

**LAFCO MEETING MINUTES
WEDNESDAY, JUNE 4, 2014**

CALL TO ORDER

Chairperson Susan Vicklund Wilson called the meeting to order at 1:15 p.m.

1. ROLL CALL

The following commissioners were present:

- **Chairperson Susan Vicklund Wilson**
- **Commissioner Cindy Chavez**
- **Commissioner Sequoia Hall**
- **Commissioner Linda J. LeZotte**
- **Commissioner Johnny Khamis**
- **Commissioner Mike Wasserman**
- **Alternate Commissioner Yoriko Kishimoto**
- **Alternate Commissioner Terry Trumbull**
- **Alternate Commissioner Cat Tucker** (voted in place of Commissioner Margaret Abe-Koga, who was absent)

The following staff members were present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Assistant Executive Officer Dunia Noel**
- **LAFCO Counsel Mala Subramanian**

2. PUBLIC COMMENTS

There were no public comments.

3. APPROVE MINUTES OF APRIL 2, 2014 LAFCO MEETING

Commissioner LeZotte requested that the minutes indicate her absence at the April 2nd meeting.

The Commission approved the minutes of April 2, 2014 LAFCO meeting, as corrected.

Motion: Wasserman Second: Chavez

AYES: Chavez, Hall, Khamis, LeZotte, Tucker (Alternate), Wasserman, Wilson

NOES: None ABSTAIN: None ABSENT: Abe-Koga

MOTION PASSED

4. **SARATOGA FIRE PROTECTION DISTRICT SPECIAL STUDY REVISED DRAFT REPORT AND OPTIONS FOR NEXT STEPS**

Neelima Palacherla, LAFCO Executive Officer, presented the staff report.

This being the time and place for the public hearing, **Chairperson Wilson** declared the public hearing open.

Marc Hynes, Counsel, Saratoga Fire Protection District (SFD), informed that the SFD board members are present to answer questions. He directed attention to SFD's letter to LAFCO dated May 19, 2014. He noted that since LAFCO does not have the authority to initiate annexations and the County Board of Supervisors has not initiated annexation to the Santa Clara County Central Fire Protection District (CCFD), LAFCO cannot proceed with SFD dissolution and annexation to CCFD. He indicated that SFD is prepared to pursue this issue in the courts, if necessary.

Commissioner Chavez moved that the Commission not initiate change in the SFD governance at this time. She noted that the June 2nd letter from CCFD Fire Chief Kehmna provides a compelling framework not to go forward with the dissolution. She opined that SFD's concerns about the transparency of CCFD processes is inaccurate and unnecessary, and that the real issue is whether or not a change in SFD governance would improve the delivery of fire services. She indicated that LAFCO may revisit the issue in the future if there are concerns about transparency and safety. Upon request of the Chairperson, **Commissioner Chavez** clarified that her motion included the acceptance of the Revised Draft Report.

Commissioner Wasserman expressed support for the motion but indicated that he interpreted Chief Kehmna's letter differently. He noted that while there would be no change in fire protection whether or not SFD exists and a \$100,000 in savings is gained if SFD is dissolved, the issue is about local control. He observed that the residents want more direct representation and are willing to tax themselves. **Commissioner Khamis** expressed agreement, stated that \$100,000 in savings is not reason enough to take away local autonomy, and informed he has not received any concerns from the community about the \$100,000.

Commissioner LeZotte indicated that she was originally with the opinion that if CCFD is providing service, there was no need for SFD and it should be dissolved. She stated that after further review of the material she concluded that LAFCO should not attempt to fix something that is not broken. As a condition of LAFCO not moving forward with SFD dissolution, she offered a friendly amendment to the motion that SFD address the transparency and accountability issues raised in the Report. **Commissioner Chavez** and **Alternate Commissioner Tucker** accepted the amended motion. **Alternate Commissioner Kishimoto** endorsed the motion and informed that SFD is working on the job description for the office manager position. **Commissioner Hall** expressed support for the motion and reported that in his discussion with Saratoga residents they were in favor of keeping the SFD as an autonomous agency.

Chairperson Wilson expressed support for the motion and stated that service reviews occur once every five years, and indicated that LAFCO can revisit the issue. She noted

that while it appears inefficient for SFD to exist with CCFD completely surrounding it and providing fire services, the amount of projected savings is minimal, and all letters and comments are opposed to dissolution.

The Commission accepted the Saratoga Fire Protection District Special Study Report and decided not to initiate any changes in the governance of the District at this time. In order to address the following transparency and public accountability issues identified in the Report, the Commission requested that the District to: (1) establish an agreement with the City of Saratoga for the District's provision of EWAS services; (2) establish EWAS rates by ordinance or resolution; and (3) develop a job description and pay scale for the position held by its part-time employee.

Motion: Chavez

Second: Tucker (Alternate)

AYES: Chavez, Hall, Khamis, LeZotte, Tucker (Alternate), Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Abe-Koga

MOTION PASSED

5. FINAL LAFCO BUDGET FOR FISCAL YEAR 2015

Ms. Palacherla presented the staff report.

This being the time and place for the public hearing, **Chairperson Wilson** declared the public hearing open.

Doug Muirhead, a resident of Morgan Hill, suggested that the budget include detailed information on salaries and benefits. He inquired about what comprises the overhead cost, and questioned the increase in the consultant and computer services costs. He also suggested that a preview of future work plan would help with understanding the budget.

In response, Ms. Palacherla informed that the April 2nd budget staff report provided a proposed work plan and detailed information on each of the line items which explained all costs, including those for staff, overhead and consultants. **Chairperson Wilson** indicated that the staff report is on the LAFCO website.

The Chairperson determined that there are no members of the public who wished to speak on the item and ordered the public hearing closed. **Chairperson Wilson** expressed appreciation to the members of the Finance Committee for their work on the LAFCO budget.

The Commission (1) adopted the Final LAFCO Budget for Fiscal Year 2014-2015; (2) found that the Final LAFCO Budget for Fiscal Year 2015 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; (3) authorized staff to transmit the Final LAFCO Budget adopted by the Commission including the estimated agency costs to the cities, the special districts, the County, the Cities Association and the Special Districts Association; and (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: Khamis

Second: Wasserman

AYES: Chavez, Hall, Khamis, LeZotte, Tucker (Alternate), Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Abe-Koga

MOTION PASSED

6. UPDATE ON THE SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT'S IMPLEMENTATION OF LAFCO RECOMMENDATIONS

Ms. Noel presented the staff report and informed that Christine West, Executive Director, South Santa Clara Valley Memorial District (SSCVMD), is present.

Commissioner Chavez expressed appreciation to staff for providing a chart indicating SSCVMD's compliance with the service review recommendations. **Alternate Commissioner Tucker** expressed appreciation to LAFCO staff for working with the SSCVMD in order to address challenging issues, and to the District for implementing LAFCO's recommendations.

Commissioner Hall noted that the progress made in the governance and operations of SSCVMD is a good example of why LAFCO conducts service reviews. **Commissioner LeZotte** expressed agreement and stated that while she was originally critical of SSCVMD, she is pleased with the progress made. She stated that this is an excellent example of how a service review has helped special districts. **Commissioner Wasserman** expressed agreement. He noted that the problems have been resolved admirably and this is an example of appropriate government. He observed that LAFCO looks out for the public's interest by ensuring that public money is spent in an accountable manner and that the process is transparent.

The Commission accepted the staff report.

Motion: Khamis

Second: Tucker (Alternate)

AYES: Chavez, Hall, Khamis, LeZotte, Tucker (Alternate), Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Abe-Koga

MOTION PASSED

7. WORK PLAN FOR CITIES SERVICE REVIEW

Ms. Noel presented the staff report.

Commissioner LeZotte expressed interest in serving on the Cities Service Review Technical Advisory Committee (TAC). Ms. Noel advised that the TAC has a maximum of four meetings. In response to the inquiry by the Chairperson, the Commission determined on consensus that alternate commissioners may serve on the TAC. **Alternate Commissioner Kishimoto** expressed interest to serve. **Commissioner Hall** informed that Commissioners LeZotte and Kishimoto would bring well-rounded viewpoints on the TAC as both of them have previously served on city councils.

The Commission (1) approved the proposed work plan for conducting the Cities Service Review; (2) Authorized staff to prepare a Draft Request for Proposals (RFP) for professional firms to conduct the Cities Service Review and authorize staff to provide

the Draft RFP to affected agencies and interested parties for their review and comment; and (3) Appointed Commissioner Linda J. LeZotte and Alternate Commissioner Yoriko Kishimoto to serve on the Cities Service Review Technical Advisory Committee.

Motion: LeZotte

Second: Wasserman

AYES: Chavez, Hall, Khamis, LeZotte, Tucker (Alternate), Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Abe-Koga

MOTION PASSED

8. UPDATE ON LAFCO BYLAWS

Ms. Noel presented the staff report.

Commissioner LeZotte expressed concern about the use of the term “appearance of impropriety” within Bylaw #12.3. In response to an inquiry by **Alternate Commissioner Tucker**, Ms. Palacherla informed that the intent was to provide commissioners with leeway to abstain from voting in situations where there is a perceived conflict of interest. Ms. Subramanian indicated that this was in accordance with discussion at the April 2nd meeting. **Commissioner Hall** reiterated the need for flexibility. **Commissioner LeZotte** proposed to amend the policy to state that members may abstain from voting “due to appearance of conflict.” In response to an inquiry by **Commissioner LeZotte**, Ms. Subramanian advised that current law requires members to announce if there is a legal conflict. **Commissioner Wasserman** restated the amended policy and **Alternate Commissioner Tucker** expressed agreement.

The Commission accepted the staff report and directed staff to amend Bylaw #12.3 to state, “Commissioners are strongly encouraged to vote and not to abstain from voting unless they are disqualified by law or due to the appearance of conflict.”

Motion: Wasserman

Second: Tucker (Alternate)

AYES: Chavez, Hall, Khamis, LeZotte, Tucker (Alternate), Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Abe-Koga

MOTION PASSED

9. AB 2156 (ACHADJIAN) LOCAL AGENCY FORMATION COMMISSIONS: STUDIES

Ms. Palacherla presented a brief staff report.

In response to an inquiry by **Commissioner Khamis**, Ms. Palacherla advised that AB 2156 would allow LAFCO to request information from joint powers authorities (JPAs). In response to a follow-up inquiry by **Commissioner Khamis**, Ms. Palacherla advised that LAFCO does not have jurisdiction over MTC, ABAG and BART, and would confirm this information. **Commissioner Wasserman** noted that all public agencies must provide information requested by LAFCO or other organizations in a reasonable amount of time.

In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla informed that AB 2156 would allow LAFCO to request information from JPAs which would be helpful since many local agencies provide services through JPAs. She also clarified that the bill does not impose LAFCO's jurisdiction over the JPAs.

Chairperson Wilson explained that this bill would allow service reviews to contain more comprehensive information on services, including those provided through JPAs. She discussed how LAFCOs previously worked with the California Public Utilities Commission on similar provisions as they relate to water companies.

In response to an inquiry by **Commissioner Khamis, Alternate Commissioner Trumbull** informed that LAFCO has no jurisdiction over MTC or BART. He discussed the San Francisquito Creek JPA as an example of a JPA. In response to an inquiry by **Commissioner Wasserman, Alternate Commissioner Trumbull** stated that it is difficult to determine what is being done through the JPAs and how much funds are expended. Ms. Subramanian advised that the agencies that have created the JPAs have jurisdiction over them but there is no other oversight. **Commissioner Khamis** moved for approval of the staff recommendation and requested more information on the issue of LAFCO jurisdiction over these agencies.

The Commission took a support position on AB 2156 and authorized staff to send a letter to the Governor requesting that he sign AB 2156.

Motion: Khamis

Second: Tucker (Alternate)

AYES: Chavez, Hall, Khamis, LeZotte, Tucker (Alternate), Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Abe-Koga

MOTION PASSED

10. EXECUTIVE OFFICER'S REPORT

10.1 REPORT ON THE ANNEXATION WORKSHOP FOR CITIES' STAFF

Ms. Palacherla presented the report.

Chairperson Wilson observed that this is an example of public outreach and expressed appreciation to staff.

10.2 REPORT ON THE 2014 CALAFCO STAFF WORKSHOP

Ms. Palacherla presented the report.

10.3 UPDATE ON THE CITY OF MORGAN HILL'S SOUTHEAST QUADRANT PROPOSAL

Ms. Palacherla presented the report.

Commissioner Wasserman disclosed his meeting with Morgan Hill Mayor Steve Tate and Councilmember Richard Constantine, and representatives of the Chiala family.

10.4 UPDATE ON THE AMERICAN FARMLAND TRUST WORKSHOP ON THE FUTURE OF AGRICULTURE IN SANTA CLARA COUNTY

Ms. Palacherla presented the report.

Upon the suggestion of **Commissioner Wasserman**, Ms. Palacherla informed that she will provide the contact information for the County Farm Bureau to the American Farmland Trust.

10.5 UPDATE ON THE BURBANK SANITARY DISTRICT/SAN JOSE MEETING

Ms. Palacherla presented the report.

10.6 REPORT ON THE SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS MEETING

Ms. Palacherla presented the report.

Chairperson Wilson noted that staff participation on SCCAPO is a good public outreach.

10.7 REPORT ON THE CALAFCO LEGISLATIVE COMMITTEE MEETING

Ms. Palacherla presented the report.

10.8 REPORT ON THE INTER-JURISDICTIONAL GIS WORKING GROUP MEETING

Ms. Palacherla presented the report.

10.9 REPORT ON THE LAFCO WEBSITE REDESIGN

Ms. Palacherla presented the report. Emmanuel Abello, LAFCO Clerk, provided a brief demonstration of the new website. **Chairperson Wilson** encouraged members to visit the new website when it becomes available. In response to an inquiry by **Commissioner Khamis**, it was reported that the LAFCO budget is available on the website.

11. PENDING APPLICATIONS

Ms. Palacherla informed that there are pending annexation applications from the West Bay Sanitary District and West Valley Sanitary District. She also reported that the South Santa Clara County Fire Protection District is working on an annexation application for the Santa Cruz mountains.

14. COMMISSIONER REPORT

Alternate Commissioner Kishimoto announced that Measure AA (Open Space Bond – Midpeninsula Regional Open Space District) is likely to pass.

15. NEWSPAPER ARTICLES / NEWSLETTERS

No report.

16. WRITTEN CORRESPONDENCE

None.

17. CLOSED SESSION

The Commission adjourned to closed session at 2:22 p.m. and reconvened at 2:34 p.m. The Chairperson announced no report from the Closed Session.

18. ADJOURN

The Commission adjourned the meeting at 2:35 p.m. to the next regular meeting on August 6, 2014.

Approved:

Susan Vicklund Wilson, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk