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Michael G. Colantuono
Colantuono, Highsmith & Whatley, PC
11364 Pleasant Valley Road
Penn Valley, CA 94546-9000

**Re: Olympic Valley Incorporation Proposal (LAFCO No. 2013-02)
Comprehensive Fiscal Analysis**

Dear Mr. Colantuono:

Thank you for your letter of April 29, 2015 addressing your concerns with the Comprehensive Fiscal Analysis (CFA) prepared by the Rosenow Spevacek Group (RSG) for the above project. I have responded to the legal issues you have raised below.

- 1. The CFA should be released prior to the completion of the revenue neutrality negotiations to provide transparency and public input.**

The primary thrust of your letter is that the CFA should not be released until the proponents and the County have completed revenue neutrality negotiations and the Board of Supervisors has adopted the revenue neutrality agreement. Not only does this contention run against the process used by every other LAFCO we have contacted on this issue, it advocates a secretive process that shuts the public out of this important step in the incorporation process. Moreover, such a process would be a clear violation of the Public Records Act.

The practice Placer LAFCO intends to follow is consistent with the process used by other LAFCOs in releasing the CFA. The CFA is typically released to the public for

review prior to the revenue neutrality process to allow the public and other affected agencies the opportunity to comment on the accuracy of the document before the revenue neutrality negotiations take place. We fail to see any benefit in attempting to keep the document secret while these negotiations occur. If there are errors in the document, the errors should be vetted at the earliest possibility, not after the parties have completed their negotiations. The proposed incorporation will alter the political landscape in the North Shore and we believe the affected agencies and the public should be involved as early as possible in reviewing the financial data associated with this change.

You reference the flowchart on page 42 of the Incorporation Guidelines in support of your argument that the CFA should not be released until after the revenue neutrality negotiations are complete and the County has approved the revenue neutrality agreement. This position advocates a process that would keep affected agencies and the public from participating in the process until the revenue neutrality agreement has already been approved.

The CFA will form the basis for the proposed revenue neutrality agreement to be approved by the Board of Supervisors. If we follow your argument according to the flowchart, the CFA would be kept from public view even as it serves as the cornerstone for the adoption of the revenue neutrality agreement by the Board of Supervisors. Not only would this be poor public policy, we believe such a process would violate the Public Records Act under Government Code Section 6250. I am certain you are well aware of the numerous court decisions upholding the Public Records Act and requiring transparency in government.

Placer LAFCO provided your client and the County with the opportunity to review the CFA for technical accuracy prior to the release to the public. This opportunity was provided as a courtesy to your client to provide a technical critique before the document was released to the public, in much the same way agencies typically provide developers the opportunity to review an administrative draft of an EIR before it is released to the public. It was not intended to provide your client an opportunity to advocate for a wholesale change in the basic assumptions of the document or in the CFA process.

We realize that the CFA is a work in progress and that significant changes are probable as public comments are received and as the revenue neutrality negotiations are completed. We welcome this public input as we believe it will result in a more accurate document.

2. Public Records and Fair Hearing

It is my understanding that Ms. Berry has provided you with all of the data in her possession that she has received from the County. If you believe there is additional information that is missing, we encourage you to extend your records request to the County. The working papers of RSG are not public records and will not be provided to the public. The calculations in the report and the method of calculation are explained in the report. If your financial expert has specific questions concerning the calculations, we welcome their comments and questions.

You argue that somehow your client is being denied a fair hearing. Since the hearing is many months away, and since the hearing will involve several important documents that currently do not exist, such as the EIR (including the level of service analysis) and the Executive Officer's Report, we are at a loss to understand how you can now conclude that you will be deprived of a fair hearing, particularly since you will be given an opportunity to comment on and critique all of the documents presented at the hearing.

3. Transient Occupancy Tax

On March 6, 2015, Ms. Berry wrote to your client to obtain clarification on the intended use of the TOT. In referencing the use of the 2% share of the TOT collected under Measure F, the March 17 response by your clients state that "[T]hese monies will be collected by the Town and utilized pursuant to the terms and provisions of the Measure." The CFA reflected that approach. Apparently your client is now changing their position.

While we agree the County may no longer collect a TOT within the boundaries of the new city, it does not necessarily follow that the additional 2% TOT that was approved by the voters under Measure F must be allocated to the new city. If this was an annexation to an existing city, the new territory would automatically be subject to the current taxes of the city under Government Code Section 57330. However, this is the incorporation of an entirely new city. The extent to which LAFCO elects to transfer existing taxes to the new city is discretionary under Government Code Section 56886(t). It is possible that LAFCO will decide that the additional 2% TOT should not be transferred to the new city, in which event the TOT for the new city would be 8%. While we understand that the 2% TOT approved under Measure F is a general tax available for general revenue if it is transferred to the new City, it is possible that LAFCO will be reluctant to transfer the 2% TOT if there is not a commitment to continue to use those funds for the specific purposes approved by the voters under the ballot measure. Thus, unless the transfer of the 2% TOT is mandated under the terms of the revenue neutrality agreement under Government Code Section 56815(e), it is possible that the 2% will not be transferred at all.

4. Issues Pertaining to the CFA

Your remaining concerns primarily deal with the adequacy of the CFA. I will defer to RSG on these issues. LAFCO is well aware that the revenue neutrality negotiations have the potential to significantly alter the assumptions in the CFA. We consider the CFA to be a fluid document that will likely be revised several times before the Final Draft is prepared for the Public Hearing.

Please call if you have any questions.

Very truly yours,


William M. Wright

WMW:ld

cc: Kristina Berry, Executive Officer, Placer County LAFCO
Jim Simon, RSG