</sup> Circuit recently ruled that an organization representing residents of an unincorporated Latino neighborhood can sue the City of Modesto and Stanislaus County for discrimination in the provision of municipal services under the federal Fair Housing Act (FHA) in *Committee Concerning Community Improvement (CCCI) v. City of Modesto* for failing to annex the community into the City, where a higher level of municipal services was alleged to be available.

CCCI alleged unincorporated neighborhoods within the City's sphere of influence were underserved "islands" with inadequate street lighting, sidewalk and street maintenance, refuse removal and police, fire and ambulance services. It further alleged that City and County policies facilitated annexation of non-Latino communities to the City, but excluded heavily Latino neighborhoods, and that these policies violated federal civil rights laws. In particular, the City and County had a standard property-tax sharing agreement that applied to most areas in the City's sphere of influence, but specifically excluded the neighborhoods in question.

CCCI sued under a FHA provision which prohibits "failing or delaying maintenance or repairs of sale or rental dwellings" or "limiting the use or privileges, services, or facilities associated with the dwelling" because of discrimination.

Judge O'Neill of the U.S. District Court in Fresno dismissed CCCI's claims, holding that the FHA provision is limited to discrimination in the provision of services in connection with the acquisition of housing and does not reach the provision of services to homeowners and renters after they acquire housing. Reversing, well-respected federal Judge Louis Pollak of Philadelphia, writing for himself and 9<sup>th</sup> Circuit Judges Mary Schroeder and Stephen Reinhardt,

held that the FHA provides protection to homeowners and renters in their right to quiet enjoyment of their dwellings even after housing has been acquired, as well as against discrimination in the maintenance, repair and necessary services associated with occupancy of a dwelling. The 9<sup>th</sup> Circuit however, only reinstated plaintiff's FHA claim as it relates to the timely delivery of law enforcement services to the plaintiff's neighborhoods, finding that other claims under the FHA were barred by prior agreements between the parties or were not supported by the evidence before to the Court.

The case now returns to Judge O'Neill in Fresno to see if the CCCI is able to prove its claims against Modesto and Stanislaus County. Although the case has been to the appellate court and back, it is still at an early stage and evidence has yet to be developed to prove or disprove the allegations of the complaint.

Unincorporated areas developed to lower standards of public works infrastructure than prevail in nearby cities are common throughout California, and much attention has been given to the persistence of these areas as unincorporated islands. In addition to litigation of the type represented by the Modesto case, two bills are pending in the State Legislature to make it easier for unincorporated, underserved areas to annex to neighboring cities:

Assembly Bill 853 (Arambula, I-Fresno County) would require a County to initiate annexation to a city of an unincorporated community near or surrounded by the city, if 25% of the registered voters or landowners in the area petition the County to do so and the area:

(1) meets the definition of an "island" (is surrounded by the city, and county boundaries or the Pacific Ocean) or an "unincorporated fringe community" (is within the City's sphere) that lacks wastewater, drinking water services, storm drainage, paved streets, sidewalks or streetlights or there exists a serious infrastructure-related health hazard; and,

(2) constitutes a "disadvantaged community."

Senate Bill 196 (Florez, D-Fresno & Kern Counties) would require, among other things, that cities and counties receiving certain state grants (including community development block grants, safe routes to schools grants, and water pollution small community grants) identify in

their general plans disadvantaged islands and fringe communities and analyze the feasibility of annexing them.

Both bills have drawn substantial comments from the League of California Cities, the California State Association of Counties and the California Association of LAFCOs (CALAFCO). Whether or not these bills move forward, the Modesto suit suggests LAFCOs, cities and counties with underserved County areas should consider whether and how to address the social concerns expressed by this litigation and legislation.

*Yvette M. Abich Garcia is Senior Counsel for Colantuono & Levin. She serves as City Attorney and Redevelopment Agency Counsel for the City of Barstow and Assistant City Attorney for the cities of Sierra Madre and Los Alamitos. Colantuono & Levin is a CALAFCO Associate Member.*

## LAFCO OF NAPA COUNTY Setting an Example of Responsible and Sustainable Government

*By Hedy Aref, President, Incrementum Document Solutions*

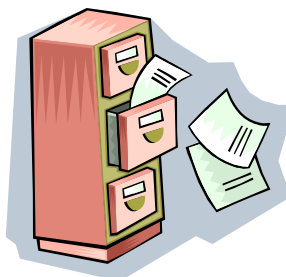
Napa County is known for possessing several unique and renowned traits. Above all, this includes fine wines, fabulous cuisine, and lush landscapes. While these traits are recognized worldwide, an emerging trend recognized among locals involves a concerted effort on the part of LAFCO of Napa County to become more proactive and efficient in fulfilling its planning and regulatory duties.

As part of this effort, LAFCO recently decided to review how information was being preserved and managed internally. Like many entities dealing with the conventional paper-based filing system, Napa LAFCO found inefficiencies in several areas:

- Constant accumulation of records requiring onsite and offsite storage in filing cabinets and boxes – **not the best use of space.**
- Aging records – **paper-based documents degrade with time and need to be preserved.**
- Lost or missing records – **paper-based documents are often mishandled with respect to filing and can easily become unaccounted for.**

- Inability to have immediate access to records – **paper-based documents are not content searchable across the filing system, so often it would take some time to find a specific record or page in the file folder(s). This situation worsens if a page or document is misfiled and not in its designated folder.**
- Duplication of documents for distribution purposes – **constant repetitive copying and printing is wasteful.**
- Records at risk in case of a disaster – **paper-based documents are not recoverable if destroyed, heavily impacting historical records and documentation that must be kept in perpetuity for legal purposes.**

Taking into consideration all of the above inefficiencies and risks, LAFCO decided to modernize its record retention practices by implementing an electronic document management solution.



Initiating the project in July, 2009 after a formal solicitation process, LAFCO contracted with Incrementum to design and develop a standardized electronic document management system.

Based on a uniform folder structure, well-designed templates for indexing, and smart document naming conventions, LAFCO is well on its way to improved information management. Staff has also managed to cut down on its paper consumption by directly importing searchable electronic documents into its system – bypassing the printing process. LAFCO is currently scanning its legacy records, but as described above is also going digital moving forward.

Ultimately, Napa LAFCO will be able to reclaim its precious office space, preserve the integrity of its archives through digitization, have immediate access to all its documents, and protect its records in case of a disaster through digital back-up. As for what the future holds, LAFCO is considering seamless web-based posting of public documents for its constituents and government agencies.

Future staff and commissioners will also benefit from this investment by positioning LAFCO to continually internalize and improve record retention efficiencies through its electronic document management system.

*Incrementum Document Solutions is a CALAFCO Associate Member.*

# Government Closer to the People

*Continued from cover*

Taken as a whole, the plan would go a long way toward restoring the checks and balances that are meant to be the key of our system of government - reinvigorating the natural tensions between the centers of power - and producing better results for us all.

For most people, the topic of government reform is about as appealing as a serving of steamed spinach. These issues just don't have of the political pizzazz of building new schools, expanding highways or opening a new health clinic - until you consider what's at stake.

California has always led the way - in jobs and technology, education and quality of life - but our role as a national leader is in jeopardy.

California Forward has outlined these proposals to the Governor and members of the Legislature. They have the power to place the entire plan before the voters as a comprehensive reform - a constitutional revision - and we have asked them to consider doing so.

If that effort fails, we're also proposing a series of separate amendments to our state's Constitution in November of 2010.

Sitting on different sides of the fault that separates the state's centers of power, the Governor and Legislature should be the first to sense the weaknesses that have crept into our system over the years.

It seems increasingly clear that if the current warnings are not enough to cause bold action, the earthquake that could follow will certainly demand action - perhaps too late.

Inside the state Capitol and out, among legislators, lobbyists and consultants, the big players in California's ongoing initiative wars are once again preparing to shake up the political system.

The depth of the economic downturn, and the unprecedented depth and breadth of cuts to state and local services, has raised the stakes for everyone involved. For those with the means, the temptation is to go on offense - using the 2010 ballot box to achieve long-cherished goals.

As a result, the nature of the proposals being considered has changed dramatically in size and scale. Business may get behind reducing the Legislature to part-time status. Public employees may push to do away with the 2/3rds majority vote requirement for raising taxes. Local governments - and perhaps others - may try to win back what they lost in the budget process.

But there are risks involved. Historically, most initiatives fail at the polls, especially once organized and funded opposition emerges. The most likely result? Everyone shoots for the moon, spends money by the truckload, draws fire from their adversaries, and comes up short on Election Day.

When the dust settles, everyone limps back to their respective corner. Nothing changes.

But that's just not acceptable this time around. Not with our state struggling to deliver basic services and our budget perpetually mired in red ink. Not in a competitive global marketplace where other states and nations are poised to take advantage of our weakness.

Candidly, the California Forward plan isn't perfect, or without risks.

It also won't make great fodder for the typical initiative wars we've come to expect with every campaign season. And it doesn't give any of the big players in California's initiative wars the kind of victory they may be hoping for.

Then again, it wasn't designed to do either of those things.

But it was created to dramatically change things for the better.

*Thomas McKernan and Bob Hertzberg are Co-Chairs of California Forward. Find out more at [www.caforward.org](http://www.caforward.org).*

## Ventura LAFCo Commissioner Lotts Dies

**William E. Lotts**, 85, passed away peacefully after a short illness on Saturday, Jan. 2, 2010.

"Bill" was born in La Jolla, Calif. on March 21, 1924, served in the U.S. Navy during WWII as a Radio Officer where he received training in electronics and continued his endeavor after the war at Point Mugu Missile Test Range (PTMC), Targets Directorate for 28 years until retiring in 1976, he was then self employed as an electrical contractor until his retirement at the age of 84.

Bill moved to the Ojai Valley in 1948. He was elected to the board of directors of the Ojai Valley Sanitation District. He served as a special district commissioner on the Ventura LAFCo for many years. He was a passionate volunteer in the community of Ojai and spent many hours supporting Help of Ojai and many other projects. Bill's favorite place to go was his Pine Mountain cabin that he himself built, but more than anything he loved his family, friends and community.

The CALAFCO Board of Directors adjourned its January 15 Board Meeting in honor of Commissioner Lotts.

# The Sphere

*CALAFCO Journal*

CALIFORNIA ASSOCIATION OF LOCAL AGENCY  
FORMATION COMMISSIONS

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www.calafco.org



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

**Sharing Information and Resources**

## Highlights from the 2009 CALAFCO Annual Conference *Tenaya Lodge Provides Setting for Late October Meeting*



CALAFCO Executive Assistant Jamie Szutowicz and Conference Chair Chris Tooker welcome participants



Participants engaged in general sessions



'John Muir' shares the history of Yosemite with participants



Robert Shibatani speaks at water issues general session



Annual Wine & Beer Competition provides valuable networking time, and some pretty good California wine and beer too!



Peter Detwiler provides a summary of 2009 legislative actions



CALAFCO Board Members Jerry Gladbach (c) and George Lange (r) share ideas



Nevada LAFCo Commissioner Josh Susman wins 'best dressed cowboy' at western-themed awards banquet



CALAFCO Board Chair Roger Anderson (r) and Executive Director Bill Chiat (c) thank Fresno LAFCo executive officer and host committee chair Rick Ballantyne

**WELCOME TO A NEW DEAL OR A HOUSE OF CARDS?**  
CALAFCO 2009 Annual Conference

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