

SANTA CLARA COUNTY  
Local Agency Formation Commission

MINUTES  
WEDNESDAY, DECEMBER 11, 2002

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 11<sup>th</sup> day of December 2002 at 1:23 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 Blanca Alvarado, Donald Gage, Susan Vicklund-Wilson and Mary Lou Zoglin.

The LAFCO staff in attendance include Neelima Palacherla, LAFCO Executive Officer; Kathy Kretchmer, 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 are no public presentations.

3. APPROVE MINUTES OF OCTOBER 9, 2002 MEETING

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is ordered on a vote of 4-0, with Commissioner Zoglin abstaining, that the minutes of the October 9, 2002 meeting be approved, as submitted.

PUBLIC HEARINGS

4. CITY OF SAN JOSE 2002 URBAN SERVICE AREA (USA) AMENDMENT

This being the time and place set for public hearing to consider the San Jose 2002 USA Amendment (Areas A, B, C and D), which was continued from the August 8, 2002 and October 9, 2002 LAFCO meetings, the Chairperson declares the public hearing open.

Ms. Palacherla reports that the City of San Jose 2002 application for USA amendment originally consisted of four areas, namely, Area A (17 acres, APN 015-40-002), Area B (8 acres, APN 625-08-009), Area C (8 acre portion of APN 654-03-009) and

Area D (a portion of APN 678-13-013). However, the City has withdrawn Area D from the application. She advises that Area A is a 17-acre parcel located on Dixon Landing Road, is within the city limits and urban growth boundary of San Jose, and is contiguous to its USA. She continues by stating that the annexation is being requested to allow a local garbage collection and recycling firm to build an administrative office and a service yard which will be provided with urban services. She indicates that the USA amendment will not have any impact on agricultural lands, and only a portion of the parcel will be included into the USA because the remaining portion does not need urban services. She reports that staff has reviewed and approved the legal description and maps of the area. The only issue, however, is with regard to water and sewer services. A contract is being developed by the cities of San Jose and Milpitas to allow San Jose's sewer to run through Milpitas lines and for San Jose to purchase water from Milpitas. She notes that staff has reviewed the draft agreement between the two cities and the arrangement does not come within Government Code section 56133, an out-of-agency contract for services. Finally, she recommends the approval of the USA amendment, contingent on staff reviewing the final water and sewer agreement between the cities of San Jose and Milpitas.

Commissioner Wilson expresses concern that Area B may induce growth near its northern and southern boundaries and expresses a similar concern for Area C. In response, Stan Ketchum, Principal Planner, City of San Jose, states that both Areas B and C are below the 15 percent slope line. He further advises that the parcels north and southeast of Area B are not being included in this USA amendment, because the slopes therein are above 15 percent. He reports that the City did a thorough analysis and found that the areas with less than 15 percent slope line would be appropriate for urbanization. In response to an inquiry by Commissioner Wilson, Mr. Ketchum reports that the pre-zoning has been filed for Area B. In response to another inquiry by Commissioner Wilson, Mr. Ketchum states that Area C is limited to 11 residential dwellings in accordance with the General Plan designation. In response to an inquiry by Commissioner Zoglin, Jerry Strangis, Strangis Properties, representing the applicant, states that odor easement is a requirement by the San Jose-Santa Clara Sewage Treatment Plant to ensure that occupants of development within a certain radius of the plant do not complain in the future about the odor from the plant.

Ms. Palacherla advises that approval of these three areas must be contingent on the payment by the City of the full LAFCO fees. She indicates that a deposit has already been paid to cover the initial costs, however, LAFCO will send the City an invoice for the actual processing costs. On an inquiry by Chairperson LeZotte, Ms. Kretchmer advises that the approval would include the CEQA action if the Commission approves the staff recommendation, as noted in the staff report, conditioned on the payment of fees.

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered that the following resolutions are approved: Resolution 02-12, approving the request of the City of San Jose for the 2002 expansion of its USA in Area A, consisting of a portion of one parcel (APN 015-40-005); Resolution No. 02-13, approving the request of the City of San Jose for the 2002 expansion of its USA in area B, consisting of an 8 acre portion of APN 652-08-009 located on Murillo Avenue, opposite of Groesbeck Hill Park; and Resolution No. 02-14, approving the request of the City of San Jose for the 2002 expansion of its USA in Area C, consisting of an 8 acre portion of APN 654-03-009, located east of Murillo Avenue and north of Quimby Road.

5. LAFCO POLICIES REVISION AND ADOPTION

This being the time and place set for public hearing to consider the revision and adoption of LAFCO policies, the Chairperson declares the public hearing open.

Ms. Palacherla reports that this item includes proposed new policies for service reviews and proposed revisions to the existing LAFCO policies. These proposed policies have been circulated to the cities and special districts for review and comment. She indicates that staff received a comment letter on the policies for processing applications affecting more than one county, and another comment letter on the annexation policies. She advises that the documents being presented before the Commission include revisions based on the comments received.

With regard to policies on processing proposals affecting more than one county, she reports that in response to an recommendation received from Santa Cruz LAFCO, staff included a provision which states that when requested by an affected county, Santa Clara LAFCO will consider and determine, on a case by case basis, if it is appropriate to transfer jurisdiction to the LAFCO of the affected county.

On the annexation and reorganization policies, she indicates that staff received a request from the Central Fire Protection District for LAFCO to clarify the existing street annexation policies. Ms. Palacherla notes that staff added a provision that states “segments of roads, freeways, highways, private roads, or railroads rights of way adjacent to or within a proposed annexation be included to the city boundaries to ensure logical boundaries and efficient provision of services.”

The Chairperson requests for public comment. Tom Sullivan, Director for Community Development, City of Saratoga, states that the service review policies should use appropriate growth and population projections from the Department of Finance (DOF) and the Association of Bay Area Governments (ABAG) among others, and consider such growth projections and the physical constraints in each of the area being studied. On the USA policies, he comments that Item D3j of the proposed policies address housing needs, and he expresses support for Item B8 which provides protection to agriculture and open space lands. Regarding Item B10, he suggests that special districts be added to the USA policies, because some cities are full-service cities, and other cities obtain water, sewer and fire services from special districts. He expresses concern relating to two-year moratorium for any change in pre-zoning after annexation unless the cities can overwhelmingly prove that conditions have changed. Finally, he requests clarification on the street annexation policies and processes. In response, Ms. Palacherla states that staff has not decided yet whether to use the ABAG or DOF population and growth projections, particularly since there is a need to clarify which of these projections have data on the cities in terms of the city limits and spheres of influence (SOIs). She also indicates that the two-year freeze on the pre-zoning designation after an annexation is a requirement in the state law. Relative to the USA changes, she reports special districts do not have USAs and only have SOIs.

In response to an inquiry by the Chairperson, Ms. Palacherla reports that the application packets have not been revised at this time; however, staff will revise the filing requirements to reflect the updated policies as soon as possible. On a suggestion by the Chairperson to allow time to notify the public of these changes, Ms. Palacherla states that many of the new requirements only clarify and strengthen the existing policies, and while there are some new requirements to the cities and special districts, most are already part of the existing policies. The Chairperson also suggests that the

policies be made available to the public and be included in the application packets. Commissioner Gage proposes that Mr. Sullivan submit his comments in writing for staff to respond as appropriate.

There being no other speakers from the public, the Chairperson declares the hearing closed.

On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the revision to LAFCO policies be approved, and that staff be requested to respond as appropriate to the suggestions from the speaker.

6. COUNTYWIDE FIRE SERVICE REVIEW

This being the time and place set for public hearing to consider the countywide fire service review, the Chairperson declares the hearing open.

Ms. Palacherla reports that at its August 14, 2002 meeting, the Commission established the boundaries and priorities for conducting service reviews, and a countywide fire service review was identified as one of the top priorities. She advises that staff is requesting authority from the Commission to issue a Request for Proposal (RFP) to hire a consultant to conduct the study. She indicates that the draft RFP and scope of services will be sent to the affected agencies for review and comments before being sent out to the prospective consultants. She reports that staff identified 13 agencies within the county that provide fire protection services and developed a working list of related issues. She notes that staff will solicit comments and input from these agencies about the issues that must be considered during the service review. She advises that staff needs to be advised whether the Commission wants representation on the Consultant Selection Committee which will meet to interview and select a consultant in February 2003.

The Chairperson determines that there are no speakers from the public. Commissioner Gage expresses interest to serve on the Committee. He states that many of the unincorporated areas have not been assigned to the jurisdiction of any fire agency. Presently, the California Department of Forestry, the Santa Clara County Fire Department and City of San Jose are serving these areas on a mutual aid basis, however, there is no means to pay for their services. He notes the importance of addressing these problems. Commissioner Wilson volunteers to serve on the Committee, as well.

On an inquiry by Commissioner Zoglin regarding the scope of the review, Ms. Palacherla advises that there is a separate countywide contract for emergency medical services provided by fire agencies. She adds that this is a complex matter which the service review will cover in terms of how the services are being provided, although there is no specific issue identified at this time. Commissioner Zoglin notes that this is a major element of the work of the fire agencies and that if staff assumes that this is a component of the traditional fire services, then it is part of the service review.

In response to an inquiry by Chairperson LeZotte, Ms. Kretchmer states that Item 3 in the staff recommendation proposes that the Commission delegate authority to the Executive Officer to negotiate and enter into contract with the consultant without coming back to LAFCO in order to avoid delays in implementing the service review. Ms. Palacherla advises that the RFP and scope of services will be sent to all the affected agencies for comment after the Commission's approval. She states that their comments, which are expected within 3-4 weeks, will be integrated into the RFP and the scope of services, and that the final version of these documents will be sent to the consultants and will be publicly available on the LAFCO website. She indicates that when proposals from consultants are received in February 2003, the Committee will select a consultant based on the criteria being proposed and that the LAFCO Executive Officer will enter into contract with the selected consultant on behalf of LAFCO. On an inquiry by the Chairperson, Ms. Palacherla advises that the Consultant Selection Committee may include Commissioners, staff and an outside person who may come from a LAFCO of another county. Commissioner Wilson informs that she is willing to participate either as a member or an alternate member of the Committee.

In response to a suggestion by Commissioner Gage relating to representation of the fire agencies on the Committee, Ms. Kretchmer advises that the draft RFP has been sent to the fire districts for their comments. In addition, she advises that the fire districts were asked to provide names of potential consultants. She notes that staff is reluctant to include a fire agency on the Committee because of potential conflicts of interest among the various fire agencies. In response to a query by Commissioner Zoglin, Ms. Palacherla states that the matter will be brought back to the Commission for a public hearing when the consultant presents the draft fire service review report in August 2003, and that the final report may be presented to the Commission in October 2003.

On motion of Commissioner Alvarado, seconded by Commissioner Gage, it is unanimously ordered that staff be authorized to issue a RFP to seek a consultant to conduct a countywide fire service review; that Commissioners Gage and Wilson be designated to serve on the Consultant Selection Committee; and that authority be delegated to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$75,000 and the Executive Office be authorized to execute any necessary amendments to the contract, subject to LAFCO Counsel's review and approval.

7. PUBLIC AND ALTERNATE PUBLIC MEMBER APPOINTMENT

Ms. Palacherla advises that the term of Commissioner Wilson as public member, and the term of Commissioner Pat Figueroa as an alternate public member will expire in May 2003. She adds that state law requires that a public member be appointed by the four members of the Commission. The Commission may reappoint the public member and the alternate public member for another four-year term or initiate a recruitment process to fill the vacancies. She states that both commissioners have expressed interest in reappointment.

Commissioner Alvarado moves that public member Wilson and alternate public member Figueroa be reappointed for additional four-year terms. Commissioner Gage seconds the motion. Chairperson LeZotte notes that since there could be concerns about Commissioner Zoglin, the current City Member, and Commissioner Figueroa, an Alternate Public Member, both being residents of the City of Mountain View, she proposes that the Alternate Public Member position be publicized to other possible applicants. On an inquiry by the Chairperson, Ms. Palacherla notes that this item is being considered so the Commission can decide what action to take, and that staff has not yet publicly announced the matter. In response to an inquiry by the Chairperson, Ms. Kretchmer advises that the Commission could officially reappoint Commissioner Wilson during the February 2003 meeting. In this regard, Commissioner Alvarado and Commissioner Gage agree to amend the motion. Ms. Palacherla requests direction from the Commission regarding the recruitment process and Commissioner Gage suggests that citizen groups be contacted about the alternate public member position.

It is unanimously ordered, on a vote of 4-0, with Commissioner Wilson abstaining, that the reappointment of Commissioner Wilson be included in the agenda of the February 2003 LAFCO meeting, and staff to announce the vacancy of the alternate Public Member position.

8. SCHEDULE OF LAFCO MEETINGS

On motion of Commissioner Gage, seconded by Commissioner Wilson, the 2003 Schedule of LAFCO meetings is unanimously approved.

10. PENDING APPLICATIONS

There are no pending applications.

11. WRITTEN CORRESPONDENCE

There is no written correspondence.

12. ADJOURNMENT

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:04 p.m. to the next regular meeting to be held on Wednesday, February 12, 2003 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