

SANTA CLARA COUNTY  
Local Agency Formation Commission

MINUTES

WEDNESDAY, AUGUST 14, 2002

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 14<sup>th</sup> day of August 2002 at 1:19 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: Chairperson Linda J. LeZotte, and Commissioners Donald Gage, Suzanne Jackson and Susan Vicklund-Wilson. Commissioner Wilson states that in order to avoid a conflict of interest, Commissioner Patricia Figueroa will represent her during the hearing for the Gilroy 1999 Urban Service Area (USA) Amendment (Gilroy Sports Park). Supervisor Alvarado is absent.

The LAFCO staff in attendance include Neelima Palacherla, LAFCO Executive Officer; Lizanne Reynolds, LAFCO Counsel; Dunia Noel, LAFCO Analyst; and, Ginny Millar, LAFCO Surveyor.

The meeting is called to order by Chairperson LeZotte and the following proceedings are had, to wit:

2. PUBLIC PRESENTATIONS

There is no public presentation.

3. APPROVE MINUTES OF JUNE 13, 2002 MEETING

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is ordered on a vote of 3-0, with Commissioner Jackson abstaining and Commissioner Alvarado absent, that the minutes of June 13, 2002 meeting be approved, as submitted.

4. APPROVAL OF CONSENT CALENDAR

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered on a vote of 4-0, with Commissioner Alvarado absent, that the

consent calendar be approved.

4.1\* CUPERTINO SANITARY DISTRICT, VERDE VISTA No. 13

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered, on a vote of 4-0, with Commissioner Alvarado absent, that the annexation of a 1.09 acre property located at 20520 Verde Vista Lane to the Cupertino Sanitary District, designated as Verde Vista No. 13 be approved (Resolution No. 0210), and the protest proceedings be waived.

PUBLIC HEARINGS

5. RECONSIDERATION OF MORGAN HILL 2001 USA AMENDMENT: AREA 1 - SUNNYSIDE AVENUE (STODDARD)

This being the time and place set for public hearing to consider a request by Roberta and Richard Stoddard, property owners, to reconsider the application by the City of Morgan Hill to amend its USA to include Area 1 (Sunnyside Avenue), Chairperson LeZotte declares the hearing open.

Neelima Palacherla states that the reconsideration is a two-step process for which the Commission may decide whether to (a) accept the request, and (b) if accepted, hold the public hearing after this item, or continue to the October 9, 2002 meeting as requested by the applicant's counsel. In response to an inquiry by Commissioner Gage, Ms. Palacherla advises that the basis for the denial still exists because Morgan Hill continues to have more than five years supply of vacant residential land.

Catherine Abate, adjacent property owner, citing her letters to LAFCO dated June 10 and August 12, 2002, indicates that she objects to the reconsideration because the City's approval of the application stipulated that there will be no road connection to Sunnyside Avenue.

In response to an inquiry by Commissioner Gage, Ms. Lizanne Reynolds responds him that the motion for reconsideration must be supported by new or different facts that could not have been presented previously.

Richard Stoddard, property owner, states that the City will benefit because of a new road, water system and utilities and that a new road connection will have a four-

way intersection at Sunnyside Avenue to ease traffic flow. In response to an inquiry by Commissioner Wilson, Mr. Stoddard states that this is a new information because it was not yet decided where to build the road, and that the City already benefited from the project with a storm drain system. Commissioner Jackson notes that there is no new information to warrant reconsideration.

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

On motion of Commissioner Wilson, seconded by Commissioner Jackson, it is unanimously ordered that the request for reconsideration for the Morgan Hill 2002 USA Amendment -Area 1 (Sunnyside Avenue) be denied.

On the inquiry of Bruce Tichinin, legal counsel for the landowners, Ms. Reynolds states that the resolution was prepared after the Commission voted on June 13, 2002 and that the resolution on the denial has been adopted as reflected in the Minutes of the June 13, 2002 meeting. Ms. Palacherla adds that after the Commission votes, a resolution will be drafted by staff and signed by the Chairperson.

6. CITY OF SAN JOSE 2002 USA AMENDMENT

Ms. Palacherla advises that the City of San Jose has requested that LAFCO continue the hearing to October 9, 2002 to complete the filing requirements.

On motion of Commissioner Jackson, seconded by Commissioner Gage, it is unanimously ordered, on a vote of 4-0, with Commissioner Alvarado absent, that the discussion on the San Jose 2002 USA Amendment be continued to the October 9, 2002 meeting.

7. GILROY 1999 USA AMENDMENT: GILROY SPORTS PARK

*Commissioner Pat Figueroa assumes representation for Commissioner Wilson.*

This being the time and place set for public hearing to consider the Gilroy 1999 USA Amendment (Gilroy Sports Park), Chairperson LeZotte declares the hearing open.

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Ms. Palacherla reports that the City of Gilroy applied to include the Gilroy Sports Park and the adjacent parcels in June 1998. However, at that time LAFCO staff had requested that the environmental analysis reflect the proposed land use designation in the City's General Plan. The City conducted the analysis and resubmitted the application in April 2002. She states that the City is proposing to expand its USA to include five parcels for the Sports Park, totaling 85 acres; 3 parcels for a residential neighborhood, totaling 28 acres; and 6 parcels for commercial development, totaling 27 acres. She reports that development of the Sports Park could take place in the County without LAFCO approval and that the City would like to include it within its jurisdiction to enable the City to benefit from property tax exemption and provide services directly to the facility. She notes that the City proposes to also include the adjacent lands to make the Sports Park contiguous to the City boundaries.

Ms. Palacherla advises that staff recommends denial of the inclusion of these areas into USA because (a) the proposed project would convert about 140 acres of prime agricultural lands to urban uses, (b) it may encourage development of the lands to the west and the south of the Sports Park, and (c) the City has over nine years supply of residential land and over 18 years of commercial lands within its boundaries. Instead, she proposes that the three Sports Park parcels be included within the City limits pursuant to Government Code Section 56742 which allows non-contiguous properties to be annexed if owned by the City and are used for municipal purposes. She further proposes that the annexation of the three Sports Park parcels under this provision be conditioned on the City (a) applying a pre-zoning designation, and (b) implementing its mitigation measures for the loss of agricultural lands. She advises that the City's Environment Impact Report (EIR) identifies two potentially significant impacts: (1) the loss of prime agricultural resources, and (2) exterior traffic noise, and it further stated that the agricultural preserve would serve as partial mitigation for the loss of agricultural lands. She points out that since the City's General Plan removed 660 acres of prime agricultural lands from the agricultural preserve, the mitigation no longer exists. She recommends that LAFCO impose substitute mitigation measures which are

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included in the City's General Plan: (a) purchase of an equal amount of prime agricultural land and to transfer its ownership to the Open Space Authority (OSA); (b) purchase of development rights on agricultural land within OSA and transfer of the rights to OSA; or (c) payment to the OSA of an amount equal to the above in lieu of a purchase. Ms. Palacherla advises that the hearing may be continued to October 9, 2002 to allow time to evaluate the feasibility of mitigation measures. She concludes by stating that staff recommends that the Commission (a) deny the Gilroy 1999 USA amendment, and (b) approve the annexation of the Sports Park to the City pursuant to Government Code Section 56742, conditioned on application of a pre-zoning designation and implementation of mitigation measures for loss of agricultural lands.

William Faus, Planning Manager, City of Gilroy, directs attention to two maps, one depicting the 14 parcels proposed for annexation in terms of the residential and commercial developments in the area. He continues by noting that the second map illustrates the Sports Park in relation to the entire city. He states that the Sports Park is a long term project which is consistent with LAFCO policy, particularly Item "6-b", which allows the conversion of lands other than open space uses to promote orderly and efficient growth of a city. He adds that the Sports Park is part of a linear park system and park preserves (e.g., nature parks, soccer, football fields etc.), from U.S. Highway 101 to U.S. Highway 152.

Tom Springer, Mayor, City of Gilroy, requests approval of the USA amendment because the City is willing to mitigate its negative impacts by building sound barriers along Luchessa Avenue, and, as an added mitigation, de-annex lands in the two flag-shaped territories within the city limits, with a combined area of about 63 acres. He also states that the annexation will not generate pressure for premature land conversions to the south and west of the Sports Park because the City Council has recently rejected a proposal for a housing development in that area. He continues by stating that the commercial area to the east will serve the needs of visitors to Sports Park and generate the revenues needed to support the operation of the facility.

Sam Chuck, owner of an adjacent property, directs attention to an aerial map and

states that an island will be created if only the Sports Park is annexed.

Michael McDermott, a member of the Barberi family, requests the inclusion of the Barberi property because it complements the Sports Park, the City is able to provide services, it is directly adjacent to the present city USA boundary, and is within the City's Sphere of Influence. He also notes that it is in line with Gilroy's General Plan because of the planned development in that area, and agrees with LAFCO policies because it will improve the USA boundary of Gilroy.

William Lindsteadt, Executive Director, Gilroy Economic Development Corporation, expresses support for the inclusion of the properties around the Sports Park because the facility is funded by local tax dollars, and because it will fill in the open space in the City limit and remove the hazards of farming in the area.

Frank Caliri, landowner, reads a letter from Daniel Fiorio, a farmer, requesting approval and stating that he farmed the area for the past 10 years and finds that it is no longer suitable for agriculture.

Richard Barberi, landowner, reads a letter from Dirk Buchser, a landowner, stating that specialty-niche agriculture, direct marketing of products and agro-tourism are no longer profitable due to the objections by neighboring businesses to the order and by-products generated by agriculture.

Anna Barberi, landowner, advises that agriculture is not viable on her property because the 100 foot restriction in the application of pesticides along the Monterey Road has reduced the amount of farmland by four acres, and the same restriction on the boundary with the Sports Park would further reduce the farmland by another eight acres. She also expresses concern for the safety of the children coming into the farm from the Sports Park.

Bill Blocher, landowner, requests for the inclusion of his 12-acre property because it is no longer viable to farm because it is surrounded by developed areas, after substantial portions were taken away for U.S. Highway 101, the Santa Clara Valley Water District (SCVWD) and the Sports Park.

James Blocher, landowner, reads a letter from Scott Lynch, owner of Bob Lynch

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Ford car dealership, stating that the Blocher property should be annexed to eliminate chemical-laden dust that impacted the car dealership since 1969 and which may endanger the children in the Sports Park.

Ralph Santos, a local farmer who farmed both the Barberi and Blocher properties, states that the parcels are no longer suited for agriculture because they are small and facilities like cold storage are expensive and require large spaces, and their proximity to the Sports Park will increase the likelihood of vandalism of farm equipment.

Connie Rogers, Save Open Space-Gilroy, states that she supports the annexation of only three Sports Park parcels because the City's General Plan already acquired 660 acres and the City has enough inventory of residential and commercial lands. She also points out that the Sports Park can coexist with agriculture.

Anne Crealock, Greenbelt Alliance, notes that the Commission should be carefully consider the type of land being traded by the City to mitigate the loss of prime agricultural land and adds that creating an island by including only three Sports Park parcels is the least destructive choice.

Craig Breon, Executive Director, Santa Clara Valley Audubon Society, commends the staff for the recommendation and addressing such a complicated issue. He states that the annexation of only the Sports Park parcels creates an island, however, it fits into the parameters of Government Code Section 56742. He notes that some of the lands around the Sports Park may be annexed in 10 or 25 years, however, they are not needed at this time. He proposes that a timeline be established for the mitigation measures. Finally, citing the comments of the farmers who spoke against agriculture, he states that the issue of agricultural viability is difficult to determine in the absence of a large scale study in this region.

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

Commissioner Gage notes that these lands are no longer viable for agriculture due to the proximity to developed areas and restrictions on chemical use reduce the amount of land that can be farmed. He comments on a case where Gilroy residents

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mistook the smell of tomatoes for sewage odor. He also comments on a 10-acre development-locked property near a hospital and the Outlets that cannot be farmed. Commissioner Jackson asks about the other parcels around the Sports Park and Ms. Palacherla advises that a strip of land near the Sports Park is owned by SCVWD and will continue to be unincorporated. Commissioner Jackson informs the Commission that there is a gas tank in that area which may endanger the safety of the nearby homes. In response to an inquiry of Commissioner Figueroa, Ms. Palacherla reports that staff did not propose a timeline for the implementation of mitigation measures because the City Council is yet to take up the matter, and that the annexation will not be recorded until the mitigation has been complied with. Ms. Reynolds expresses agreement with Ms. Palacherla's statement.

In response to an inquiry by Chairperson LeZotte, Ms. Palacherla advises that staff has not discussed with the City the possibility of a land swap as a mitigation measure, and that main reason for excluding the residential and commercial parcels is because the City has adequate vacant residential and commercial lands. Chairperson LeZotte comments that 35 acres of land is not a small amount of land to farm and adds that there is reason behind LAFCO policies which may be amended although they should not be violated. Commissioner Gage recommends that this item be continued to October 9, 2002, and Commissioners Jackson and Figueroa concur. Commissioner Gage notes that continuation of discussions will allow Commissioner Alvarado, who visited the area, to participate. Ms. Reynolds comments that the land swap and the mitigation of agricultural lands are two different issues, and Commissioner Gage states that the land swap will remove the "flags" and clean up Gilroy's boundary. Mayor Springer informs the Commission that the Gilroy City Council will take up on its September 2, 2002 meeting the required pre-zoning, mitigation of lands for the Sports Park, mitigation of the lands to the north and east of the Sports Park and consider the removal of two flag-shaped areas from the City limits. In response to an inquiry by Ms. Palacherla, Mayor Springer states that the third item will decrease Gilroy's supply of vacant land, however, he notes that he cannot determine at this time what impact it will



have on the City's five-year land supply.

On motion of Commissioner Gage, seconded by Commissioner Jackson, it is unanimously ordered, on 4-0 vote, with Commissioner Alvarado absent, that the hearing for Gilroy 1999 USA Amendment be continued to October 9, 2002 LAFCO meeting.

*Commissioner Gage leaves at 3:07 p.m.*

8. LAFCO SERVICE REVIEWS

Ms. Palacherla requests authority from the Commission for staff to conduct Service Reviews for (a) countywide fire services, (b) countywide water services, and (c) comprehensive service reviews for North County, South County, West Valley and Central County, and (e) establish priorities for Service Reviews in these sub-regions. On the query of Commissioner Jackson, Ms. Palacherla states there could be related studies undertaken by other agencies and organizations, however, these Service Reviews will be undertaken by LAFCO pursuant to the Cortese-Knox-Hertzberg Act.

Harold Topples, Cupertino Sanitary District, expresses concern that the Service Reviews may result in the District being made a subsidiary of the City of Cupertino. He informs the Commission that this may create problems because the District serves parts of Saratoga, Los Altos, Sunnyvale and incorporated areas of the County. By making the District's SOI co-terminus with Cupertino, the District will be prevented from providing sewer to additional households, particularly since there is no other agency capable of providing sanitary sewer service in the area.

On motion of Commissioner Jackson, seconded by Commissioner Figueroa, the staff recommendation is unanimously approved on a vote of 4-0, with Commissioner Alvarado absent.

*Commissioner Jackson leaves at 3:12 p.m., and the Commission loses quorum.*

Chairperson LeZotte requests public comment, and there are no requests to speak.

On order of the Chairperson, there being no objection, it is ordered that the following items be held to October 9, 2002:

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Item No. 10: Report on West Loyola Annexation & Sewer Project

Item No. 11: LAFCO Annual Report (FY 2001-02)

Item No. 12: Executive Officer's Report

- Greenbelt Alliance's Coyote Valley Visioning Project
- CALAFCO Annual Conference (Nov. 13-15, 2002)
- CALAFCO Executive Board Nominations

Item No. 13: Pending Applications

Item No. 14: Written Correspondence

9. ADJOURNMENT

On order of the Chairperson, there being no objection, the meeting is adjourned at 3:14 p.m. to the next regular meeting to be held on Wednesday, October 9, 2002 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

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Linda J. LeZotte, Chairperson  
Local Agency Formation Commission

ATTEST:

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Emmanuel Abello, LAFCO Clerk