



**Local Agency
Formation Commission
of Santa Clara County**
777 North First Street
Suite 410
San Jose, CA 95112
SantaClaraLAFCO.org

Commissioners
Sylvia Arenas
Jim Beall
Rosemary Kamei
Yoriko Kishimoto
Otto Lee
Russ Melton
Terry Trumbull

Alternate Commissioners
Domingo Candelas
Helen Chapman
Cindy Chavez
Teresa O'Neill
Mark Turner
Executive Officer
Neelima Palacherla

LAFCO MEETING MINUTES WEDNESDAY, JUNE 7, 2023

CALL TO ORDER

The meeting was called to order at 1:15 p.m.

1. ROLL CALL

The following commissioners were present:

- Chairperson Russ Melton
- Vice Chairperson Sylvia Arenas
- Commissioner Jim Beall
- Commissioner Rosemary Kamei
- Commissioner Yoriko Kishimoto
- Commissioner Otto Lee
- Commissioner Terry Trumbull
- Alternate Commissioner Helen Chapman
- Alternate Commissioner Teresa O'Neill
- Alternate Commissioner Mark Turner (left at 3:00 p.m.)

The following commissioners was absent:

- Alternate Commissioner Domingo Candelas
- Alternate Commissioner Cindy Chavez

The following staff members were present:

- Neelima Palacherla, LAFCO Executive Officer
- Dunia Noel, LAFCO Assistant Executive Officer
- Emmanuel Abello, Associate LAFCO Analyst
- Mala Subramanian, LAFCO Counsel

2. LAFCO MEMBERSHIP CHANGES

Chairperson Melton announced the appointment of Terry Trumbull as the public member and Teresa O'Neill as the alternate public member.

3. PRESENTATION OF RESOLUTIONS OF COMMENDATION TO FORMER LAFCO COMMISSIONER SUSAN VICKLUND WILSON

Commissioner Trumbull informed that even though he served on LAFCO as the alternate public member for the last 20 years, he rarely got an opportunity to vote

because of former Commissioner Susan Vicklund Wilson's dedication and reliability. He recalled her work on the California Association of LAFCOs (CALAFCO) board of directors and legislative committee and expressed his respect and admiration for her work.

Ms. Palacherla stated that Commissioner Wilson's tenure on LAFCO predates staff and noted that staff has benefitted from her institutional knowledge and professional connections. She noted that she has served as a bridge between the past and present, and between Santa Clara LAFCO and other LAFCOs across the state. Ms. Palacherla expressed gratitude to her for helping build a sense of camaraderie with the LAFCO team, for her kindness, and for her numerous contributions to LAFCO.

Commissioner Arenas noted that 28 years of service on LAFCO illustrates Ms. Vicklund Wilson's passion for public service and her dedication to LAFCO. She stated that Ms. Vicklund Wilson has also served her community through her work with the American Association of University Women, Morgan Hill Chamber of Commerce and the Morgan Hill Downtown Revitalization Program, among others. She expressed interest in Ms. Vicklund Wilson's continued engagement in an evolving role, and in future partnerships. She informed that the community appreciates Ms. Vicklund Wilson's contributions in creating open space, and livable and walkable communities in Santa Clara County.

Commissioner Lee agreed and expressed his appreciation to Ms. Vicklund Wilson for her service to the county and that LAFCO is fortunate to have appointed her public member.

Commissioner Lee and **Commissioner Arenas** then presented the Santa Clara County Board of Supervisors Resolution of Commendation to Ms. Vicklund Wilson.

Ms. Vicklund Wilson expressed her appreciation to the Santa Clara County Board of Supervisors for the commendation, and she indicated that her achievements were the result of collaborative efforts and were only possible with the support and confidence of LAFCO commissioners and staff.

Commissioner Kamei expressed her gratitude for Ms. Vicklund Wilson's tireless public service and noted that she has made a tremendous difference in the landscape for the benefit of present and future generations in the county. She then presented to Ms. Vicklund Wilson a Resolution of Commendation by the San Jose City Council.

Angela Nguyen, on behalf of Congresswoman Zoe Lofgren, presented a Congressional Resolution to Ms. Vicklund Wilson, recognizing her commitment to uphold LAFCO policies, and recognizing her achievements at CALAFCO, and her 28 years of outstanding service to LAFCO.

Celeste Walker, on behalf of Assemblymember Ash Kalra and State Senator Dave Cortese, presented a joint California Senate and Assembly Certificate of Recognition to Ms. Vicklund Wilson, for her 28 years of service on LAFCO, expressing the State legislature's gratitude for her commitment to promoting sustainable growth and good governance in the county, and for her talent in finding consensus-based solutions to complex problems.

Chairperson Melton noted that the first time he saw Ms. Vicklund Wilson was at a LAFCO public hearing on El Camino Hospital District Service Review Report. He recalled her level-headed approach focused on the law, policy and public interest. He thanked her for her service on LAFCO and her active participation on CALAFCO and noted that she has served the state and county with dedication.

Chairperson Melton led the rest of the Commission in presenting Santa Clara LAFCO's Resolution of Commendation to Ms. Vicklund Wilson, acknowledging her many years of service on the Commission.

4. PUBLIC COMMENTS

Chairperson Melton determined that there are no members of the public who would like to speak on the item.

5. APPROVE CONSENT CALENDAR

The Commission approved the consent calendar.

Motion: Lee

Second: Trumbull

AYES: Arenas, Beall, Kamei, Kishimoto, Lee, Melton, Trumbull

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

***6. CONSENT ITEM: APPROVE MINUTES OF APRIL 5, 2023 LAFCO MEETING**

The Commission approved the minutes of April 5, 2023 meeting.

7. GILROY URBAN SERVICE AREA AMENDMENT 2021 (WREN INVESTORS & HEWELL)

Ms. Palacherla provided the staff report.

Chairperson Melton requested commissioners to disclose any ex parte communications on the application. He disclosed that he met with MJ Frankel and representatives of Wren Investors in Morgan Hill on March 16, had a phone conversation with Alice Kaufman of Green Foothills earlier in the week, and he acknowledged receipt of numerous emails from the public. **Commissioner Trumbull** informed that he received over 300 emails from the public urging denial of the application, that he received a request for a meeting from the proponents but was unable to meet with them, and that he had read a San Jose Mercury News editorial suggesting denial of the project. **Commissioner Lee** disclosed that he had met with representatives of Dividend Homes on June 1. **Commissioner Beall** disclosed that he had met with the applicants' representative at the proposal site.

In response to an inquiry by **Commissioner Arenas**, Ms. Subramanian advised that Section 2.6 of the LAFCO Bylaws requires members to disclose ex parte communications on proposals that require public hearings.

Commissioner Arenas disclosed that she had a phone conversation with Gilroy Mayor Marie Blankley, and that her staff met with Alice Kaufman of Green Foothills and the applicant. **Commissioner Kamei** disclosed that she received numerous emails and met on Zoom with Gloria Ballard of MH Engineering, Mark Hewell and Dick Oliver from Dividend Homes on June 5.

In response to an inquiry by **Chairperson Melton**, Ms. Palacherla advised that the Commission may approve one area or the other; however, staff has analyzed the two areas as one due to their close proximity.

In response to **Commissioner Arenas' question**, Ms. Palacherla informed that on May 31 Gilroy submitted additional support documents that are included in the packet. She noted that it is unusual to receive a new vacant lands inventory at this stage in the process, and the City has submitted 3 inventories, and this is the 4th. She stated that based on a high-level review by staff, the City has used a different methodology and excluded underutilized lands from the inventory which is contrary to the purpose of the inventory to evaluate if the city has used lands within its boundaries to its fullest potential before seeking expansion. Ms. Palacherla advised that in terms of service concerns, while the City has adopted new master plans for sewer, water and storm drain services, the table does not provide specific information on how current service deficiencies will be addressed or how services will be provided and funded to the proposal area. She cited, as examples, the joint Morgan Hill and Gilroy trunk line which has no information on the date of completion or funding source; and the lack of information on the potential impact of proposed development on the Gilroy Unified School District or how those impacts will be addressed. She noted that as a result, there is no change in staff recommendation.

Commissioner Arenas noted that there should be an official response to the City's information so that the commission can consider all the information provided by the City.

Alternate Commissioner Turner disclosed that he met with the Gilroy Mayor and City Manager. He inquired about the definition of farmland. In response, Ms. Palacherla informed that the CKH Act includes a definition of prime farmland which is analyzed in the staff report and noted that there are other definitions of farmlands by state and federal agencies. In response to a follow-up inquiry by **Alternate Commissioner Turner**, Ms. Palacherla indicated that the proposal area is not being farmed but the CKH Act defines farmland based on the quality of soil whether farmed or not. **Alternate Commissioner Turner** informed that it is challenging to farm such a small land area and suggested that be considered. In response to another inquiry from him, Ms. Palacherla informed that LAFCO staff has had multiple conversations with City staff and reviewed their information. In response to another inquiry by him, Ms. Palacherla informed that LAFCO staff does not do an independent analysis of vacant lands in the City but requests the City to prepare the inventories based on LAFCO methodology which LAFCO staff reviews and includes the calculations in a transparent manner in the staff report.

Alternate Commissioner O'Neill disclosed that she had spoken with Gilroy Mayor who had sent her photographs of the proposal area. In response to her inquiry, Ms. Palacherla informed that it is unusual to receive new documents from the city a week before the public hearing and noted that LAFCO staff has conducted a high-level review of the submission and determined that the staff recommendation remains the same. **Chairperson Melton** noted that LAFCO does not have a written policy with regard to what to do with late breaking information by the applicant or others.

In response to an inquiry by **Commissioner Arenas**, Ms. Palacherla informed that there have been no USA amendment applications from Gilroy in the last 10 years and upon further inquiry, noted there was a project for service extension for which the City exempted themselves from LAFCO approval. **Commissioner Arenas** stated that it is important to recognize that the applicant has gone through the process and that all information submitted is considered even if staff continues to have the same recommendation. She indicated that the Commission must be able to understand the matrix provided by Gilroy along with staff's written response so LAFCO can make a meaningful and thoughtful decision. She noted that it is important for decision makers to be able to process the information and proposed that the public hearing be continued. She expressed concern that LAFCO does not have all the information at this time and requested staff to analyze the new information and to report back. In response to an inquiry by **Commissioner Arenas**, Ms. Palacherla advised that the staff report and the PowerPoint presentation outline the factors that LAFCO must take into consideration in evaluating an USA amendment, consistent with LAFCO policies and the state law. She noted that the analysis is unlike a building permit checklist, which are strict standards. She provided the example of police services and indicated that the City must identify the impact of new development on services and must demonstrate its ability to fund and provide services to the area. **Commissioner Arenas** stated that she would like a written response from staff that is distributed to the commissioners.

Commissioner Kishimoto noted that she made a decision to not have any ex parte discussions and noted that she read the letters and the report.

Chairperson Melton indicated the possibility of the hearing being continued and **Chairperson Arenas** expressed agreement.

Alternate Commission Turner informed that the construction of the sewer trunk line will begin next year and be completed in 2025, and that there are funds to complete the project.

Chairperson Melton opened the public hearing.

Cindy McCormick, Project Manager for the proposal, City of Gilroy, informed that she supports the continuance of the public hearing. She then provided a PowerPoint presentation in support of the application.

Chairperson Melton noted that the timing of Gilroy's response may have been impacted by other major work efforts at the city. In response to another inquiry by **Chairperson Melton**, Ms. McCormick confirmed the reason for the timing of the response and informed that Gilroy has adopted and submitted to the state its housing

element which required the identification of vacant and underutilized lands. She indicated that the methodology is different from LAFCO's vacant land inventory. She also indicated the amount of vacant land has been changing because the City is issuing building permits daily. In response to a follow-up inquiry by **Chairperson Melton**, Ms. McCormick informed that Gilroy could fulfill its Regional Housing Needs Allocation (RHNA) requirements without expanding its USA boundary.

Chairperson Melton suggested that if a continuance was approved, then Gilroy should plan to provide any subsequent forthcoming responses to LAFCO well in advance of the next public hearing for good government reasons and Ms. McCormick expressed agreement.

Commissioner Kamei inquired if the City of Gilroy could consider analyses to remove lands that are underutilized or impractical for development as one way to reduce the City's inventory of vacant lands and Ms. McCormick informed that the Gilroy City Council would have to decide on the matter.

In response to **Commissioner Trumbull**, Ms. McCormick informed that the Initial Study is sufficient for the USA amendment, and Gilroy will prepare the environmental impact report as part of the annexation process. In response to another inquiry from **Commissioner Trumbull**, Ms. Subramanian informed that LAFCO is the responsible agency in this case and Gilroy is the lead agency. She stated that LAFCO made comments on the City's Mitigated Negative Declaration but since LAFCO did not challenge the City's CEQA, it would have to rely on the City's CEQA documents.

In response to **Commissioner Arenas'** question on how the projects in the sewer, water and storm drain master plans would be funded, Darrel Jordan, Gilroy Public Works Director, informed that master plans for water, sewer and storm drains have been completed, and that the consultant and city staff have determined that the project can be serviced today without further work on the system. He reported that a \$222 million capital investment program and the funds were approved by the Council to make the maintenance projects and improvements needed throughout the system over the next 5 years. In response to a follow-up inquiry by **Commissioner Arenas**, Mr. Jordan indicated that the developer would install the infrastructure and connect to the City system when it is complete. In response to a follow-up inquiry by **Commissioner Arenas**, Mr. Jordan indicated that the City is going through a rate study now and the residents would pay certain rates determined by the City.

In response to **Commissioner Arenas'** inquiries, Jim Wyatt, Gilroy Fire Chief, informed that the City is working to install an interim fire station and the permanent station is not ready because the agreed-upon number of permits has not been reached by the developer. He indicated that the City is preparing a site over the summer and building a modular fire station that they expect will be able to house a full fire crew by October 2023 and the City is working on getting the necessary staff. He indicated that the nearest fire station has a response time of one to five minutes to the project area, within the seven-minute response approved by the City's

standards of cover in 2019. He added that the new station would be built south of the area to provide better service citywide.

In response to inquiries by **Commissioner Kishimoto** regarding infrastructure costs, budgeted amounts, and impact fees and /or service fees per unit, Mr. Jordan informed that a utility rate study and an impact fee update is underway and will be completed next year. **Commissioner Kishimoto** observed that there are large costs to fund and more specific information would be useful.

Commissioner Lee noted that lands east of Monterey Road near Las Animas Avenue which are already within Gilroy's USA boundary are undeveloped and inquired if there are instances where a city could redraw the line and detach such lands in order to add other lands. In response to **Commissioner Lee**, Ms. Palacherla informed that she is unaware of instances where such swapping of lands has taken place and noted that there is a process to detach lands that are already within city limits which requires the consent of the property owner. She noted that the resultant boundaries must be orderly and logical, among other considerations, and that it would be up to a city to propose such changes. In response to **Commissioner Lee**, Ms. McCormick indicated that the property owners of lands near Monterey Road and Las Animas Avenue do not want to be annexed by Gilroy, and while there are some inquiries for development, it will require the City to make some public improvements.

Commissioner Lee indicated that he has not decided how to vote on the issue and noted that there is a need for housing but that he would not support urban sprawl which is why he inquired about the potential removal of areas where there would be no growth. Ms. McCormick indicated that Las Animas is zoned for industrial use while the proposal area is for residential use.

Chairperson Melton noted that there are three unincorporated parcels south of Tatum Avenue that are on well water and septic; and inquired if those parcels would be hooked to the city sewer and water lines if they were added to the city's USA. Mr. Jordan indicated that the City encourages connection to sewer and water where possible; and the City would require the developer to run a main and put stubs out to the sites to connect to city services.

Dick Oliver, Dividend Homes, Inc., expressed support for approval of the proposal.

Mark Hewell, Hewell and Sheedy Construction, expressed support for approval of the proposal.

Alice Kaufman, Green Foothills, urged denial of the proposal.

Jordan Grimes, Greenbelt Alliance, urged denial of the proposal.

Raja Aluri, property owner in the proposal area, expressed support for the proposal.

Doug Muirhead, resident of Morgan Hill, expressed his opposition to continuation of the public hearing.

Marie Blankley, Mayor of Gilroy, expressed support for the proposal.

Sharon Luna, San Martin Neighborhood Association, expressed concern about potential spillage of the sewer trunkline in their community and requested that the trunkline upgrades be completed prior to approval.

Chairperson Melton determined that there are no members of the public who would like to speak on the item and declared the public hearing closed.

Commissioner Arenas expressed appreciation to the residents and advocates for or against the proposal and noted that it is important for LAFCO to have all the information. She indicated that while the consideration of the application has already been deferred many times, she would like to continue the hearing to receive additional information from Gilroy's Public Works Director and the Fire Chief before making the final decision. **Commissioner Arenas** moved to continue the hearing with direction to staff to provide analysis of the additional documents provided by the City to understand how well equipped the city is to support the proposed development. **Commissioner Lee** seconded.

Ms. Subramanian advised that the public hearing be continued to a date certain August 2, 2023. **Commissioner Arenas** and **Commissioner Lee** expressed agreement to amend the motion for continuation of the hearing to date certain August 2.

Commissioner Arenas noted that while she has voted to protect open space in her previous role and would not promote urban sprawl, she wants to be fair to all parties and ensure the Commission has complete information before making a well-informed decision.

Commissioner Kishimoto expressed her concerns regarding the proposal and noted that she would be ready to vote on the proposal today.

Commissioner Lee noted the conflicting data on multiple vacant land inventories provided. He noted that while RHNA and ABAG promote more housing, there are concerns about building low density housing and building at higher densities is preferable for cost purposes and to better use lands; and requested more information. In response to **Commissioner Lee**, Ms. Palacherla advised that all the information provided by Gilroy will be forwarded to the Commission. **Commissioner Kamei** indicated that LAFCO's definition for vacant lands should be used to develop the inventory and she expressed support for the motion to continue. She stated that if LAFCO does not currently have a policy for a cut-off for receiving new information before the hearing, then LAFCO should develop such a policy.

Commissioner Beall agreed that there should be a deadline for new information and expressed interest in recycled water and conservation programs by Morgan Hill and Gilroy, and information on the impact of the proposal on water. He also inquired about how Gilroy is coordinating with Santa Clara Valley Open Space District regarding open space and preservation of agricultural lands. Additionally, he inquired about the impact of the proposed development on the existing regional transportation system and whether the existing infrastructure is adequate. He inquired about the city's investment in housing and in addressing homelessness.

At the request of **Chairperson Melton**, Ms. Palacherla summarized that the Commission would like staff to prepare written response of the additional information provided by the City on May 31st. She recommended that if the City were to provide any further information in response to the issues raised today by the commissioners, they do so within the next two weeks.

Commissioner Arenas expressed agreement and indicated that development of a policy on timeliness of follow-up information by applicants needs to be added on LAFCO’s work plan. She indicated that her motion includes direction to the City to provide all information requested today within two weeks, including Commissioner Lee’s request for clarification on multiple vacant lands inventories, and Commissioner Beall’s request for information on the impact of the project on water and transportation infrastructure in Gilroy, how the city coordinates with Santa Clara Valley Open Space Authority, and public investment in the City’s affordable housing development and to address homelessness. **Chairperson Melton** reiterated that city staff provide all the information requested in two weeks.

Alternate Commissioner Chapman stated that Gilroy is not within the Open Space Authority and that she looked forward to further discussions regarding adding Gilroy within the Open Space Authority boundaries. She recalled that infrastructure costs were a major concern for development during the Coyote Valley task force discussions and cautioned that there may be similar concerns with this proposal.

The Commission continued the public hearing to August 2, 2023, directed staff to provide analysis on the responses submitted by Gilroy on May 31st, and for Gilroy to provide any additional information within two weeks.

Motion: Arenas

Second: Lee

AYES: Arenas, Beall, Kamei, Lee, Melton, Trumbull

NOES: Kishimoto

ABSTAIN: None

ABSENT: None

MOTION PASSED

8. FINAL BUDGET FOR FY 2024

Chairperson Melton opened the public hearing, determined that there are no speakers from the public, and declared the public hearing closed.

The Commission:

1. Adopted the Final Budget for Fiscal Year 2023-2024.
2. Found that the Final Budget for Fiscal Year 2024 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorized staff to transmit the Final Budget adopted by the Commission including the estimated agency costs to the cities, the special districts, the County, the Cities Association of Santa Clara County and the Santa Clara County Special Districts Association.

4. Directed the County Auditor-Controller to apportion LAFCO costs to the cities; to the special districts; and to the County; and to collect payment pursuant to Government Code §56381.

Motion: Lee

Second: Arenas

AYES: Arenas, Beall, Kamei, Kishimoto, Lee, Melton, Trumbull

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

9. UPDATE ON COUNTYWIDE FIRE SERVICE REVIEW

Ms. Noel provided a brief report.

Chairperson Melton determined that there are no speakers from the public who would speak on the item.

Motion: Kishimoto

Second: Arenas

AYES: Arenas, Beall, Kamei, Kishimoto, Lee, Melton, Trumbull

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

10. CALAFCO RELATED ACTIVITIES

The Commission noted the report.

***10.1 Consent Item: Report on the 2023 CALAFCO Annual Staff Workshop**

***10.2 Consent Item: 2023 CALAFCO Annual Conference (October 18-20)**

The Commission authorized commissioners and staff to attend the Annual Conference and directed that associated travel expenses be funded by the LAFCO Budget for Fiscal Year 2024.

10.3 Nominations to the CALAFCO Board of Directors

***11. CONSENT ITEM: LEGISLATIVE REPORT**

The Commission:

1. Accepted report.
2. Took a support position on AB 1753 and authorized staff to send a letter of support.

***12. CONSENT ITEM: EXECUTIVE OFFICER'S REPORT**

***12.1 Update on LAFCO Clerk Recruitment**

***12.2 Inter-Jurisdictional GIS Working Group Meeting**

13. COMMISSIONER REPORTS

14. NEWSPAPER ARTICLES / NEWSLETTERS

15. WRITTEN CORRESPONDENCE

16. ADJOURN

The Commission adjourned at 4:42 p.m., to the next regular LAFCO meeting on August 2, 2023, at 1:15 p.m., in the Board of Supervisors' Chambers, 70 West Hedding Street, San Jose.


Approved on August 2, 2023.

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Russ Melton, Chairperson
Local Agency Formation Commission of Santa Clara County

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By: Emmanuel Abello, Associate Analyst