

**LOCAL AGENCY FORMATION COMMISSION**
COUNTY GOVERNMENT CENTER • REDWOOD CITY, CALIF. 94063 • TEL. 363-4224

January 17, 1983

TO: Members, Formation Commission

FROM: B. Sherman Coffman, Executive Officer

SUBJECT: Transcript of Angus McDonald's Report to the Commission of January 12, 1983

Attached is a verbatim transcript of Angus McDonald's remarks at the hearing of January 12, 1983 clarifying his report dated December 1982.

Some of his remarks were in response to my letter of January 7, 1983, in which he verbally supplemented his report and acknowledged that the negative fund balance for annexation is "the result of the department heads assumptions about first year fixup type investments that they would have to make. Over time that deficit would cure itself even without the exhibit we are about to see (exhibit 6)". The amount left out was \$468,000.

Mr. McDonald failed to acknowledge in the attached transcript that the Board of Supervisors has discretion under Section 51300 of the Government Code to give equal or essential aid to a city to make annexation on an even par with incorporation with respect to financial feasibility.

A handwritten signature in black ink, appearing to read 'B. Sherman Coffman', is positioned above the typed name.

B. SHERMAN COFFMAN
Executive Officer

BSC/at

Enclosure

TRANSCRIPT OF ANGUS MCDONALD'S REPORT
TO THE COMMISSION OF JANUARY 12, 1983

Thank you Mr. Chairman. There is obviously a certain welcome back feeling that I have seeing my good friends on both sides of the question of incorporation of East Palo Alto. I would like to summarize briefly the history of the feasibility studies of East Palo Alto. I think my office has been involved in virtually all of them. When the question was first evaluated by my office in 1971 and again in 1979 the fiscal analysis on which the Commission deliberated before the incorporation election was in fact an update of the 1979 study. But we felt that it would be impractical to the part of being dangerous to try to do another update on an update so that the evaluation that has been presented to you is essentially new material based on the way government works in California at the present time.

The intent was that the work of my office that has been transmitted to you would be incorporated by reference in any environmental document that might be appropriate to whatever action you take. Accordingly, since it's in effect part of an environmental impact report, a disclosure document, it does not contain a recommendation. It is intended to be a presentation of the facts and the alternatives.

With regard to the alternatives I don't think I need belabor the point of where East Palo Alto is located or what it is like. The two major alternatives that were evaluated were the act of incorporating East Palo Alto as a city as compared to the other alternative the act of annexing East Palo Alto to Menlo Park. There was no project and alternative intended these were two alternatives of equal stature that were to receive equal attention.

The exhibit (Exhibit 1, attached) that Mr. McWilliams has put on the board indicates that within those two major alternatives the history of East Palo Alto suggested that sub-alternatives be considered. The first major alternative of course would be either the incorporation of the entire area or annexation of the entire area. The other alternatives that had historical precedent would have called for first sub-alternate the incorporation of the area east of the Bayshore Freeway shown in yellow and the annexation of both the pieces on the west side of the Freeway to Menlo Park. The other alternative, in fact the alternative that went to a vote of the people last time called for incorporation of the yellow and green areas but the area from the Euclid Avenue property line north and west of the Bayshore Freeway presumably being annexed by Menlo Park. Those were again the alternatives that were considered in the present study.

We did of course take into consideration the status quo in order to provide a bench mark for any change that might be recommended. On the status quo as it now exists the county is primarily responsible for municipal services. There is a municipal council in East Palo Alto that can serve as a source of input and guidance to the Board of Supervisors regarding issues of East Palo Alto. A Sanitary District provides sanitation services in some but not all of the area. The West Bay Sanitary District serves the rest of the area. The County Waterworks District provides water service. The County Sheriff provides law enforcement. An independently governed Recreation and Park District provides recreation. The Menlo Park Fire Protection District provides fire protection to this area as well as to several others including Menlo Park.

We looked at the status quo to provide a bench mark and the first thing we considered was whether the area was currently supporting the municipal services that are provided

by the County. But in fact the area is not. Costs exceed revenues for the San Mateo County General Fund by over a million dollars for municipal services alone. And this leaves nothing for the County General Fund to provide the county services that counties traditionally provide; health, welfare and so on.

So it is no surprise, we knew this, that currently the area is not supporting its own general fund municipal services. By the approximation of the formula of SB215 it is creating surplus in the Road Fund. The fire district is also in effect providing subsidy to the East Palo Alto area. These figures are very approximate but in effect costs exceed revenues by over \$400,000. Now this is a very important point that is of more than academic interest. (Exhibit 2, attached)

The Commissioners who were considering this action the other time may recall that when we looked at this question in 1979 and in 1981 we considered a third major alternative that of changing the county boundary and annexing East Palo Alto to the City of Palo Alto in Santa Clara County. That particular alternative dropped like a stone because of the fact of this fire district subsidy. If anything were to happen to the fire district in the current situation, the status quo, wherein other customers of the Menlo Park Fire Protection District are in effect subsidizing East Palo Alto neither cityhood or annexation would work.

The East Palo Alto Sanitary District is providing a good but very basic level of service. It is functioning with the staffing plan and with operating procedures that very probably could not be recreated. The district is dependent on the staffing and the personalities of the individuals now involved but we do not have any indication of a problem.

In our report we present a comparative exhibit of recreation and park districts and my blunt comment about the Ravenswood Recreation and Park District is that the program is getting better. I make that statement having been observing it now for quite a number of years. But stated flatly it is still no bargain. It is a fairly minimal recreation program for what they are spending. The other parts of the status quo are in good shape. There are no particular issues that have been raised.

The first alternative that we considered to the status quo was municipal incorporation. And the next exhibit (Exhibit 3, attached) will show that by the end of the five year period of analysis all three of the alternatives, the entire area, the east of Bayshore plus south of Euclid and the east of Bayshore only have positive fund balances and I want to point out emphatically that although the east of Bayshore only is still afloat, it is shakey. The line is dropping down because each year there is a deficit. I will remind the audience that when a city incorporates there is a provision of law that states that the county will continue to be responsible to provide public services for the remainder of the fiscal year but the new city begins to accrue revenues. So every new city tends to accumulate a first year surplus. We made the most favorable possible assumption here that the new city would incorporate on July 1, 1983 which means that they get a full year of county provided services and some but not all of the revenues begin to flow immediately to the city.

So we see that all three of these alternatives have a positive balance at the end of year one and a good healthy significant one. But in the case of the East of Bayshore only it goes downhill from there. And I might note that we are talking here only about the general fund. The road fund is approximately break even for the entire area and for the east plus south alternative. But in addition to a debt paid fund balance at the end of only \$332,000 for the east of Bayshore only there is a deficit in the road fund of \$195,000 which would have to be funded from the general fund in order to maintain the level of

service that assumed. So to say it again we have two alternatives that indicate financial health one alternative that is still afloat but that is getting worse year by year.

The next exhibit (Exhibit 4, attached) will show a situation that we had to deal with last year. The last time that we analyzed this the East Palo Alto Sanitary District was in affect handed over to the new city. The district's property tax rate was handed over but not used for sanitary services and it was assumed that there would be a increase in user fees not only to make up for the loss of the property tax that assumed to go to the new city's general fund but also the sanitation district would be charged a cost for administrative services. I emphasize that this is standard practice in cities. The enterprise funds are charged, it's called cost applied and the cost of general administration of the time the city manager spends worrying about the sanitary district and the sanitary functions is a charge that should be borne by the rate payers. That assumption was made in the previous study for one reason and one reason alone it was made to provide the financial base for the new city. If there had been any alternative, and legal counsel, staff and consultant looked as hard as we could to get the money without having the sanitary district's functions being assumed by the new city that's what would have been done.

This year things are looking better from a fiscal standpoint and I'll be explaining why in a moment but the bottom line point is that if we did not attach the sanitary district to the city but instead for example put it in the sphere of influence of the West Bay Sanitary District we would still have a fund balance in the general fund at the end of the planning period of approximately 1.2 million dollars. So that attachment of the sanitary district to the city would not be necessary for fiscal viability if the Commission were to adopt an incorporation alternative.

Turning now to the next alternative (Exhibit 5, attached) we look at annexation of the study area to the City of Menlo Park. The estimates of cost for annexation were based on a careful department by department cost estimate that was prepared by the department heads of the City of Menlo Park and it was then reviewed for concurrence with the City Manager. So this year we had a very much bottoms up, if you will, process of developing the cost estimates for Menlo Park. Each department head said here is what I would have to do to provide the same level of service in East Palo Alto that I am now providing elsewhere in Menlo Park. And the result of this analysis the combination of the cost estimates and the revenue estimates indicated that each of the alternatives annexation of the entire area, annexation of the west of Bayshore; and annexation of a small piece north of Euclid would all show deficits in the general fund. They show surpluses in the road fund but as you know road fund moneys are dedicated to highway and traffic and street and road and highway safety purposes and cannot be used to cure a general fund deficit. So based on the input of the departments and the indication using the assumptions that we prepared was that alternatives all had a negative fund balance after the end of five years.

Also I will note that each of those curves is going up. The negative fund balance is primarily the result of the department heads assumptions about first year fixup type investments that they would have to make. Over time that deficit would cure itself even without the exhibit that we are about to see. (Exhibit 6, attached)

Now the key assumption that we made concerned an action that the Board of Supervisors took before the incorporation election last year. The Supervisors appropriated from the special district augmentation fund a sum of money and conditioned that it would go to CSA #5 the entity that provides municipal services if incorporation took place.

As a bit of background, after proposition 13 passed the special districts not cities and not counties but the special districts that were so dependent on property tax revenues and that have no other source of revenue really took it badly. They were very badly hurt so the legislature said ah ha what we are going to do is that we are going to require that every special district transfer a certain portion of its property tax into the special district augmentation fund. Then the Board of Supervisors will reallocate that money in effect in proportion to need. The concept was that the district that can raise revenues such as a water district or sanitation district should be using fees to pay the services. The districts that were providing municipal type services particularly fire districts that were just knocked for a loop were then expected to get large subsidies from the special district augmentation fund. This is a fund that is controlled by the Board of Supervisors.

The supervisors did appropriate this conditioned amount of \$468,000. We assumed that this \$468,000 would continue to be transferred to a new city and in deed we questioned the Board of Supervisors formerly and were told that that was the case.

We were also told by a representative of the Controller's office that this particular sum of money would not be available for transfer to Menlo Park after annexation. And that I think has lead to some unfortunate conclusions because the City of Menlo Park could receive another appropriation from the Board of Supervisors if the Board of Supervisors so willed it. The Board certainly could cure the majority of the shortfall by making an appropriation to Menlo Park. There is nothing about the annexation alternative that cannot be cured with money. We don't quite cure the shortfall with \$468,000 for the major incorporation alternative. I originally intended to show an exhibit that we do cure the shortfalls for the two sub-alteratives the ones that involve areas just west of the Bayshore Freeway and one of my associates who made major contributions to this effort said wait a minute, you have already spent that money. Because if we have assumed that the money would go to the new city taking over the east of Bayshore then we can't assume also that it would be available for these limited incorporation alternatives.

So we have a situation where if the Board of Supervisors would make an appropriation to the City that it would have an almost positive fund balance. I think whenever the conclusion is reached that a new city can have a fund balance but that an existing city that has a reputation for being well managed does not the person who makes that claim has an explanation and I would like to make that explanation with the next exhibit. (Exhibit 7, attached)

The reason that the city looked better in terms of fiscal balance is because the law is just basically set up to help a new city and is not by law set up to help an annexation. I have already mentioned the assumption about the \$468,000. That could be reversed by an action by the Board of Supervisors. I have already mentioned that the County is by law required to provide services for the remainder of the first fiscal year. Our assumption was that that would be for a full year. The County at its option can also continue to provide services beyond that one year period. That is just fundamentally an advantage that an annexation doesn't experience. I would also note that the assumptions made by the department heads for Menlo Park reflected the level of service that Menlo Park would provide. In all instances ...that is ... in some instances that may be a higher level than we assumed for the new city.

In addition, there are sometimes oddities about the next jump in capacity. One of the oddities in the case of Menlo Park was that the computer system simply didn't have the capacity to provide for the various billing functions from the approximate doubling of the population. Interestingly enough you are in much better shape if you can buy a new computer because the technology has changed so much. So that happened to be a

particular instance where a new city could do things more economically than could an existing city.

But by and large the reason that the incorporation seemed to look better than the annexation was these first year advantages. The only other advantage I would note is that the Federal Revenue Sharing program allocations from the federal government to each city and county in the United States is very very sensitive to per capita income. East Palo Alto has a very low per capita income so they do relatively better as a new city than they would as an annexed area to Menlo Park. I might note that as a technical issue this time for the first time in my practice we had a fully satisfactory estimate of federal general revenue sharing. It is an extremely complicated formula that depends not only on population but on per capita income and on tax effort. There is also all kinds of limitations no district shall or no city shall receive more than "x" or less than "Y". And I would like to give my grateful thanks to the U. S. Office of Revenue Sharing they kindly took our assumptions and ran them through their computer model. Their finger prints are in no way on these assumptions or in no way making the assumption that Federal Revenue Sharing is going to continue we gave them the data they turned the crank and I certainly appreciate it.

The other thing I would like to explain is why the conclusions are different from the last time around. The last time around the incorporation while in our view, our view which was questioned quite widely, was feasible it was the shakiest proposed incorporation I have ever seen in my consulting practice. This year it looks much better and there are several reasons for that. (Exhibit 8, attached) First there is a quirk and I would use that word deliberately in the law that says that after a city incorporates or annexes and until the next federal census population is estimated as three times the number of registered voters. And population is a very important thing because many state revenues, revenues that are collected by the State of California and shared with local governments depend on population. If a city has an advantage in other words if three times the number of voters is a bigger number than the real population the city can ride that advantage until the next census. The next census isn't going to be until 1990. And the advantage is really significant this year in the case of East Palo Alto. The population of East Palo Alto as measured by the U. S. Census just a couple of years ago is approximately 18,000 people. The pseudo population is approximately 27,000 people. And it is about \$30 per capita or \$90 per new registered voter on this rule. So at this instance today East Palo Alto has a very significant advantage because of three times voter rule. Whether that advantage is going to remain is something is something I'll talk about in a moment.

The second significant difference is that the law provides for the manner in which the property tax collected by the County will be shared with the new city. The law requires the calculation of a ratio. And ratios are notoriously unstable whether they be benefit cost ratios or body count ratios in Vietnam or whatever they are all suspect. But they're the law and this year the calculation just happened to produce a much higher property tax transfer than last time.

But the calculation is based in large part on the budgets. The natural budgeting experience in the last fiscal year and just the working of the law caused a higher property tax transfer. Last time around the road funds were in very bad shape. There was not enough dedicated gas tax revenue to pay for the level of maintenance that we visualized. This year street and road financing is entirely different. Senate Bill 215 has passed in the interim and that did two things first it applied the tax to all motor fuel that is diesel and gas. I should correct myself, diesel has always been taxed but cities and counties didn't get a piece of the tax on diesel, now they do. Second the state rate was rated from 7 to 9¢. So this made a very significant difference. And as I talked about the

last change is we have a more exact revenue sharing estimate. So those are the things that made the answer come out differently this time compared to last.

Now is all this really going to happen. What are the risks here? My associates were kind enough to put this headline in my inbasket today and I'll read it. It's from the Oakland Tribune, January 12, 1983, " East Bay cities may lose \$36 million in State Aid." These are risky times and none of these things come with guarantees. I would like to summarize what I think are some of the risks that would affect I think pretty much equally both annexation and incorporation. (Exhibit 9, attached) First the voter roll advantage this three times voter requirement or rule may not stay around. If when the voter rolls are purged and I think that's coming very quickly we lose this advantage we're going to lose the money. And that would disadvantage either the incorporation or annexation. So that if that relatively high registered voter situation does not remain then there is an entirely different ball game. And I would note that it is the number of registered voters on the day that the action is taken incorporation or annexation that is the critical number.

The City of Dublin which incorporated recently had a November election and a February date of incorporation, not quite the worst date on which you can incorporate but pretty close. But that's another story. In the time between November and February Dublin conducted a voter registration drive. Because each one of those voters that was added would add approximately \$90 to the city treasury every year until the next census.

But that works in reverse. If the number of registered voters drops from the approximately 9,000 that was on the rolls at the time we did this analysis there would be a loss whether you have incorporation or annexation of that same approximately \$90.

Second we have the risk of legislature deadlock. The State of California is rapidly becoming a fiscal basket case and they have demonstrated their willingness in the past to cure their budget problems by cutting off money to counties and cities. The present proposal in the Governors budget does this again but neither, and I might add, that there have been cutbacks in the motor vehicle in-lieu fee, money we pay because we own cars and they are not taxed at the local level but they are taxed more efficiently in Sacramento and then all the money comes back to counties and cities.

For two years in a row the State of California has reduced that entitlement to cities. The rationale was the State gave bailout money in one year and then the next year they assumed certain responsibilities for paying for schools so that some of the property tax could be freed up and then given back to local governments. Now they are saying we're in trouble, we gave now we are taking away. But and of some importance the reverse bailout the reduction of money from the state has been in proportion to the bailout. And so a city that got no bailout has had no reduction. If the city didn't have a property tax such as the City of LaFayette they have no reduction now if the city didn't exist such as the City of Dublin they have no reduction now. And as far as I can tell from the Tribune this tradition has been continued in the Governors budget. No bailout, no reduction.

Another great leap of fate on that point that we made was to say I should state quite frankly we assumed that a new city such as the proposed new city of East Palo Alto would receive the full per capita account of approximately \$20 per capita from motor vehicle in-lieu fee.

The other thing we assumed I think it is a little difficult to explain but I think it is important to give it a try in the past two years the legislature picked a dollar amount and said we are going to cut the revenues to cities by "x" million dollars. And then they took that cutback and they proportioned it in proportion to the amount of bailout that the

cities had received. And that is very important mathematically that means that taking Menlo Park for example its reverse bailout or its payback is a fixed dollar amount not an amount per capita. So that every new person in Menlo Park or any other city gains for in the full \$20 approximately per capita. We continued that assumption when we analyzed annexation. I am not either a magician or a seer of the future I don't know if the legislature is going to continue that precedent again but I think that with two years plus the Govenors budget I think it is the most logical assumption to make.

The next major uncertainty is the future of the U. S. Federal Revenue Sharing. When we are talking about 200 billion dollar deficits it doesn't take a man of Mr. Stockman's intelligence to say hey wait a minute why are we spending some of our money to local governments throughout the United States. Well we looked at this as closely as we could using the County's good offices with their congressional delegation and last time around it was assumed that inspite of the U. S. budget deficits Federal Revenue Sharing is a very popular program. Cities have become very dependent on it and it probably would not be cut. We made this same assumption again this year and so far so good. The President has been sending signals that revenue sharing is not on the cut list this year and the National League of Cities is not up in arms so I have to assume that they are now confident that it will be renewed. But that is not a guarantee. If it isn't renewed the whole think falls apart.

I mentioned earlier that feasibility depends upon the continued situation wherein the Menlo Park Fire Protection District is around and spending more money than it is receiving from East Palo Alto. The last risk of course is that annexation is a known quantity we know what Menlo Park is like we know its track record we know what it has done and what somebody has done is usually a pretty good indication of what they are going to do. We don't know a thing about a new city. This is the policy of the City of East Palo Alto if there were to be a City of East Palo Alto is whatever 3 out of 5 councilmembers say it is going to be on any given meeting evening. And I would be the first to say that there is a vital unknown about cities that are newly created we don't know what their policies are going to be. I have watched a lot of new cities and some do extremely well some do some act extremely foolishly. But that's really something that the voters can control. And I would acknowledge it to be a risk.

In the last exhibit (Exhibit 10, attached) I would like to summarize the assumptions that we made about the terms and conditions that would be imposed if the Local Agency Formation Commission endorses incorporation. It was assumed that the effective date would be the date that really advantages a new city the first of July, 1983. It was assumed and confirmed by the Board of Supervisors that certain capital improvements for the road system would be financed by the County not by the new city whether or not they could be completed by July 1. It was of course assumed that the property tax transfer would be in accordance with the way it is shown in my report that is a safe assumption because that calculation has been fully reveiwed with the County Auditor/Controller. I have talked about the fire protection assumption we have the purposes of technical assistance only calculated appropriations limits that would be appropriate to the new city under each of the boundary conditions. This appropriations limit is of course required since the passage of the Gann Initiative and standard practice in California has been to create the authority to appropriate at the time you create a new governmental agency. We have not continued the assumption that the Sanitary District would absolutely have to be connected to the new city to make things feasible. Only we have assumed that there are no hidden unfunded pension deficits lurking in the woodwork to confound a new city. This was evaluated carefully by LAFCo staff in 1981 and there has really been nothing to change that since then. So in summary we have looked at the two alternatives and I have summarized those results. Thank you Mr.

Chairman.

Commissioner Hardwick asked on the purging of the voter rolls it is my understanding that would be in 1990 are you suggesting it could be prior to that time?

Mr. McDonald.. I appreciate that question because I want to clarify that the purge of the voter rolls if I understand it is going to occur in the next couple of weeks and I am not making a prediction about what it would be but I'll pick a number out of the air and say suppose we lost 4,000 registered voters through lack of voting in the November election. That would be an instantaneous loss to the new city of doing it in my head \$360,000 and that would happen now. It would just bang. And it would continue to happen every year.

Chairman Gregorio questioned: Once the vote is taken, the registration on that date is those number of voters, and the city population would be based on that number until the end of the census tract.

Mr. McDonald ... correct. The state sends out a form and says what was the number of registered voters and in this case it would say Dear Registrar, what was the number of registered voters on July 1, 1983, and that number stays fixed until the end of the decade. It is interesting that if this were not to the city's advantage there are ways for the city to get their actual population used in the formula. So all in all it is a matter of a new city wins and everybody else loses. And just to have it on the record I would like to say that the act of creating a city does not produce one dime more money when you look at it statewide and nationwide. All of the money that a new city gets all of the money that it would have to correct the current county deficit comes from some other government in California. It comes from the county it comes from the other cities in San Mateo County or it comes from the other cities in California but it every dime of that comes from somebody else. And so this three times voters rule is really a tremendous advantage to a new city and not necessarily such an advantage for existing governments.

Chairman Gregorio: The same amount would be realized whether its by a new city or whether it's by the annexing city based upon these formulas there is no substantial difference?

Mr. McDonald: The only substantial differences are revenue sharing and motor vehicle fuel tax. Formerly known as the gas tax but now applies both gasoline and diesel. I hesitate to try to explain that but I will say that it is not the same for a new city and for an annexation and the differences can be significant. It depends not just on population but the most complicated part of that formula comes from number of registered vehicles in the county compared to the state.

Chairman Gregorio stated that this answer could be given next week.

Commissioner Henderson requested that copies of the overheads that were used today be runoff and made available to the Commission.

Commissioner Hardwick: It seems like the fire district is kind of a key and you made a comment that it is showing a deficit you made a statement relative to it continuing with the new city I'm not sure I understand just what it was you were inferring there.

Mr. McDonald answered that a key assumption is that the Menlo Park Fire Protection District will continue to be available and will continue to protect the property in East

Palo Alto if it were to become a city or if it would annex to Menlo Park. In either event it is critical to a fiscal balance and the reason I raised that of course is there have been discussions of some of the member cities pulling out of the district and providing fire protection of their own. If that happened the tax base would no longer be there to provide a subsidy. I would hope that it would somehow be incorporated into the intent either way whether you chose to select annexation or incorporation. I think a statement of intent that this continue should be part of the actions so that it is clear that any proposal to the contrary would be very serious blow for the new city or for the annexed area.

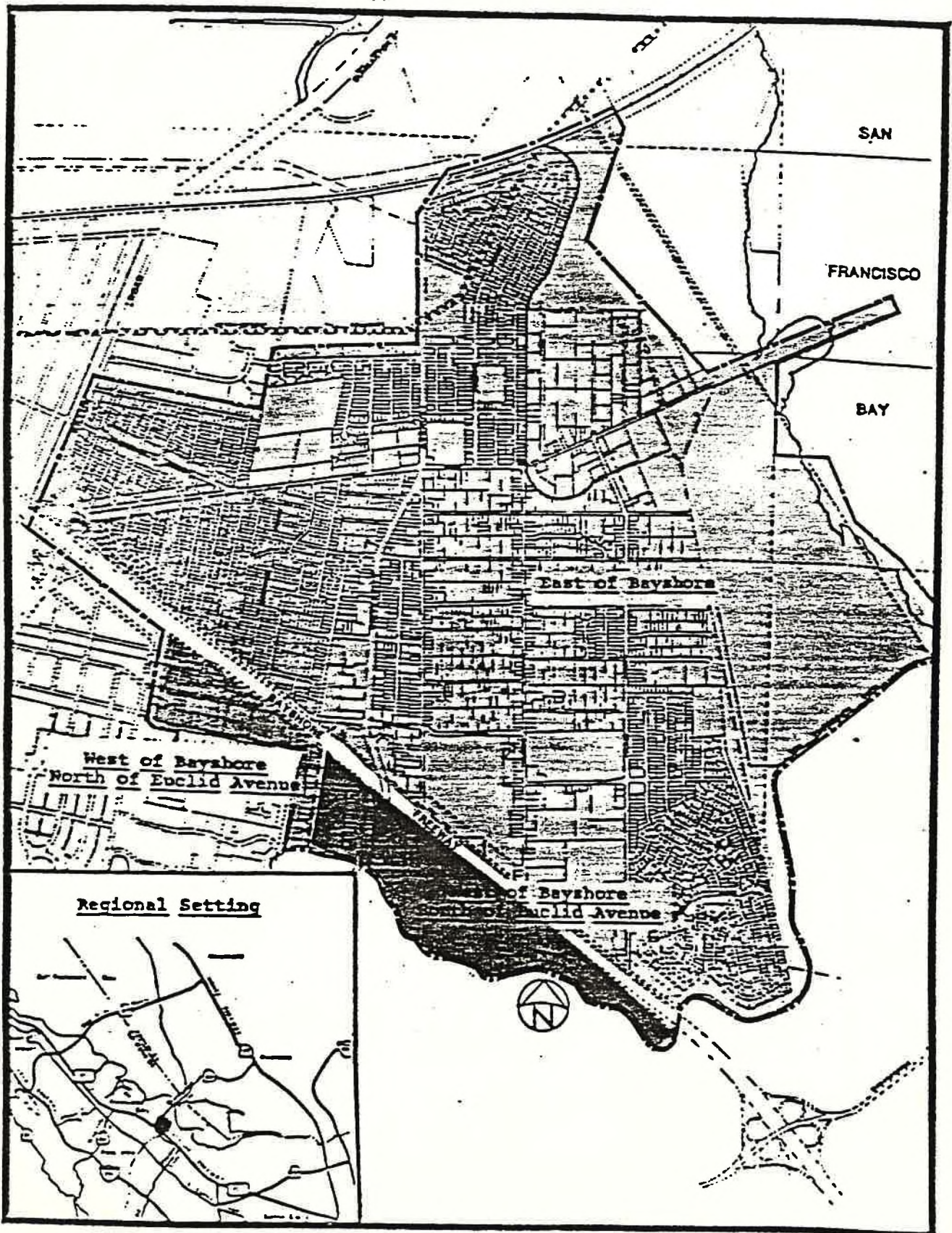
Commission Henderson stated that the key assumption is that the cost of the fire protection will be no greater.

Mr. McDonald answered it will be no greater but the subsidy will be no less.

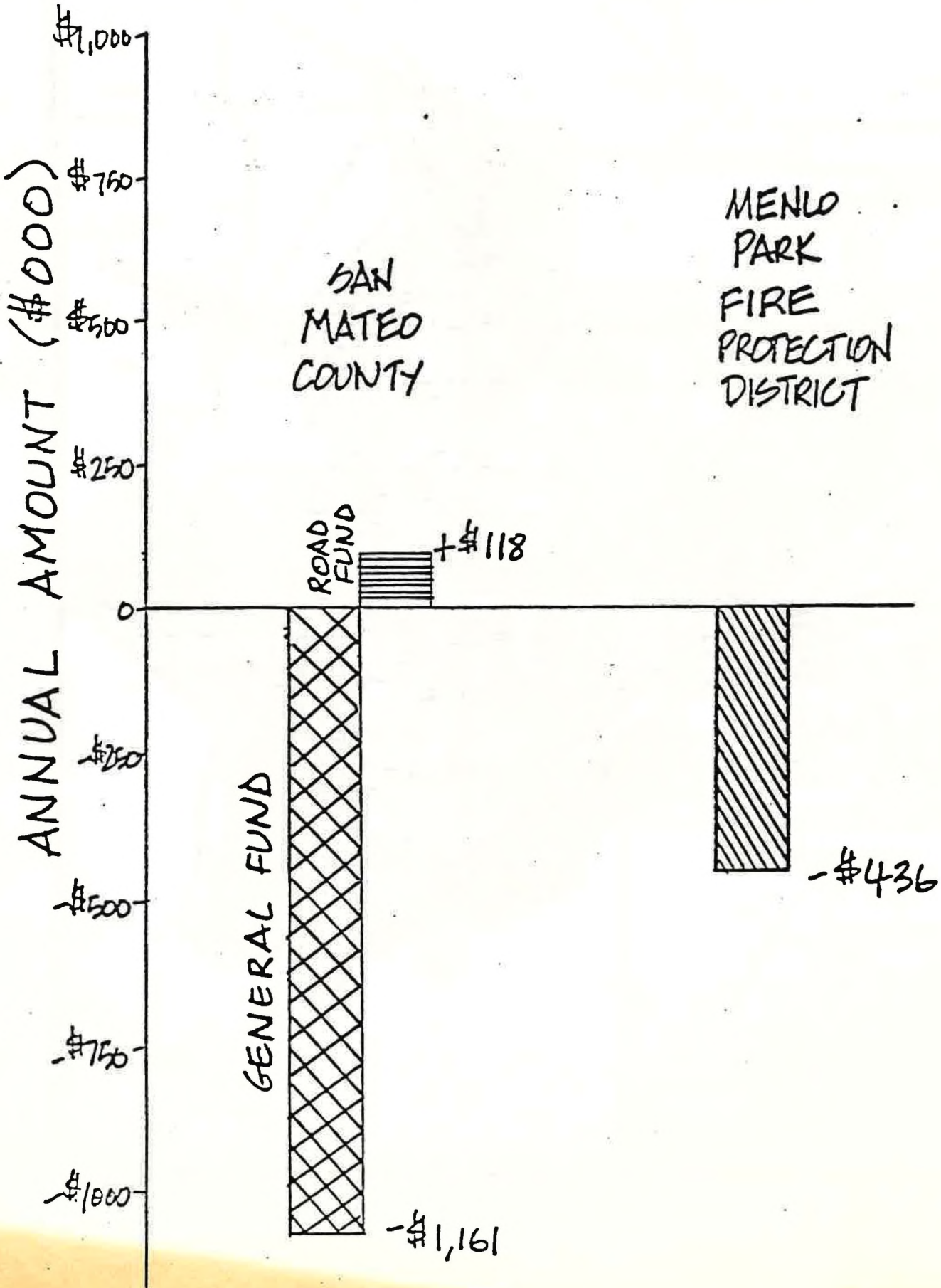
Commissioner Henderson stated that what is paid from the East Palo Alto area will be no greater.

Mr. McDonald answered that these are all approximations because it is no longer really possible to tell how much of a particular district's property tax comes from a particular area. I think the policy and direction are quite clear.

Figure I-1
THE STUDY AREA

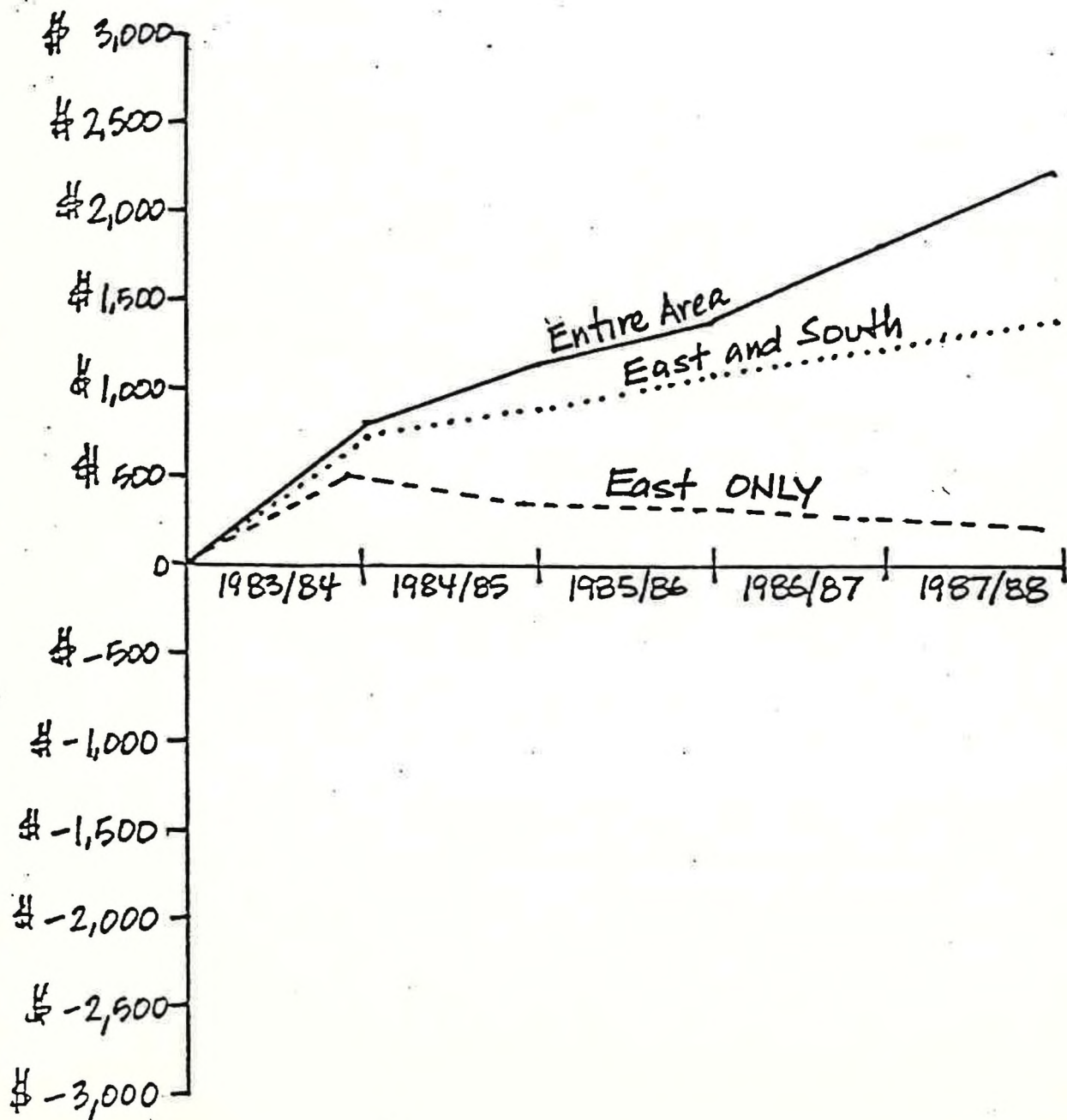


STATUS QUO



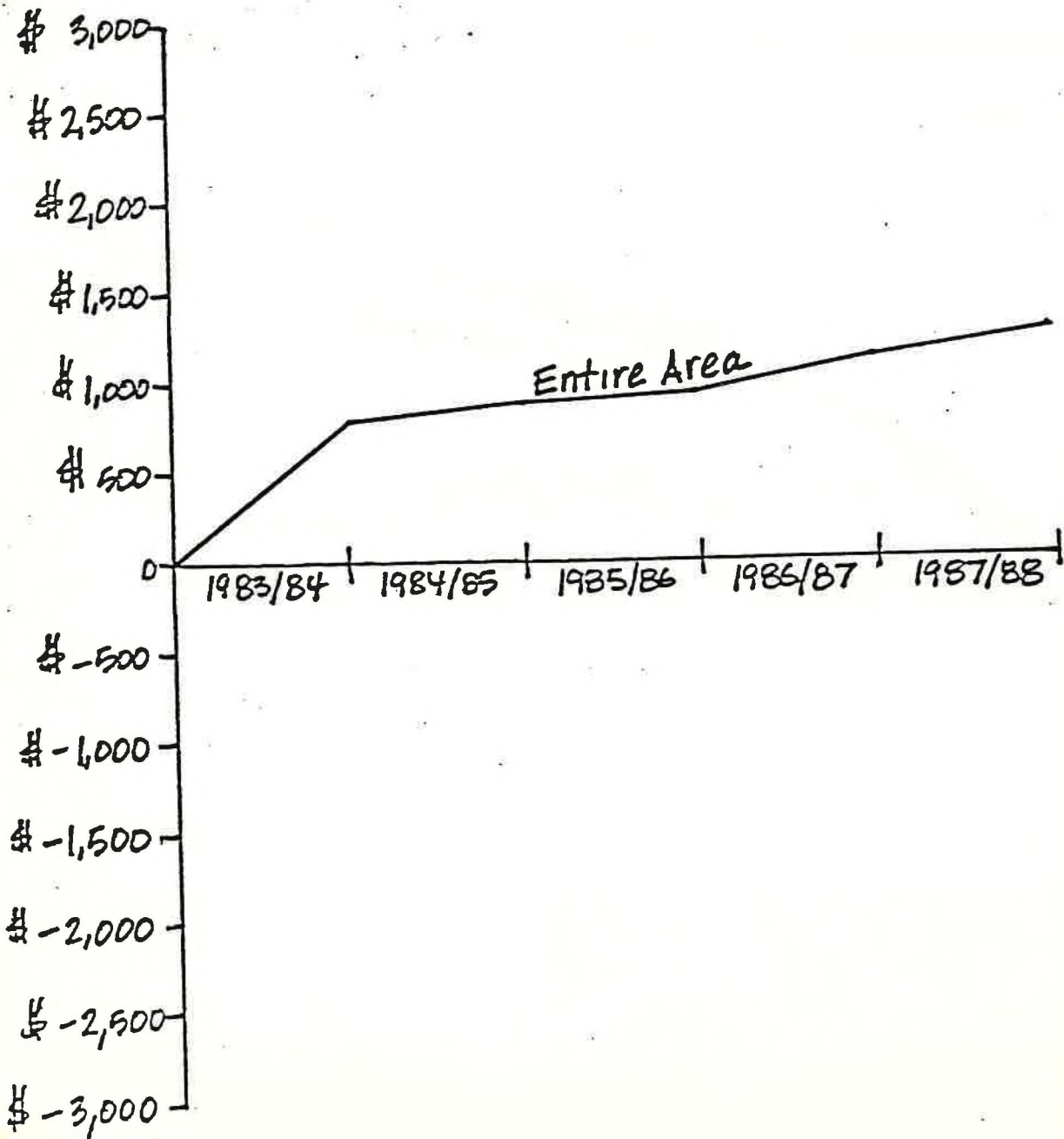
GENERAL FUND BALANCES INCORPORATION

AMOUNT (\$1000)

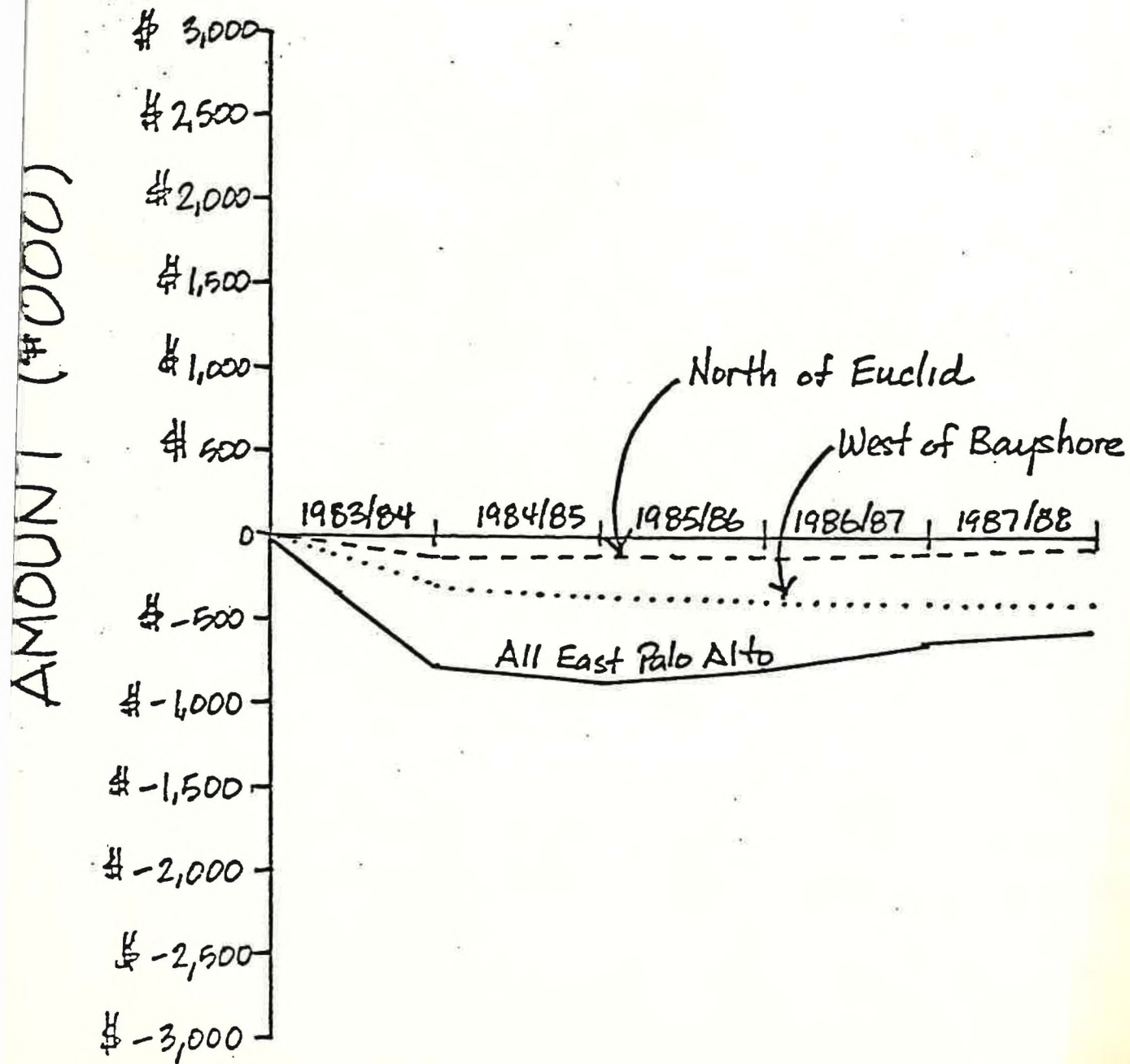


GENERAL FUND BALANCES INCORPORATION WITHOUT SANITARY DISTRICT

AMOUNT (1000)

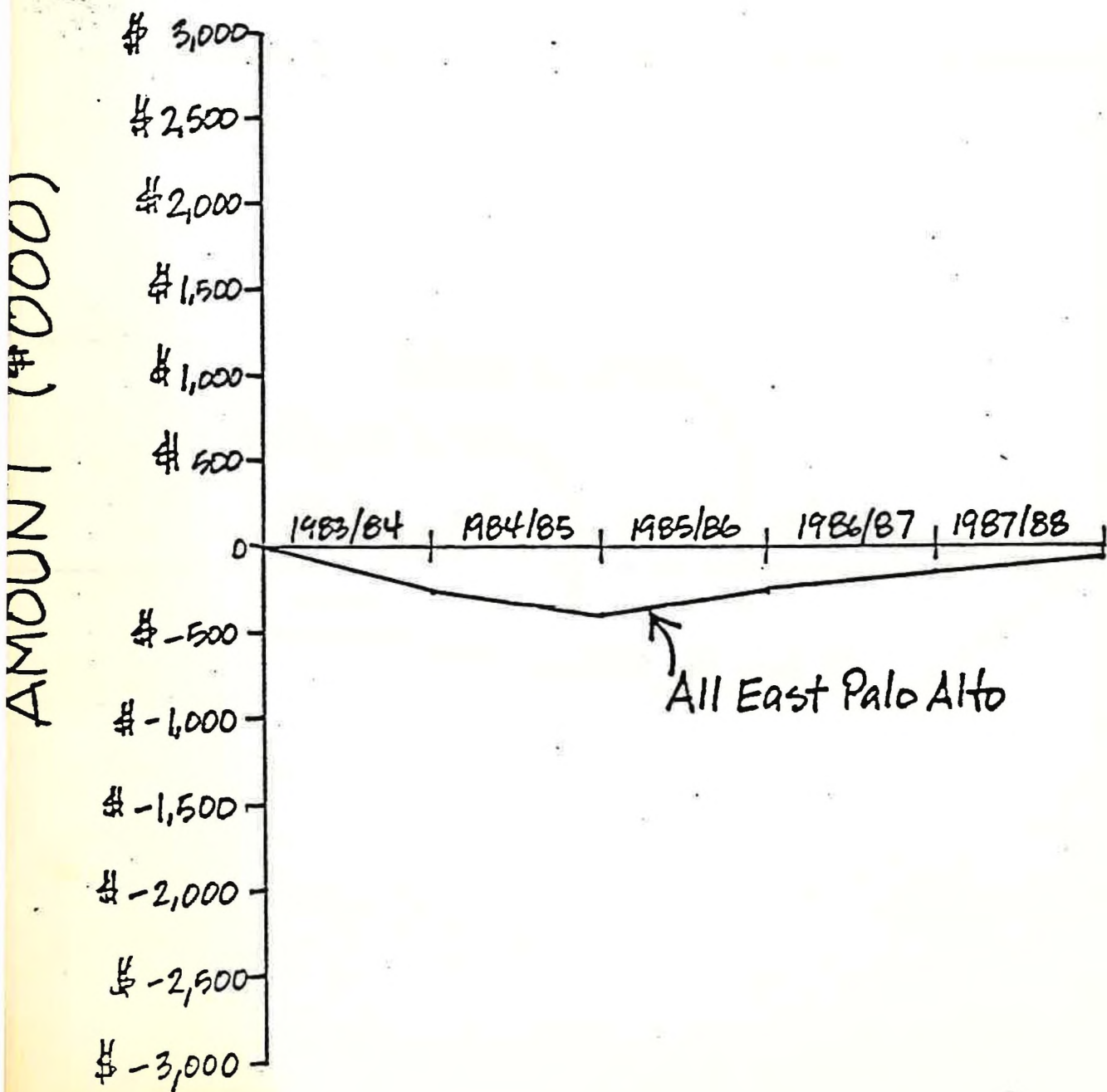


GENERAL FUND BALANCES ANNEXATION



GENERAL FUND BALANCES ANNEXATION

WITH TRANSFER FROM CSA #5 AUGMENTATION FUND



7

REASONS

- THE ASSUMPTION ABOUT THE \$468,000 TRANSFER
- ONE YEAR OF COUNTY-PROVIDED SERVICES
- HIGHER PER CAPITA FEDERAL GENERAL REVENUE SHARING

COMPARISON

- THE 3*VOTER ADVANTAGE IS HIGHER
- THE PROPERTY TAX TRANSFER IS HIGHER
- SB 215 IS LAW Motor Fuel Tax Rate
- THE REVENUE SHARING ESTIMATE IS MORE EXACT

EXHIBIT
9

RISKS

- THE VOTER ROLL PURGE
- THE STATE'S BUDGET PROBLEMS
- THE FUTURE OF REVENUE SHARING
- THE FIRE DISTRICT
- CITY POLICY IS AN UNKNOWN

ASSUMED TERMS AND CONDITIONS

• EFFECTIVE DATE - JULY 1, 1983

• COUNTY CAPITAL IMPROVEMENTS

• PROPERTY TAX TRANSFER

• FIRE PROTECTION

• GANN APPROPRIATIONS LIMIT:

FULL AREA \$ 2,654,000

EAST PLUS SOUTH \$ 2,509,000

EAST ONLY \$ 2,113,000

• RETIREMENT BENEFITS

Eastbay cities may lose \$36 million in state aid

RECEIVED
JAN 14 1983

LAFCO

By Virgil Meibert
Tribune Sacramento Bureau

Eastbay local governments would lose more than \$36 million in state aid during the next 18 months and nine cities would forfeit all of their state bailout grants under the Deukmejian Administration's new budget proposals.

The largest loss, some \$8 million, would be offered by the City of Oakland. Losing their grants entirely would be Fre-

- Democrats plan to introduce balanced-budget amendment. A-16.
- Governor's intent to carry over deficit not popular in financial circles. A-16.

mont; Concord, San Leandro, Antioch, Clayton, Moraga, Pinole, Pittsburg and San Pablo. Refusing to go back on his campaign pledge against raising taxes, Deukmejian has proposed

balancing the deficit-ridden state general budget with massive spending cuts.

Some \$408 million in post-Proposition 13 relief to cities and counties would be withdrawn, \$108 million by June 30 and \$300 million in the fiscal year beginning July 1.

The proposed cutbacks in state aid to local government were criticized by Senate Democrat-

See BUDGET, Back page

Budget

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ic leaders Tuesday as "fiscally irresponsible" and incompatible with Gov. Deukmejian's pledge to become California's "number one crimefighter."

Senate President Pro Tem David Roberti, D-Los Angeles, said further revenue losses by California cities will hit law enforcement hardest.

Noting that while cutting back on city and county fiscal relief, the Deukmejian budget offers \$244 million for new prison construction, Roberti said:

"We'll have the prisons all right, but we won't have the police to catch the criminals."

Local governments now receive \$5.7 billion a year in state aid to replace property taxes lost through Proposition 13. The new budget-cutting proposal would cancel scheduled grants of \$54 million each to cities and counties in the current fiscal year and \$255 million to cities and \$45 million to counties in the fiscal year beginning this July 1.

Oakland currently receives \$12 million a year, nearly 9 percent of its budget, in bailout funds.

Oakland lobbyist Lynn Suter Tuesday said calculations by the legislative analyst's office

show that Oakland would lose \$1.4 million this year and \$6.6 million next year.

Because special legislation has awarded Oakland relatively larger state aid allotments for its urban problems, its proportionate state aid losses would also be among the largest in the state.

However, Oakland would still continue to receive relatively large state grants.

Dozen of cities, like the nine eastbay communities, would have their entire state bailout allotments cancelled next year if the legislature adopts the Deukmejian plan.

Alameda County government would lose \$2.2 million this year and \$3.1 million next year. Contra Costa County would lose \$1.3 million this year and \$1.4 million next year.

San Francisco, which is treated as a county, not a city, in bailout allocations would suffer a larger, \$4.3 million loss this year--when counties are hit harder--and only \$1.9 million next year.

Potential Alameda County state aid cutbacks to cities this year and next year, with current annual bailout grants in parenthesis, are:

Alameda, \$34,168 and \$1.2 million (\$1.9 million); Albany, \$15,696 and \$291,734 (\$294,030); Berkeley, \$65,412 and \$1.0 million (\$1.0 million);

Dublin, no bailout received; Emeryville, \$12,738 and \$75,839 (\$330,846); Fremont, \$296,646 and \$2.3 million (\$2.3 million); Hayward, \$116,509 and \$1.8 million (\$1.9 million); Livermore, \$127,842 and \$790,512 (\$790,512); Newark, \$22,483 and \$626,500 (\$685,525); Oakland, \$1.4 million and \$6.6 million (\$12 million); Piedmont, \$3,888 and \$202,421 (\$679,349); Pleasanton, \$21,037 and \$682,539 (\$1 million); San Leandro, \$246,627 and \$889,873 (\$889,873); Union City, \$40,335 and \$806,579 (\$870,138).

Potential Contra Costa County cutbacks are:

Antioch, \$190,823 and \$512,281 (\$512,281); Brentwood, \$15,255 and \$62,093 (\$76,915); Clayton, \$17,381 and \$52,042 (\$52,042); Concord, \$460,341 and \$1,029,909 (\$1,029,909); Danville, no bailout received; El Cerrito, \$14,143 and \$438,296 (\$530,575); Hercules, \$21,242 and \$29,327 (\$99,498); Lafayette, no bailout received; Martinez, \$11,587 and \$484,519 (\$559,351); Moraga, \$62,706 and \$91,527 (\$91,527); Pinole, \$52,942 and \$194,634 (\$194,634); Pittsburg, \$133,043 and \$450,114 (\$450,114); Pleasant Hill, no bailout received; Richmond, \$55,885 and \$1.4 million (\$4.3 million); San Pablo, \$90,820 and \$119,256 (\$119,256); and

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Part 2

POWERS AND DUTIES EXERCISED JOINTLY BY CITIES AND COUNTIES

Chapter	Section
1. Transfer of City Functions	51300
2. Transfer of City Tax Functions	51500
3. Joint Projects	51700
4. Special Assessments	51800

Part 2 was added by Stats.1949, c. 81, p. 277, § 1.

Chapter 1

TRANSFER OF CITY FUNCTIONS

Article	Section
1. General	51300
2. Chartered Cities	51330

Chapter 1 was added by Stats.1949, c. 81, p. 277, § 1.

Article 1

GENERAL

- Sec.**
- 51300. Exclusions.
 - 51301. Contracts; authority.
 - 51302. Contracts; duration.
 - 51303. Powers of county officers and employees.
 - 51304. Payment of consideration.
 - 51305. Reduction of personnel; seniority rule.
 - 51306. Pension rights.
 - 51307. Pension funds, etc.; segregation; trust; disbursements.
 - 51308. Vested rights of pensioners.

Article 1 was added by Stats.1949, c. 81, p. 277, § 1.

Library References

Sovereign immunity study. CalLaw Revision Comm. (1983) Vol 5, p. 323.

§ 51300. Exclusions. This article does not apply to cities containing a population of over 1,900,000 according to the 1950 federal census or to cities which are also cities and counties. (Added Stats. 1949, c. 81, p. 277, § 1, as amended Stats.1955, c. 624, p. 1120, § 52; Stats.1959, c. 597, p. 2577, § 14).

Historical Note

As originally added, this section read: "This chapter does not apply to cities of the first or first and one-half class." substitution of the word "article" for "chapter" in 1959.

The section was rewritten in 1955 to read as it now appears, except for the Derivation: Stats.1935, c. 735, p. 2056, § 5.

§ 51301. Contracts; authority. A board of supervisors may contract with a city, governed under general laws or charter, within the county, and the city legislative body may contract with the county for the performance by its appropriate officers and employees, of city functions. (Added Stats.1949, c. 81, p. 277, § 1.)

Derivation: Stats.1935, c. 735, p. 2056, § 1.

Library references: *Municipal Corporations* 4-25, 62, 761; *C.I.S. Municipal Corporations* §§ 114, 154.

§ 51302. Contracts; duration. The term of the contract shall not exceed five years but may continue for periods of five years each, unless the legislative body of either local agency votes not to continue the term at a meeting more than one year before the expiration of any five-year period. (Added Stats.1949, c. 81, p. 277, § 1.)

Derivation: Stats.1935, c. 735, p. 2056, § 1.

§ 51303. Powers of county officers and employees. The county officers and employees named in the contract shall exercise within the city all of the powers and duties conferred upon the city officers or employees named in the contract. (Added Stats.1949, c. 81, p. 277, § 1.)

Derivation: Stats.1935, c. 735, p. 2057, § 2.

§ 51304. Payment of consideration. The city may provide in the contract for the payment to the county of a consideration agreed upon, which shall be paid to the county treasurer. (Added Stats.1949, c. 81, p. 277, § 1.)

Derivation: Stats.1935, c. 735, p. 2057, § 2.

§ 51305. Reduction of personnel; seniority rule. If the contract results in a unification of a county department with a similar city department requiring a reduction of employees in either department and in a particular line of promotion, the reduction shall be made only from those employees most recently employed within the line of promotion without reference to any code number under which the employee is acting at the time of the reduction. The rule of seniority shall be

TRANSFER OF CITY FUNCTIONS

§ 51308

Note 500

preserved without discrimination between employees of either local agency. (Added Stats.1949, c. 81, p. 277, § 1.)

Derivation: Stats.1935, c. 735, p. 2057, § 3.

Library references: Counties 207; Municipal Corporations 218(6); C.J.S. Counties § 103; C.J.S. Municipal Corporations § 738.

§ 51306. Pension rights. The contract shall provide for the assumption of all city pension rights of the transferred employees by the county, or for their continuation by the city, or by both. (Added Stats.1949, c. 81, p. 278, § 1.)

Derivation: Stats.1935, c. 735, p. 2057, § 4.

Library references: Municipal Corporations 220(9); C.J.S. Municipal Corporations § 727.

§ 51307. Pension funds, etc.; segregation; trust; disbursements. The board of supervisors shall hold separately in trust pension money or property taken over by it from the city under the contract and all earnings, increases, and additions to such funds. The money or property shall be expended solely for the payment of the city's portion of such pensions and incidental administrative expenses. (Added Stats.1949, c. 81, p. 278, § 1.)

Derivation: Stats.1935, c. 735, p. 2057, § 4.

§ 51308. Vested rights of pensioners. Any person pensioned at the execution of the contract has a vested property right in the pension fund for the payment of his pension. (Added Stats.1949, c. 81, p. 278, § 1.)

Derivation: Stats.1935, c. 735, p. 2057, § 4.

Article 2

CHARTERED CITIES

Sec.

- 51330. Authority; resolution of approval.
- 51331. Resolution of approval; contents.
- 51332. Rescission.
- 51333. Rescission; resolution.
- 51334. Functions transferable.
- 51335. Functions transferable; charter authority.

Article 2 was added by Stats.1949, c. 81, p. 278, § 1.

Library References

Municipal Corporations 55, 62, 591.
C.J.S. Municipal Corporations §§ 114, 154.



LOCAL AGENCY FORMATION COMMISSION
 COUNTY GOVERNMENT CENTER • REDWOOD CITY, CALIF. 94063 • TEL. 363-4224

January 7, 1983

Angus McDonald
 2150 Shattuck Ave., #903
 Berkeley, CA 94704

Dear Mr. McDonald:

The duty and responsibility of the Commission is to consider a number of factors, one of which is the financial feasibility of all of the reasonable alternatives.

The Commission retained your firm to provide a balanced and impartial review of the alternatives without providing a final overall recommendation.

The purpose of this communication is to advise you that under the terms of our contract it is the desire of the Commission to obtain sufficient and adequate information for the Commission to be able to impartially discuss the financial factors which they must consider along with the other factors not included under your contract.

Although we have had a very limited time to review the report dated December, 1982, we wish to cite the following examples of where I believe that additional information within the terms of the contract is required.

1. Your interpretation of the County Controller's memorandum of October 12, 1982, involving special district augmentation funds of \$467,652 was considered only under the incorporation alternatives. Unfortunately, you made legal and policy assumptions that are not accurate. The fact is that the \$467,652 is encumbered in the CSA #5 fund and would be available for all alternatives under provisions 56470 (i) of the Government Code (see attachment (1)).

If there were doubts about this I wish that you would have addressed them to Mr. Summey for a legal opinion or to the Board of Supervisors on the policy issues in your memo of December 15, 1982. See attachment (2).

2. A second example of not giving equal or practical consideration of financial assistance to all alternatives is the fact that it is within the Board's discretion under the provisions in 51300 of the Government Code (see attachment 3) for the contracting between the County and the City for incremental periods of five (5) years. Therefore, the funds that the County is legally required to make available to a viable new city can be negotiated to the extent necessary under provisions 51304 of the Government Code (attachment 3). It would have been extremely helpful if this policy question had been addressed in the memo to the Board of Supervisors (attachment 2), or at the very least shown as a possibility.

January 7, 1983

3. A final example is the placement of the East Palo Alto Sanitary District within the new city. This, by your own acknowledgement in your previous report was not the best government structure. At this time it is clearly not necessary to use the property tax of the East Palo Alto Sanitary District to make incorporation a feasible alternative.

Placement of the East Palo Alto Sanitary District within a new city will place additional burdens on the new city for rebuilding the system and buying capacity. The District is now at capacity. The West Bay Sanitary District in almost every respect has greater resources.

In closing, some members of the Commission have requested that you explain at the January 12 meeting why the three reports prepared by you are different.

Sincerely,



B. SHERMAN COFFMAN
Executive Officer

BSC/at

Enclosures

cc: Commissioners
Lem Summey