

WEDNESDAY, APRIL 11, 2001

SANTA CLARA COUNTY
Local Agency Formation Commission

MINUTES

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1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 11th day of April, 2001 at 1:20 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California with the following members present: Commissioners Blanca Alvarado, Donald Gage, and Suzanne Jackson. Commissioners Linda LeZotte, and Susan Vickland Wilson are not present at 1:20 p.m. LAFCO staff in attendance include Neelima Palacherla, LAFCO Executive Director; Kathy Kretchmer, LAFCO Counsel; Ginny Millar, LAFCO Surveyor; and, Colleen Oda, LAFCO Planner. Commissioners Linda LeZotte and Susan Vickland Wilson arrive at 1:25 p.m. The meeting is called to order by Chairperson Gage and the following proceedings are had, to wit:

2. PUBLIC PRESENTATIONS

David W. Dolloff, Chairperson, Firefighters and Citizens Task Force (FACT) Committee, notes that FACT is concerned that part of the City of Saratoga is in the County Fire Protection District and the other part is in the Saratoga Fire Protection District. Mr. Dolloff expresses the opinion that the residents in the Saratoga Fire Protection District are not provided quality fire protection service. He refers to six homes in Saratoga and states that the homes are located in a catastrophic fire hazard area on the hillside are not being properly covered by the fire district. Mr. Dolloff advises that an information packet is

available for the Commission regarding the fire issues in the Saratoga Fire Protection District.

Ed Farrell, FACT Committee, provides background information regarding the two fire departments that provide fire service to the City of Saratoga. He discusses the reasons that firefighters in the Saratoga Fire Department are lobbying for a merger of the Saratoga Fire Department and County Fire Protection District (County Fire) and expresses the opinion that the Saratoga Fire Commissioners are resisting the merger for political reasons. Mr. Farrell advises that FACT was formed to address these issues and he requests that LAFCO support FACT.

Bill Morrison, President, Firefighters Association, provides a brief overview of the 1999 California Occupation Safety and Health Authority (CAL OSHA) requirement relating to the staffing levels for firefighters. He advises that the law requires two firefighters to fight fires and two firefighters to serve as back ups before fire fighting efforts begin. He points out that there is not enough manpower to meet the CAL OSHA staffing level requirement. Mr. Morrison notes that approximately three years ago the Saratoga Fire Department began utilizing volunteers. He discusses the difficulty for firefighters who live out of the area to respond to a fire scene within five minutes in which they need to respond.

Art Marshall, President, Santa Clara County Firefighters, advises that he was approached approximately two years ago by Mr. Morrison to discuss the possibility of a fire service consolidation and contracting services. He points out that the primary focus of a merger is to raise the level of safety for firefighters and for citizens that they protect. Mr. Marshall discusses the level of fire service that is provided by the County Fire to half the City of Saratoga and notes that County Fire has the ability to provide effective fire service to all of the residents in Saratoga. He advises that a Request for Proposal from the Saratoga Fire Department is currently being reviewed by the County Fire. Mr. Marshall notes that members of FACT are present today to address concerns relating to the fire service boundaries and to request support from LAFCO in raising the level of fire service to all residents of Saratoga.

Chairperson Gage requests LAFCO Counsel provide a written report on the jurisdiction of LAFCO relating to the Saratoga Fire Commission.

*3. APPROVE CONSENT CALENDAR

On motion of Commissioner Alvarado, seconded by Commissioner Jackson, it is unanimously ordered that the consent calendar be approved.

*3.1 CUPERTINO SANITARY DISTRICT ANNEXATION – VIA REGINA ROAD, LANDS OF KOHLER

On motion of Commissioner Alvarado, seconded by Commissioner Jackson, it is unanimously ordered that Resolution No. 01-5 be adopted, approving the annexation of proposal designated as Cupertino Sanitary District – Via Regina Road, Lands of Kohler, 2.60 acres on the east side via Regnart Road between Quarry Road and Pierce Road into the Cupertino Sanitary District subject to the terms and conditions of Exhibit C.

*3.2 WEST VALLEY SANITATION DISTRICT 2001-1, SARATOGA HILLS ROAD

On motion of Commissioner Alvarado, seconded by Commissioner Jackson, it is unanimously ordered that Resolution No. 01-6 be adopted, approving the annexation of proposal designated as West Valley Sanitation District Annexation 2001-1, Saratoga Hills Road, 1.22 acres on the west side of Saratoga Hills Road between Pierce Road and Saratoga-Sunnyvale Road into the West Valley Sanitation District.

4 PUBLIC HEARINGS

4.1 OUT-OF-AGENCY SEWER SERVICE, MORA DRIVE SEWER PROJECT, TOWN OF LOS ALTOS HILLS CONTINUED FROM FEBRUARY 14, 2001

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This being the time and place set for public hearing to consider a request for Out-Of-Agency Sewer Service, Mora Drive Sewer Project, Town of Los Altos Hills, Chairperson Gage declares the hearing open.

Commissioners Alvarado, Gage, and Jackson report that they individually met with the members of the Mora Drive Sewer Project.

The Commission considers the staff report from Ms. Palacherla, dated April 5, 2001, recommending that the request for extension of sewer service to 28 properties on Mora Drive be approved on the condition that the Town of Los Altos Hills apply for a pre-zoning designation to the larger portion of the unincorporated area within the Town's urban service area in which the Mora Drive Sewer Project (MDSP) is located. Any future additional connections to the sewer line will require LAFCO review and approval.

Ms. Palacherla provides an update on the status of the proposal. She notes that the public hearing on the proposal was continued from the February 14, 2001 meeting to allow the Town of Los Altos Hills to provide additional information on the issues raised by the Commission and by the members of MDSP. Ms. Palacherla provides an overview of the responses received by the Town of Los Altos Hills regarding the manner in which the Town addressed each issue. She references the amendment of the master sewer agreement and advises that the Town accepted administrative responsibility relating to the additional 40 connections that the Town would allow prior to amending the master sewer agreement.

She reports that the Town of Los Altos Hills and the City of Los Altos are currently preparing to do a master sewer plan for the area and the Town of Los Altos Hills and the City of Los Altos will also review the capacity constraints in the area to determine if they would be able to provide sewer service to the entire area. Ms. Palacherla advises that the Master Sewer Plan is expected to be completed by the end of the next fiscal year at which time the master sewer agreement between the Town and property owners will be amended to reflect the master sewer plan.

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Ms. Palacherla continues her report by advising that the Town Council voted to support the pre-zoning of the Mora Drive area provided that MDSP apply for pre-zoning and pay all the fees. She notes that the Town's Planning Director indicated that he will recommend pre-zoning of the entire pocket within the Urban Service Area excluding the area with smaller parcels. Ms. Palacherla further notes that she has not received information that an application has been filed for pre-zoning.

In addition, Ms. Palacherla advises that she received a revised letter from the Environmental Health Department recommending that sewer service be provided to six parcels in which four of the parcels are within the MDSP.

Ms. Palacherla concludes by recommending approval of the extension of sewer service on the condition that pre-zoning occur as indicated on the map.

In response to an inquiry by Commissioner Jackson, Ms. Palacherla explains that the master sewer agreement allows for 1,100 connections to the Town whether it is an unincorporated area or within the Town boundaries. She further notes that there are 800 connections already in the Town, and 400 capacity rights had been sold and not connected, for a total of 1,200 total connections. The City Council voted to allow 40 additional sewer connections, LAFCO requested the Town and the City to amend the master sewer agreement to reflect that additional 40 connections since the City was already 100 connections beyond the 1,100 capacity level. Commissioner Jackson refers to the memo from Jim Porter, Public Works Director, dated March 5, 2001, relating to "Los Altos Hills Sewer Connections," and points out that the memorandum notes that the sewer agreement discussed a potential of up to 1,500 future connections in Los Altos Hills and a total of 2,100 potential future connections within the Town's Sphere of Influence and comments that this indicates that there is adequate capacity for the entire pocket.

Commissioner LeZotte expresses concern relating to the health and safety issues that were raised by the property owners and notes that the staff report should have reflected those concerns in greater detail.

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Hal Feeney, MDSP member, provides a brief overview relating to the public presentation that will be provided by members of MDSP. He expresses appreciation to the LAFCO Executive Director relating to the thorough manner in which each issue was described. Mr. Feeney points out that there is no space in the large pocket area for increased urban sprawl. He provides background information and points out that property owners approached the Town of Los Altos Hills indicating that they were interested in connecting to the sewer line and the Town raised the issue of pre-zoning at that time advising the property owners that there is only one zoning for that area and that the zoning would apply to the MDSP area. Mr. Feeney refers to the Town of Los Altos Hills staff report and points out that the staff report references the sanitation issues. He concludes by requesting that the MDSP list of members be included in the minutes. The meeting attendees in support of the Mora Drive Sewer Project include Mary Seeney, Ann Rae Brockett, Grace C. Hornby, Kara Loriacono, Judy Klein, Richard Gilman, Ernest Trangott, and John Sell.

Charles Bodine, MDSP member, provides an overview relating to the sanitation issues in the Mora Drive area, notes that the area is not suitable for septic tanks or drain field installations and states that the septic systems currently used are a temporary means of sewage disposal. He continues by providing a history of the sewer inspections that were done in the unincorporated pocket area of the City of Los Altos Hills and indicates that it was determined in 1969 that there was a sanitation problem in the pocket area and again in 1999 the residents of the area experienced failing septic systems. He continues by stating that the residents went before LAFCO to address these issues by requesting an approval to connect to the sewer line. Mr. Bodine concludes by referring to the recent report by the Santa Clara County Environmental Health Department and highlights that the Environmental Health Department recommends that sewer service be made available to the Mora Drive area. He encourages LAFCO's support for extension of the sewer line to the Mora Drive area.

Enrique Klein, MDSP member, provides an overview of the sewer capacity issue. He notes that there appears to be some discrepancies about the understanding between

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contractual capacity and physical capacity and advises that Don Toy, Consultant Engineer, Mark Thomas & Company, confirmed that the sewer line can handle over 1,000 connections conservatively. Mr. Klein refers to the letter from Mayor Finn, Town of Los Altos Hills, dated March 22, 2001, and notes that the letter reflects the Town's commitment to the project. He continues his presentation by referring to a letter from Carl Cahill, County Planning Director, dated April 10, 2001, and advises that the letter confirms that MDSP has applied for pre-zoning and has paid all of the fees.

Maureen Cassingham, City Manager, Town of Los Altos Hills, reaffirms the support of the Town of Los Altos Hills for the extension of sewer service to the Mora Drive area. She also reaffirms that the Town has received an application from MDSP for pre-zoning for the areas identified by LAFCO staff and MDSP has paid all of the fees.

In response to an inquiry by Commissioner Alvarado, Ms. Cassingham advises that the pre-zoning process will take approximately six months. Commissioner Alvarado comments that due to the environmental issues that have been raised she inquires about the timeline relating to the construction of the sewer trunk line. Mr. Toy explains that the sewer improvement plans are complete and advises that it will take 45 working days from the start of construction. He further notes that the timeline will depend on when the project goes out to bid.

Hal Feeney, MDSP member, expresses appreciation to everyone who has participated in this process. He provides a brief summary of the actions taken by MDSP and the Town of Los Altos Hills, and notes a desire that LAFCO will be in favor of the proposal as well. He points out that the timeline for the construction of the sewer trunk line is fairly short and notes that the timeline for the pre-zoning process of the entire area will require a longer period of time. Mr. Feeney reiterates the provision of the agreement of MDSP property owners not opposing any future annexations and that MDSP has satisfied every requirement and that it is a win-win situation for everyone.

Art Kaupert, Supervising Environmental Health Specialist, Santa Clara County Department of Environmental Health, refers to his letter, dated April 2, 2001 and

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provides an overview of the results of the sanitary survey that was conducted in the Mora Drive area. He explains the reasons for the failing septic systems in the Mora Drive area. Mr. Kaupert notes that one septic system is failing because water could not run through the septic system and to prevent surfacing of sewage, the individual is limited to space for repairing the system and five other lots are failing due to plant growth and high groundwater up to 45 feet below the ground service which is a potential for contamination of the water. He also advises that half the roads that they surveyed have minimal space for repair and because of the age of the systems, the repairs are not up to today's standards and are not long term repairs. Mr. Kaupert recommends that sewer service be extended to the Mora Drive area.

Receiving no further requests from the public to speak, the Chairperson orders that the hearing be closed.

Commissioner Alvarado expresses appreciation to the residents of Mora Drive, members of MDSP, LAFCO Staff, Town of Los Altos Hills representatives, and the County Environmental Health Department representative. She acknowledges Supervisor Kniss who is in the audience today. Commissioner Alvarado states that based on the additional information that was provided today, she moves that the request for the extension of sewer service be approved.

In response to an inquiry by Chairperson Gage, Commissioner Alvarado advises that the public testimony indicates that a pre-zoning application is in place, the fees are paid, the Town of Los Altos Hills is in support of pre-zoning and the annexation process and notes that the action is to approve the proposal that certain conditions will be met according to the pre-zoning application. Commissioner LeZotte seconds the motion.

Chairperson Gage inquires as to whether or not the provision that pertains to the property owners in the Mora Drive area that they will not oppose any future annexations is in writing. Kara Loiacono, MDSP Member, advises that the property owners' signatures to not oppose any annexation in the Mora Drive area have been notarized.

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On motion of Commissioner Alvarado, seconded by Commissioner LeZotte, it is unanimously ordered that Resolution No. 01-4 be adopted approving the request of the Town of Los Altos Hills for an Out Of Agency Contract for Sewer Service to the Mora Drive Sewer Project.

4.2 FINAL LAFCO BUDGET (FY 2001-2002)

Ms. Palacherla states that there is no change from the proposed budget that was adopted at the February 14, 2001 meeting. She recommends that the Commission adopt the final budget for fiscal year 2001-2002; authorize staff to transmit the final budget adopted by the Commission to the City Councils, Board of Supervisors, the Cities Association and the Controller's office; and direct the County Auditor-Controller to apportion LAFCO costs to cities and the County and collect payments.

Discussion ensues regarding amending the final budget if LAFCO goes over budget. Kathy Kretchmer, LAFCO Counsel, advises that the Commission can augment the budget if necessary prior to adoption. She further advises that any unspent money in the current budget will roll over to the next fiscal year budget.

On motion of Commissioner Wilson, seconded by Commissioner Jackson, it is unanimously ordered that the final budget of \$502,612 (with \$25,000 revenues resulting in net LAFCO operating expenses of \$477,612) for FY 2001-2002 be approved; and that staff be authorized to transmit the final budget adopted by the Commission including the draft city apportionment amounts to each of the cities, the County and the Cities Association.

4.3 MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN LAFCO AND COUNTY FOR STAFFING AND FACILITIES

Ms. Palacherla provides a brief overview relating to the MOU between LAFCO and the County for staffing and facilities. She recommends that the Commission

approve the draft MOU dated April 6, 2001, in concept, and delegate authority to the Chairperson to make any necessary changes to the MOU that do not affect the budget and to execute the final MOU.

Chairperson Gage suggests that each LAFCO member receive a copy of any changes to the MOU.

On motion of Commissioner Alvarado, seconded by Commissioner Wilson, it is unanimously ordered that the staff's recommendation of the MOU be approved.

4.4 CONDUCTING AUTHORITY PROCEEDINGS

Ms. Palacherla references the report dated April 4, 2001, and provides an overview of all of the requirements of the new law that was enacted. She advises that under the new law, LAFCO is the Conducting Authority. Ms. Palacherla notes that the new law requires that LAFCO hold protest hearing within 35 days of the adoption of the resolution by the Commission. She recommends that the Commission delegate all of the functions and responsibilities of conducting authority to the Executive Director and direct staff to prepare a delegation resolution for Commission consideration at the June 13, 2001 meeting.

On motion of Commissioner Alvarado, seconded by Commissioner Wilson, it is unanimously ordered that the staff's recommendation regarding the Conducting Authority Proceedings be approved.

5. EXECUTIVE DIRECTOR'S REPORT

A. Revised LAFCO Application Packets to Reflect Changes in New Law

Ms. Palacherla advises that a copy of the Revised LAFCO application packet was included in the agenda packets for information only.

B. LAFCO Web Page (www.santaclaralafco.ca.gov)

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Ms. Palacherla provides a demonstration of the LAFCO web site. In response to an inquiry by Chairperson Gage, Ms. Palacherla notes that status of applications are not on the web site and advises that the LAFCO agenda will be on the web site.

Commissioner LeZotte suggests that email addresses and phone numbers of Commissioners be noted on the web site.

6. ADJOURNMENT

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:33 p.m. to the next regular meeting to be held on Wednesday, June 13, 2001 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Donald F. Gage, Chairperson
Local Agency Formation Commission

ATTEST:

Ruth Marston, LAFCO Clerk