

Local Agency Formation Commission
of Santa Clara County

MINUTES
WEDNESDAY, FEBRUARY 12, 2003

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 12th day of February 2003 at 1:17 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. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2003

Neelima Palacherla, LAFCO Executive Officer, recommends that Commission appoint Commissioner Alvarado as Chairperson for 2003 and Commissioner Wilson as Vice Chairperson in accordance with the LAFCO rotation schedule.

On motion of Commissioner Gage, seconded by Commissioner Zoglin, it is ordered on a vote of 3-0, with Commissioners Alvarado and Wilson abstaining, that Commissioner Alvarado, County representative, be appointed Chairperson for 2003 and Commissioner Wilson, public member, be appointed Vice-Chairperson for 2003.

Chairperson Alvarado presides over the meeting.

3. PUBLIC PRESENTATIONS

There are no public presentations.

4. APPROVE MINUTES OF DECEMBER 11, 2002 MEETING

On motion of Commissioner Gage, seconded by Commissioner LeZotte, it is unanimously ordered that the minutes of the December 11, 2002 meeting be approved, as submitted.

PUBLIC HEARINGS

WEDNESDAY, FEBRUARY 12, 2003

5. OUT OF AGENCY (OACS) EXTENSION OF SEWER SERVICE TO 17645 MANZANITA DRIVE (McLAREN) BY THE CITY OF MORGAN HILL

This being the time and place set for public hearing to consider the application of the City of Morgan Hill to extend sewer service to 17645 Manzanita Drive (McLaren), the Chairperson declares the public hearing open.

Ms. Palacherla reports that this is a request from the City of Morgan Hill to extend sewer services to a single-family home located in the unincorporated area called Holiday Lake Estates area. The area has about 200 homes and is surrounded by the City of Morgan Hill on three sides and by the Anderson Reservoir on one side. The City provides water services to the area and a few homes receive City sewer service. The County Department of Environmental Health (DEH) recorded nine failing septic systems in the area. Ms. Palacherla notes that since the terrain, soil and vegetation in the area do not permit repair or replacement of failed septic systems, the only option is connection to the sewer lines. She adds that the public health and safety danger is enhanced because the homes are located close to Anderson Reservoir which is designated by the Santa Clara Valley Water District (SCVWD) as a drinking water source.

She indicates that in a meeting of staff with representatives from the City, DEH, Office of Supervisor Gage, and SCVWD, it was agreed that a long-term solution to the problem in the area was provision of sewer services after annexation of the area to the City. However, four issues were identified in that meeting, namely, the lack of documentation of the extent of septic system failures, Measure P restrictions to City's Urban Service Area (USA) amendments, the need for new infrastructure, and the need to identify a source of funding for new sewer lines. In response to an inquiry by the Chairperson, Ms. Palacherla indicates that SCVWD would be responsible to undertake the study of the water quality. She likewise indicates that Measure P restricts further annexations unless the City has less than five years supply of vacant residential land within its USA. At present, the City has about 25 years supply of vacant residential land. She reports that the City Council has created the Measure P Revision Committee and that Measure P amended to include an exemption for the Holiday Lake Estates

WEDNESDAY, FEBRUARY 12, 2003

area. She also indicates that another issue is the need to install new sewer infrastructure in the area because some of the homes do not have access to sewer lines.

For this application, Ms. Palacherla states that LAFCO policies require that the City first annex the area before sewer services are extended. She notes that Measure P has a provision which allows smaller areas that meet certain criteria to be annexed, and staff has determined that the subject parcel meets this specific criteria. Referring to a letter from the City expressing preference for annexing the entire area when it becomes possible rather than annexing this particular parcel at this time, Ms. Palacherla states that staff supports the annexation of the entire Holiday Lake Estates. In terms of the growth inducing impact of extending service to this area, she indicates that most of the 200 parcels are already developed, and that the only growth inducing issue is the possible expansion of the home when sewer service is provided. She states that staff recommends approval of this project with the understanding that the City will pursue the annexation of the entire Holiday Lakes Estate area, and conditioned on the payment by the City of the \$318 LAFCO fee based on actual processing cost. Additionally, she advises that the Commission should authorize staff to write a letter to the City requesting the inclusion of language in the proposed amendment to Measure P to exempt the Holiday Lakes Estates area, for staff to update the Commission on the progress of the Measure P Revision Committee in formulating the ballot language for the proposed exemption, and to continue working with other agencies on this matter.

On an inquiry by the Chairperson, Ms. Palacherla advises that the area can be annexed on a parcel by parcel basis if Morgan Hill voters reject the amendment to Measure P. In response to an inquiry by the Chairperson, Ms. Palacherla indicates that DEH is aware of nine homes with failing septic tanks; however, there is no information about the extent of the failures because no comprehensive study has been undertaken in the area.

Commissioner Gage, moves for approval of the staff recommendation and proposes that the Chairperson send a letter to the City of Morgan Hill requesting the annexation of the entire Holiday Lake Estates area because of health and safety threats involved. Commissioner LeZotte seconds the motion. On an inquiry by the

WEDNESDAY, FEBRUARY 12, 2003

Chairperson, Scott Plambaeck, Planner, City of Morgan Hill, states that he does not have anything to add to the staff report. Commissioner Wilson proposes to amend Item No. 3 of the staff recommendation, for the Chairperson to write a letter to the City seeking annexation of the entire Holiday Lake Estates and request the City to annex the entire area without specifically directing that the City exempt that area from Measure P. The Chairperson notes that this is an acceptable position because the Commission should not impose on the City. Commissioners Gage and LeZotte agree to amend the motion accordingly.

Dennis Sorensen, former President, Holiday Lakes Estates Homeowners Association, states that during his term in the association, the community was overwhelmingly in favor of annexation to Morgan Hill. In response to an inquiry by the Chairperson, he states that the majority of residents in the area were in favor of annexation to the City, particularly since the annexation would not result in large increase in taxes.

Chris Card, DEH staff, reports that homeowners reported failing septic systems to DEH. She reports that there is a memorandum of understanding between DEH and SCVWD, which does not allow any repair of septic system within 200 feet of the high water mark. She indicates that most of the nine septic system failures reported are located on less than one acre parcels and are within 200 feet of Anderson Reservoir. She adds that DEH encouraged homeowners to be connected to sanitary sewer systems; however, the Department has no authority to order it. She also indicates that there is no sewer infrastructure in some parts of Holiday Lakes Estates area. She cites an example of a house right on the edge of the Reservoir with a failed septic system with no space to install any kind of an alternate septic system.

In response to an inquiry of the Chairperson, Ms. Palacherla advises that even if voters approve the amendment to Measure P, annexation may involve a long process since it may require community outreach efforts to provide information regarding annexation. In response to an inquiry by Commissioner Wilson, Ms. Kretchmer notes that OACS (Out-of-Agency Contract for Services) administrative approval by the LAFCO Executive Officer and the Chairperson is possible in case of immediate health

WEDNESDAY, FEBRUARY 12, 2003

and safety risk, which would only require an OACS application and DEH documentation of serious threat to health and safety. Ms. Palacherla adds that the City is required to initiate the OACS administrative approval. In response to an inquiry by Commissioner Gage, Ms. Card states that in the event that the City would not annex the area, DEH may direct homeowners to either use a portable septic system or place two households on one septic system. On a follow-up inquiry by Commissioner Gage, Ms. Card states that DEH, in accordance with the state law and in coordination with the building department, may declare buildings with failed septic systems as uninhabitable. On an inquiry by Commissioner Zoglin, Ms. Card advises that DEH directed homeowners with failed septic systems in 1989 to apply for sanitary sewer connections. Since the City did not accept application for sewer services at that time, the homeowners were forced to perform minor repairs just to keep sewage underground.

The Chairperson determines that there are no other speakers from the public and declares that the hearing is closed.

It is unanimously ordered that items 1, 2, 4 and 5 of the staff report, the amended Item 3, be approved, conditioned upon the payment by the City of Morgan Hill of fees (\$ 318) in full, and that the Chairperson send a letter to the City of Morgan Hill requesting the annexation of the entire Holiday Lake Estates area.

6. MAPS FOR THE FIRE DISTRICTS IN SANTA CLARA COUNTY

This being the time and place set for public hearing to consider the maps for the fire districts in Santa Clara County, the Chairperson declares the public hearing open.

Ms. Palacherla reports that staff, in cooperation with the fire districts and County Information Service Department (ISD), prepared the boundary and Sphere of Influence (SOI) maps of the Santa Clara County Central Fire Protection District, South Santa Clara County Fire Protection District, Los Altos Hills County Fire District and Saratoga Fire Protection District for the Commission's approval. She adds that once the maps are adopted by the Commission they will be the official maps and will be kept updated by staff. She expresses appreciation to County ISD staff and Don Jarvis, Battalion Chief,

WEDNESDAY, FEBRUARY 12, 2003

County Fire Protection District, for their help in creating these maps, and states that copies will be sent to the fire districts. She indicates that staff recommends approval of the maps. Commissioner Gage requests a copy of a map of South Santa Clara County Fire Protection District. In response to an inquiry by John Ferreira, Fire Chief, South Santa Clara County Fire Protection District, Ms. Palacherla explains that the map shows the existing SOI boundaries as of the 1983 update and adds that the SOI will be reviewed and amended through the Service Review and subsequent SOI update process. Commissioner Wilson advises that the consultant for the Countywide Fire Service Review will contact Mr. Ferreira for his input.

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

On motion of Commissioner Gage, seconded by Commissioner Zoglin, it is unanimously ordered that the maps depicting the boundaries and SOIs of Santa Clara County Central Fire Protection District, South Santa Clara County Fire Protection District, Los Altos Hills County Fire District and Saratoga Fire Protection District, be adopted.

7. PROCEDURES FOR THE PREPARATION AND PROCESSING OF ENVIRONMENTAL DOCUMENTS

This being the time and place set for public hearing to consider the procedures for the preparation and processing of environmental documents, the Chairperson declares the hearing open.

Dunia Noel, LAFCO Analyst, states that staff, with assistance from Barbara Graichen of Graichen Consulting, has developed procedures for processing environmental documents. These procedures implement the requirements of the California Environmental Quality Act (CEQA) and supplement the CEQA guidelines issued by the State Secretary of Resources. She indicates that after approval, staff will use these procedures in processing applications. She advises that staff recommends approval of the procedures.

There being no other speakers from the public, the Chairperson declares the

hearing closed.

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered that the procedures for the preparation and processing of environmental documents be adopted.

8. EXECUTIVE OFFICER'S REPORT

8.1 Update on the Fire Service Review

Ms. Palacherla reports that the requests for proposal (RFPs) for the Countywide Fire Service Review have been sent out to prospective consultants. The RFP was revised to include input from the County Fire Chiefs Association. The responses to the RFP are due on February 19, 2003, and interviews will be held on February 27, 2003. She reports that as recommended by the County Fire Chiefs Association, two fire chiefs have been included in the consultant selection committee, namely, Chief Ben Lopes of Central Fire Protection District, representing the special districts; and Chief Jeff Clet of the Gilroy Fire Department, representing the cities.

8.2 Appointment of Alternate Cities Member

Ms. Palacherla reports that the Santa Clara County Cities Association has appointed John Howe, City of Sunnyvale Council Member, as the Alternate Cities Representative.

8.3 2003 CALAFCO Staff Workshop

Ms. Palacherla reports that CALAFCO will hold a staff workshop from May 1 to 2, 2003 at Clear Lake and recommends that the Commission authorize staff to attend.

On motion of Commissioner Gage, seconded by Commissioner LeZotte, it is unanimously ordered that staff be authorized to attend the 2003 CALAFCO Staff Workshop, and that travel expenses be funded by the LAFCO budget.

8.4 2003 CALAFCO Clerks Workshop

Ms. Palacherla reports that CALAFCO is hosting a Clerks Workshop from April

9 to 12 in Fresno and recommends that the LAFCO Clerk be authorized to attend the workshop.

On motion of Commissioner Zoglin, seconded by Commissioner Wilson, it is unanimously ordered that the LAFCO Clerk be authorized to attend the CALAFCO Clerks Workshop, and that the travel expenses be funded by the LAFCO budget.

8.5 2003 CALAFCO Annual Conference

Ms. Palacherla reports that the 2003 CALAFCO Annual Conference from September 24 to 26, 2003 will be held in San Francisco. She adds that this conference is being hosted by the nine Bay Area LAFCOs and that staff is working with the Facilities and Program Committees.

9. APPOINTMENT OF PUBLIC COMMISSIONER

On motion of Commissioner Gage, seconded by Commissioner LeZotte, it is unanimously ordered, on a vote of 4-0, with Commissioner Wilson abstaining, that Commissioner Susan Vicklund-Wilson be reappointed for another term, from May 2003 to May 2007.

10. SELECTION AND APPOINTMENT OF ALTERNATE PUBLIC COMMISSIONER

Ms. Palacherla briefly describes the interview and selection process for the Alternate Public Member whose term will start in May 2003 and end in May 2007. She indicates that after the interview, the candidate who receives the majority of the votes will be appointed. She also states that Commissioner Wilson will not be able to vote on this item in accordance with the law.

The Commission interviews three candidates, Connie Rogers, Debbie Mytels and Terry Trumbull. The candidates respond to inquiries of the Chairperson, and Commissioners Zoglin, Gage and LeZotte. Commissioner Gage nominates Mr. Trumbull for the position. There are no other nominations.

On motion of Commissioner Gage, seconded by Commissioner Zoglin, it is unanimously ordered, on a vote of 4-0, with Commissioner Wilson abstaining, that Terry Trumbull be appointed as the Alternate Public Member for a term beginning in

WEDNESDAY, FEBRUARY 12, 2003

May 2003 and ending in May 2007.

11. PENDING APPLICATIONS

Ms. Palacherla advises the Commission of the following pending applications: (a) request for annexation of 13441 and 13445 Robleda Road (Corrigan) to Purissima Hills County Water District; (b) request for annexation of 12661 Robleda Road (Wu) to Purissima Hills County Water District; (c) request for out-of-agency extension of sewer service to 23270 Mora Heights Way (Husher) by the Town of Los Altos Hills; and (d) request by the City of Morgan Hill to include two areas, Area 1 (64.89 acres) and Area 2 (8.75 acres) within its USA.

12. WRITTEN CORRESPONDENCE

There is no written correspondence.

13. ADJOURNMENT

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:19 p.m. to the next regular meeting to be held on Wednesday, April 9, 2003 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Blanca Alvarado, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk