



Midpeninsula Regional  
Open Space District

R-12-57  
Meeting 12-23  
July 11, 2012

## **AGENDA ITEM 6**

### **AGENDA ITEM**

Discussion and Consideration of Seating Independent Special Districts on the Santa Clara County Local Agency Formation Commission

### **GENERAL MANAGER'S RECOMMENDATION**

Discuss and consider seating independent special districts on the Santa Clara County Local Agency Formation Commission (LAFCo).

### **DISCUSSION**

There are 17 independent special districts in Santa Clara County and currently there is no special district representation on LAFCo. In March 2012, the Santa Clara County Special District's Association considered the issue of independent special districts having a seat on LAFCo and requested information from LAFCo on the costs for individual districts to participate (Attachment 1). At the June 13 Regular Board meeting, Director Siemens stated that on July 16, 2012, the Santa Clara County Special District's Association will be holding a special meeting to discuss options for LAFCo cost appropriation and representation (Attachment 2). Director Siemens then requested that the Board hold a discussion on the item given that he will be attending the meeting on behalf of the District and would like to report on the District's position regarding independent special district participation on LAFCo.

### **BOARD COMMITTEE REVIEW**

Due to time constraints, this item was not reviewed by the Legislative, Funding and Public Affairs Committee.

### **FISCAL IMPACT**

If LAFCo receives a total of nine or more resolutions requesting independent special district membership to LAFCo, and the process results in the election of two independent special district representatives, independent special districts will be required to pay one-third of the LAFCo operational costs. Based on the 2012 LAFCo budget, the District's obligation would be approximately \$16,643.24.

## **PUBLIC NOTICE**

Public notice was provided as required by the Brown Act.

## **CEQA COMPLIANCE**

This is not a project under the California Environmental Quality Act (CEQA).

## **NEXT STEPS**

If the Board determines to support the seating of independent special districts on LAFCo, a resolution requesting independent special district membership on LAFCo will need to be submitted to LAFCo (Draft Resolution set forth in Attachment 3). If LAFCo receives resolutions from a majority of independent special districts (i.e. nine or more), they will need to initiate proceedings for seating of independent special districts on LAFCo per the Cortese-Knox-Herzbert Act (Government Code §56332.5),

If the Board determines not to support seating of independent special districts on LAFCo, no further action is needed at this time.

### Attachment:

1. LAFCo Cost Apportionment for Counties, Cities and Special Districts
2. Santa Clara County Special Districts July 16, 2012 Meeting Agenda
3. Draft Resolution

### Responsible Manager:

Steve Abbors, General Manager

### Prepared by:

Michelle Radcliffe, District Clerk

### Contact person:

Pete Siemens, Director

# ATTACHMENT 1

## LAFCO COST APPORTIONMENT: County, Cities, Special Districts

### Estimated Costs to Agencies Based on the 2012 LAFCO Budget

LAFCO Net Operating Expenses for 2012				\$597,195
Jurisdictions	Revenue per 2009/2010 Report	Percentage of Total Revenue	Allocation Percentages	Allocated Costs
County	N/A	N/A	33.3333333%	\$199,065.00
<b>Cities Total Share</b>			<b>33.3333333%</b>	<b>\$199,065.00</b>
San Jose	N/A	N/A	50.0000000%	\$99,532.50
<b>Other cities share</b>			<b>50.0000000%</b>	<b>\$99,532.50</b>
Campbell	\$37,199,184	2.0182051%		\$2,008.77
Cupertino	\$51,593,772	2.7991693%		\$2,786.08
Gilroy	\$65,499,455	3.5536085%		\$3,537.00
Los Altos	\$37,223,642	2.0195321%		\$2,010.09
Los Altos Hills	\$10,074,345	0.5465737%		\$544.02
Los Gatos	\$50,773,160	2.7546478%		\$2,741.77
Milpitas	\$94,121,506	5.1064697%		\$5,082.60
Monte Sereno	\$2,604,662	0.1413134%		\$140.65
Morgan Hill	\$47,513,050	2.5777738%		\$2,565.72
Mountain View	\$163,494,125	8.8702129%		\$8,828.74
Palo Alto	\$491,995,000	26.6927047%		\$26,567.92
Santa Clara	\$478,854,381	25.9797733%		\$25,858.32
Saratoga	\$18,947,298	1.0279670%		\$1,023.16
Sunnyvale	\$293,287,941	15.9120487%		\$15,837.66
<b>Total Cities (excluding San Jose)</b>	<b>\$1,843,181,521</b>	<b>100.0000000%</b>		<b>\$99,532.50</b>
<b>Total Cities (including San Jose)</b>				<b>\$199,065.00</b>
<b>Special Districts Total Share</b>			<b>33.3333333%</b>	<b>\$199,065.00</b>
Aldercroft Heights County Water District	\$201,129	0.0545415%		\$108.57
Burbank Sanitary District	\$503,197	0.1364553%		\$271.63
Cupertino Sanitary District	\$8,522,957	2.3112266%		\$4,600.84
El Camino Hospital District	\$15,836,355	4.2944492%		\$8,548.75
Guadalupe Coyote Resource Cons. District	\$156,831	0.0425289%		\$84.66
Lake Canyon Community Services District	\$71,203	0.0193086%		\$38.44
Lion's Gate Community Services District	\$711,675	0.1929896%		\$384.17
Loma Prieta Resource Cons. District	\$65,201	0.0176810%		\$35.20
Midpeninsula Regional Open Space District	\$30,831,223	8.3607067%		\$16,643.24
Purissima Hills County Water District	\$4,370,288	1.1851199%		\$2,359.16
Rancho Rinconada Rec. and Park District	\$515,955	0.1399149%		\$278.52
San Martin County Water District [1]	\$143,000	0.0387783%		\$77.19
Santa Clara County Open Space District	\$37,927,411	10.2850270%		\$20,473.89
Santa Clara Valley Water District	\$262,814,725	71.2692077%		\$141,872.05
Saratoga Cemetery District	\$1,035,169	0.2807136%		\$558.80
Saratoga Fire Protection District	\$4,935,972	1.3385202%		\$2,664.53
South Santa Clara Valley Memorial District	\$121,069	0.0328311%		\$65.36
<b>Total Special Districts</b>	<b>\$368,763,360</b>	<b>100.0000000%</b>		<b>\$199,065.00</b>
<b>Total Allocated Costs</b>				<b>\$597,195.00</b>

**Notes:**

[1] San Martin County Water District did not file Special Districts Financial Transactions Report for several years. Revenue data is from LAFCO of Santa Clara County's 2011 Countywide Water Service Review report.



# SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION

5750 Almaden Expressway • San Jose, California 95118 • (408) 265-2600

## Santa Clara County Special Districts Association SPECIAL MEETING AGENDA

Monday, July 16, 2012

11:30 a.m. – 2:00 p.m.

<u>Time</u>	<u>AGENDA ITEM</u>
11:30 a.m.	A. Lunch and networking
12:00 p.m.	B. Welcome and Introductions
12:05 p.m.	C. LAFCO discussion: <ol style="list-style-type: none"><li>1. Update from SCCSDA members or non members regarding LAFCO positions</li><li>2. Potential cost apportionment options</li><li>3. Determination of Representation<ol style="list-style-type: none"><li>a. What other Agencies do</li></ol></li></ol>
1:45 p.m.	Next Steps and Follow Up
2:00 p.m.	Adjourn

Attachments:

1. April 18, 2012 Chair Wesolowski letter and attachments to SCC Independent Special Districts
2. Chart of Apportionment of LAFCO Net Operating Expenses Between General Membership Classes and Between Agencies within Each Membership Class

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**Officers:** Steve Wesolowski, Chair • Pete Siemens, Vice-Chair • Tony Estremera, Secretary/Treasurer

**Members:** County Library Service Area • Cupertino Sanitary District • El Camino Hospital District • Midpeninsula Regional Open Space District • Rancho Rinconada Park & Recreation District • Silver Creek Valley CC Geologic Hazard Abatement District • Santa Clara County Open Space Authority • Santa Clara Valley Water District • Saratoga Fire Protection District South • Santa Clara Valley Memorial District • Saratoga Cemetery District • Valley Transportation Authority • West Valley Sanitation District



# SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION

5700 Almaden Expressway, San Jose, CA 95118

FROM: Steve Wesolowski, Chair

DATE: April 18, 2012

TO: Santa Clara County Independent Special Districts

RE: Independent Special District  
Participation in LAFCO

At our quarterly meeting on March 5, 2012, we discussed the implications of having a seat at LAFCO. We voted to contact all independent special districts to determine if a majority of our districts have an interest in joining LAFCO knowing it will have a financial impact.

This issue was explored previously and rejected several years ago because of the financial impact. However, with the current political and environmental climate – specifically, with the State and California Forward looking at consolidation of local government agencies including special districts –we decided it is appropriate to take another look at participation in LAFCO.

Having special districts participate in our local LAFCO would provide us 2 representatives on LAFCO with 2 votes in LAFCO deliberations; LAFCO is the only venue where special districts may be fully participating equals to Cities and the County. Currently, special districts are not represented.

In order to begin the process of gaining seats on LAFCO, a majority (nine) of the independent special districts must adopt resolutions proposing representation on LAFCO. In terms of anticipated costs, independent special districts would be responsible for one-third of the operational costs of LAFCO, and the apportionment is in proportion to each district's total revenues as a percentage of the combined total district revenues with a county. Alternative methods and percentages of apportionment can be made, if we decide to do so. Operating costs for FY2012 are approximately \$600,000; our current cost of LAFCO representation is about \$200,000, apportioned among our districts as we agree.

Neelima Palacherla of LAFCO Santa Clara County, provided us with a cost allocation based on individual apportionment in proportion to each district's total revenues, which is Attachment 1. Please note that VTA is not listed as they are considered a dependent special district.

At this time, I ask you to bring this issue in front of your boards to see if there is interest in moving forward with this process. If a majority of districts are interested, our next step would be for a majority of our districts to adopt formal resolutions proposing representation.

For your discussions, I've also included the summary analysis which we received at our last meeting. This analysis includes information on applicable laws, additional powers provided, process, and costs. Also included is a sample resolution and sample funding MOU. There is also a map showing special district representation on LAFCOs throughout the state and a powerpoint presentation, "Special Districts on LAFCO: Why, Why Not, and How."

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**Officers:** Steve Wesolowski, Chair • Pete Siemens, Vice-Chair • Tony Estremera, Secretary/Treasurer

**Members:** Cupertino Sanitary District • El Camino Hospital District • West Valley Sanitation District • Midpeninsula Regional Open Space District • Rancho Rinconada Park & Recreation District • Silver Creek Valley CC Geologic Hazard Abatement District • Santa Clara County Open Space Authority • Santa Clara Valley Water District • South Santa Clara Valley Memorial District • Saratoga Fire Protection District • Valley Transportation Authority

What we are seeking at this time is your input on if there is interest in seeking formal action of the Special District's within Santa Clara County to pursue representation on LAFCO. If after discussion, your agency is interested in pursuing a formal action, the Santa Clara County Special Districts Association will then request that all Special Districts take formal action supporting this position.

If after discussion, your agency has determined that you may have interest in pursuing formal action, please send the Santa Clara County Special District's Association your intent to [admin@sccsda.net](mailto:admin@sccsda.net).

If you have questions, please contact Cheryl Togami, SCCSDA Staff Support at (408) 265-2607 ext. 3029.

Attachment 1: LAFCO Cost Apportionment – One Year Estimate  
Attachment 2: Special District Seat at LAFCO Summary Analysis

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**Officers:** Robert Reid, Chair • Pete Siemens, Vice-Chair • Tony Estremera, Secretary/Treasurer

**Members:** Cupertino Sanitary District • El Camino Hospital District • West Valley Sanitation District • Midpeninsula Regional Open Space District • Rancho Rinconada Park & Recreation District • Silver Creek Valley CC Geologic Hazard Abatement District • Santa Clara County Open Space Authority • Santa Clara Valley Water District • South Santa Clara Valley Memorial District • Saratoga Fire Protection District • Valley Transportation Authority

## Special District Seat at LAFCO Summary Analysis

This document is a summary analysis of the implications of Santa Clara County Special Districts Association (SCCSDA) having a seat at LAFCO.

The following information included in this attachment:

- Applicable Laws
- Additional Powers this Would Provide SCCSDA
- Process
- Costs
- Language from Government Code on Costs
- Meeting Requirements
- What's required of each special district if special districts had representation at LAFCO
- Sample District Resolution
- Sample Alternative Funding MOU
- Map of Special District Representation on LAFCOs
- Powerpoint slide presentation, "Special Districts on LAFCO, Why, Why Not, and How"

### **Applicable Laws**

#### **Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 Government Code §56000 to §57550**

Cortese-Knox-Hertzberg is the latest iteration of the law that governs changes to boundaries and organization of cities and special districts. It updates the Cortese-Knox Local Government Reorganization Act of 1985, and is considered "the most important reform to the state's local boundary laws in 40 years," as Senator Tom Torlakson wrote in 2003. Changes to the 1985 law include making it easier for special districts to gain LAFCO representation, as well changes to spheres of influence evaluation and implemented municipal services reviews.

Resources:

- Assembly Bill 2838 (Hertzberg, 2000)
- Guide to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (2002), Assembly Local Government Committee

Source: CSDA's Guide to Special District Laws and Related Codes

[http://www.calafco.org/docs/Special\\_Districts/CSDA\\_Guide\\_to\\_Laws\\_&Codes.pdf](http://www.calafco.org/docs/Special_Districts/CSDA_Guide_to_Laws_&Codes.pdf)

### **Additional Powers this Would Provide SCC SDA and Special Districts**

Special Districts would have 2 votes in LAFCO deliberations:

- Annexations & Reorganizations of cities and districts
- MSR and Sphere of Influence Decisions

- Latent powers of districts
- District consolidations and dissolutions

LAFCO is the only venue where special districts are a fully participating equal to Cities and the County.

## **Process**

The commission may appoint two members and an alternate to represent special districts to serve on LAFCo (56325c).

All commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole: “Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority” (56325.1)

Section 56332.5 states: “The commission shall initiate proceedings for representation of independent special districts upon the commission if requested by independent special districts.” A majority of the independent special districts need to adopt resolutions proposing representation on LAFCo. Once LAFCo receives resolutions from a majority of special districts the commission shall adopt a Resolution of Intention. The Executive Officer shall give notice and call a meeting of the independent special districts to select special district representation on the commission.

The Independent Special District Selection Committee shall consist of the presiding officer of the legislative body of each independent special district. An alternate may be appointed by the legislative body of an independent special district if the presiding officer of that independent special district is unable to attend. Districts must be wholly located within the county. Each member of the selection committee shall have one vote. A quorum shall consist of a majority of the eligible districts (56332a).

The Executive Officer shall call and give written notice of all meetings for the Selection Committee so it can select members if a vacancy occurs (56332b).

If the Executive Officer determines that a meeting of the special district selection committee is not feasible, he may conduct the business of the committee in writing. The Executive Officer may call for nominations (for special district representation on LAFCo) to be submitted in writing within 30 days. At the end of the nominating period, the Executive Officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions. Email may also be used with written evidence of receipt and prior concurrence of each district. The districts have at least 30 days to return the ballots by a specified date (56332c). The ballot shall contain the names of all nominees. Terms shall be four years.

The members appointed to LAFCo shall be elected or appointed special district officers residing within the county but shall not be on the Board of Supervisors or a city council.

Independent special districts shall pay one-third of the operational cost of LAFCo unless the independent special districts, the county and the cities approve an alternate method of

apportionment. A Memorandum of Understanding (MOU) will be required between the LAFCo, the Board of Supervisors, the city councils and the special districts to seat independent special districts on LAFCo if an alternate method of apportionment as recommended is enacted. District designees need to sign the MOU on behalf of the independent special districts.

### **Costs**

One-third of operational costs. The operating costs for FY 2012 are approximately \$600,000. A third of that is \$200,000. That amount is divided amongst the 17 independent special districts in Santa Clara County pursuant to GC 56381(b)(1) (C). The code generally states that allocations is in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. This cost will vary from year to year for each of the districts based on the operating costs in the LAFCO budget and based on the district's revenue.

### **Language from Government Code on Costs**

(C) The independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. Except as provided in subparagraph (D), an independent special district's total revenue shall be calculated for nonenterprise activities as total revenues for general purpose transactions less intergovernmental revenue and for enterprise activities as total operating and nonoperating revenues less intergovernmental revenue, as reported in the most recent edition of the "Special Districts Annual Report" published by the Controller, or by an alternative method approved by a majority of the agencies, representing a majority of their combined populations. For the purposes of fulfilling the requirement of this section, a multicounty independent special district shall be required to pay its apportionment in its principal county. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the district share of costs.

(D) (i) For purposes of apportioning costs to a health care district formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code that operates a hospital, a health care district's share, except as provided in clauses (ii) and (iii), shall be apportioned in proportion to each district's net from operations as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development, as a percentage of the combined independent special districts' net operating revenues within a county.

(ii) A health care district for which net from operations is a negative number may not be apportioned any share of the commission's operational costs until the fiscal year following positive net from operations, as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide

Health Planning and Development.

(iii) A health care district that has filed and is operating under public entity bankruptcy pursuant to federal bankruptcy law, shall not be apportioned any share of the commission's operational costs until the fiscal year following its discharge from bankruptcy.

(iv) As used in this subparagraph "net from operations" means total operating revenue less total operating expenses.

(E) Notwithstanding the requirements of subparagraph (C), the independent special districts' share may be apportioned by an alternative method approved by a majority of the districts, representing a majority of the combined populations. However, in no event shall an individual district's apportionment exceed the amount that would be calculated pursuant to subparagraphs (C) and (D), or in excess of 50 percent of the total independent special districts' share, without the consent of that district.

(F) Notwithstanding the requirements of subparagraph (C), no independent special district shall be apportioned a share of more than 50 percent of the total independent special districts' share of the commission's operational costs, without the consent of the district as otherwise provided in this section. In those counties in which a district's share is limited to 50 percent of the total independent special districts' share of the commission's operational costs, the share of the remaining districts shall be increased on a proportional basis so that the total amount for all districts equals the share apportioned by the auditor to independent special districts.

(2) In counties in which there is no independent special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) In counties in which there are no cities, the county and its special districts shall each provide a one-half share of the commission's operational costs. The independent special districts' share shall be apportioned in the manner described for cities' apportionment in paragraph (1). If there is no independent special district representation on the commission, the county shall pay all of the commission's operational costs.

(4) Instead of determining apportionment pursuant to paragraph (1), (2), or (3), any alternative method of apportionment of the net operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the independent special districts representing a majority of the combined total population of independent special districts in the county. However, in no event shall an individual district's apportionment exceed the amount that would be calculated pursuant to subparagraphs (C) and (D) of paragraph (1), or in excess of 50 percent of the total independent special districts' share, without the consent of that district.

(c) After apportioning the costs as required in subdivision (b),

the auditor shall request payment from the board of supervisors and from each city and each independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county, city, or district. The auditor shall provide written notice to the county, city, or district prior to appropriating a share of the property tax or other revenue to the commission for the payment due the commission pursuant to this section. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the commission's operating expenses as specified by the commission. When the city and district payments are received by the commission, the county's portion of the commission's annual operating expenses shall be credited with funds already received from the county. If, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If, during the fiscal year, the commission is without adequate funds to operate, the board of supervisors may loan the commission funds. The commission shall appropriate sufficient funds in its budget for the subsequent fiscal year to repay the loan.

(from <http://law.onecle.com/california/government/56381.html>)

### **Meeting Requirements**

Commission members attend approximately 6 meetings throughout the year. Meetings are held at 1:15pm at:

County Government Center  
70 West Hedding Street, 1st Floor  
San Jose, CA 95110

### **What's required of each special district if special districts had representation at LAFCO:**

The Independent Special Districts select 2 representatives as LAFCO commissioners and a third as an alternate. The LAFCO commissioners must attend the LAFCO meetings and vote on proposals.

**ATTACHMENT 3**

**RESOLUTION NO. 12-XX**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA  
REGIONAL OPEN SPACE DISTRICT REQUESTING INDEPENDENT  
SPECIAL DISTRICT MEMBERSHIP ON THE LOCAL AGENCY FORMATION  
COMMISSION OF SANTA CLARA COUNTY**

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**WHEREAS**, the District believes it is important that independent special districts have a voice in Local Agency Formation Commission (LAFCo) affairs; and

**WHEREAS**, the District believes it is important for LAFCo to have the perspective from independent special districts in its deliberations; and

**WHEREAS**, the District understands that it is initially proposed that one-third of LAFCo's operational costs be borne by the independent special districts; and

**WHEREAS**, for these reasons, the District supports the representation of independent special districts on the Local Agency Formation Commission of Santa Clara County as provided for in the Cortese-Knox-Hertzberg Act of 2000.

**NOW, THEREFORE, THE DISTRICT RESOLVES AS FOLLOWS:**

1. District requests that independent special district representatives be seated on LAFCo of Santa Clara County.
2. District supports the election of independent special district representatives (two members and one alternate) to LAFCo through a nomination and election process as provided by the Cortese-Knox-Hertzberg Act of 2000.

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