

Local Agency Formation Commission
of Santa Clara County

MINUTES
WEDNESDAY, APRIL 9, 2003

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 9th day of April 2003 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: Chairperson Blanca Alvarado and Commissioners Donald Gage, Linda J. LeZotte, 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 Alvarado and the following proceedings are had, to wit:

2. PUBLIC PRESENTATION

There are no public presentations.

3. APPROVE MINUTES OF FEBRUARY 12, 2003 MEETING

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered that the minutes of the February 12, 2003 meeting be approved, as submitted.

4. CONSENT CALENDAR

4.1 ANNEXATION TO WEST VALLEY SANITATION DISTRICT OF 1.09 ACRES PROPERTY LOCATED ON 14666 AMBRIC KNOLLS ROAD, SARATOGA

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered that Resolution No. 03-04 be adopted, approving the Annexation to West Valley Sanitation District of a property located at 14666 Ambric Knolls Road,

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Saratoga, waiving the protest proceedings, and approving the staff recommendation.

PUBLIC HEARINGS

5. MORGAN HILL 2002 URBAN SERVICE AREA (USA) AMENDMENT: AREA 1 AND 2

This being the time and place set for public hearing to consider the request of the City of Morgan Hill for expansion of its USA, the Chairperson declares the public hearing open.

A. AREA 1 (DIANA-KUBO/PATEL)

Ms. Palacherla advises the Commission that the City of Morgan Hill has requested a continuance of the public hearing for this item to the June 11, 2003 meeting.

On Commission consensus, it is ordered that the public hearing for Morgan Hill 2002 USA Amendment, Area 1 (Diana-Kubo/Patel) be continued to June 11, 2003.

B. AREA 2 (AQUATIC CENTER)

Ms. Palacherla reports that the City of Morgan Hill is requesting the inclusion of the 8.8 acre property into its USA to facilitate annexation of the proposed Aquatic Center. The City has designated the property as a public facility in its General Plan and has applied a public facility pre-zoning designation. The site is currently undeveloped and is zoned medium scale agriculture in the County. There was an orchard on site which was removed in 1996. The land on this site is designated by the Department of Conservation as "farmland of statewide importance." However, since the land has not been used for irrigated agricultural production since 1996, four years since the last mapping of the Department of Conservation, it no longer meets the requirement as "farmland of statewide importance." She states that it is also less than the 10-acre threshold used to analyze the significant loss of agricultural land. It is surrounded by non-agricultural uses on its northwest and south sides. She also states that it is a logical extension to the boundaries of the City since the site is surrounded by the USA and City

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limits on two sites. She notes that the City has indicated that it does not have other vacant lands designated as public facility within its current boundary, except for the 30 acre site that has been set aside for the Catholic High School. For these reasons, staff recommends that inclusion of Area 2 into the City's USA boundary be approved.

Mark Orzan, member of the City of Morgan Hill General Plan Task Force and Urban Growth Boundary Committee, states that the project does not meet the General Plan policies because it is a huge project, there are other areas in the county where it can be built, and there are wildlife issues involved. He adds that since the city has not acted on the past wildlife issues and is currently being sued by the Audubon Society, the Commission cannot rely on the City's promises to mitigate wildlife. He notes that \$2.5 million of the project cost is funded from Redevelopment Agency while a study projects that the City can lose approximately \$300,000 annually. In addition, Mr. Orzan, states that the Aquatic Center would have to attract people from a 25 mile radius in order to sustain itself and has not been listed as a high priority by the City.

Commissioner Alvarado explains that the issue being considered by the Commission is a USA amendment and suggests that the concerns expressed by Mr. Orzan be considered by the City Council. Ms. Kretchmer is considering a separate issue which is independent from the matters to be considered by the City. The Commission decision will be based on information in the California Environmental Quality Act (CEQA) and she notes staff has determined that the project meets CEQA requirements. In response to an inquiry by Commissioner Wilson, Ms. Palacherla states that the Commission is approving the USA amendment and not the project and that Measure P requires that the area will remain designated a public facility.

Terry Linder, Senior Planner, City of Morgan Hill, reports that the project, which will be built phase by phase, is sufficiently funded, and that the City's General Plan provides that any land brought into the USA as industrial, commercial or institutional use, cannot be re-designated to other purposes.

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

public hearing closed.

Commissioner Gage moves that the USA expansion be approved. In response to an inquiry by Commissioner Wilson, Ms. Palacherla explains that even without taking the issue of "farmland of statewide importance" into consideration, staff recommends inclusion of the area into the City's USA because there would be no direct impacts to any surrounding agricultural lands. Commissioner Wilson proposes to amend the motion to remove from the staff report a reference that one of the bases for approval is that the area has not been farmed. Commissioner Gage accepts the amendment to the motion and requests staff to report back to the Commission on the definition of agricultural lands. Commissioner Wilson seconds the motion. Ms. Palacherla proposes that the approval be made contingent on payment by the City of the balance of \$2,501 in processing fee.

It is unanimously ordered that the Resolution No. 03-03 be adopted, approving the request by the City of Morgan Hill to include Area 2 (Aquatic Center) into its USA, contingent on the payment of \$2,501.00 in balance to the fee.

6. OUT OF AGENCY EXTENSION OF SEWER SERVICE TO 23270 MORA HEIGHTS WAY (HUSHER) BY THE TOWN OF LOS ALTOS HILLS

This being the time and place set for public hearing to consider the request by the Town of Los Altos Hills to provide an out of agency sewer extension to 23270 Mora Heights Way, the Chairperson declares the hearing open.

Ms. Palacherla reports that the Town is seeking LAFCO approval to extend sewer services to a property located in an unincorporated area within the USA and Sphere of Influence (SOI) of the Town of Los Altos Hills. This property had a 1,600 sq. feet single family home with a detached garaged served by a septic system. She advises that in March 2002, a report from an independent consultant showed that the septic system was failing. In July 2002, the Department of Environmental Health recommended sewer connection for the site since the existing septic system failed and could not be repaired or replaced. The existing structure was demolished and plans for a new single family home were submitted to the County. A building permit had been

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issued; however, it was recently suspended pending LAFCO approval of the sewer extension. She explains that the property is within the Town's USA and SOI boundaries and LAFCO policies require that annexation must be considered before extending sewer service to the property. However, this particular property is not contiguous to the Town limits, the Town and the property owner have entered into an agreement that the latter would waive their protest rights to any proposed future annexation. She advises that in terms of its growth inducing impact, the extension of the sewer would allow the owner to build a much larger home than what was originally on the property and would potentially allow approximately 17 other properties to seek connections to the sewer system along the line. The Town has indicated that it has the capacity to serve these homes; however, it does not have the capacity rights to do so and property owners can acquire capacity rights from other landowners. Ms. Palacherla adds that the Town is formulating a Sewer Master Plan to study the current and build-out scenarios to be used in renegotiating of the sewer agreement with the City of Los Altos. She also notes that there are no health and safety issues involved in the project. She indicates that staff is recommending approval of the project.

Lawrence Hall, RCSL Architecture, expresses appreciation for the efforts of LAFCO staff.

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

On motion of Commissioner Gage, seconded by Commissioner Zoglin, it is unanimously ordered that Resolution No. 03-02 be adopted, approving the request of the Town of Los Altos Hills for an out of agency contract for sewer service to 23270 Mora Heights Way.

7. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2003-2004

This being the time and place set for public hearing to consider the proposed LAFCO budget for Fiscal Year 2003-04, the Chairperson declares the hearing open.

Ms. Palacherla reports that the approved budget for the current fiscal year is

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\$533,091 and it is projected that there will be a year end savings of \$140,814. This amount will be carried over to the next year's budget to reduce the cost for the County and the cities. The savings was achieved because not all of the allocated funds for consultants and intra-County professionals were used, the \$50,000 reserve was not used, and there was \$160,338 balance carried over from the previous fiscal year 2002. The proposed 2003-2004 budget is \$552,642, with net operating expenses of \$364,828.

In response to an inquiry by Commissioner Gage, Ms. Palacherla states that in case litigation occurs the reserve will be used and, if necessary, state law allows LAFCO to borrow money from the County. Commissioner Gage proposes that part of the savings be allocated as reserves for potential litigation. In response to an inquiry by Commissioner Wilson, Ms. Palacherla states that the \$50,000 in reserve is part of the \$140,814. In response to a follow-up inquiry by Commissioner Wilson, Ms. Palacherla explains that \$100,000 has been budgeted for consultant services. In response to an inquiry by Commissioner LeZotte, Ms. Palacherla explains that the savings from the previous fiscal year is apportioned to the current year's budget, thus reducing the costs to the County and cities. In response to a follow-up inquiry by Commissioner LeZotte, Ms. Palacherla explains that the reason for the current fiscal year's fund balance is because the fund earmarked for the consultant's fee was not used; however, with the ongoing service review that allotment will be used next fiscal year. In response to an inquiry by Commissioner LeZotte, Ms. Palacherla advises that the LAFCO Clerk is solely funded by LAFCO and works full-time on LAFCO duties. She adds that the LAFCO Counsel is paid on an hourly basis and it is anticipated that LAFCO will need 340 hours of the Counsel's services next fiscal year. In response to a follow-up inquiry by Commissioner LeZotte, Ms. Palacherla explains that the proposed budget being presented needs to be adopted by May 1, 2003 and that the final budget must be adopted by June 15, 2003. She further advises that there is still sufficient time for the City of San Jose to send any comments it desires on the proposed budget. In response to inquiries by the Chairperson, Ms. Palacherla states that the City would be paying a total amount of \$25 more than the previous year and that the \$8,918 in overhead

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expenses relates to the use of County space and related services. The Chairperson notes that it is unlikely that there will be any reduction because of the workload next year and requests that Ms. Palacherla provide additional information on Item 2321 of the proposed budget and clarify the budget reserve. In response to an inquiry by Commissioner LeZotte, Ms. Palacherla states that a copy of the proposed budget is sent to each of the city managers, the council members and the city clerks. Commissioner Wilson states that, in addition to the services, there is a need to ensure that there is sufficient funding allocated for legal contingencies because of the number of applications being processed each year.

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

On motion of Commissioner Gage, seconded by Commissioner LeZotte, it is unanimously ordered that the proposed budget be approved, and that staff be directed to note the comments and provide the requested information to the cities and the members of the Commission.

8. MAPS FOR THE SANITARY/SANITATION DISTRICTS IN SANTA CLARA COUNTY

This being the time and place set for public hearing to consider the maps depicting the boundaries and spheres of influence of sanitary/sanitation special districts, namely, Burbank Sanitary District, County Sanitation District No. 2-3, Cupertino Sanitary District, Sunol Sanitary District, West Bay Sanitary District, and West Valley Sanitary District, the Chairperson declares the public hearing open.

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

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered that the proposed maps depicting the boundaries and spheres of influence of sanitary/sanitation special districts be adopted, namely, Burbank Sanitary District, County Sanitation District No. 2-3, Cupertino Sanitary District, Sunol Sanitary District, West Bay Sanitary District, and West Valley Sanitary District.

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9. EXECUTIVE OFFICER'S REPORT

9A. UPDATE ON COUNTYWIDE FIRE PROTECTION SERVICE REVIEW

Ms. Palacherla reports that Matrix Consulting Group was hired to undertake the countywide service reviews. Staff is regularly meeting with the liaisons designated by the Fire Chiefs Association and the City Managers Association. The consultant has prepared a listing of information needed for the interviews with the fire agencies and districts, the schedule for the interviews, and the target date for the draft outline data will become available for review. After review of the data by the fire agencies, the consultant will submit a preliminary list of issues, alternatives and findings to be reviewed by the fire agencies. The Technical Advisory Committee, composed of the liaisons from the Fire Chiefs Association and the City Managers Association, will review and address these issues. Ms. Palacherla further notes that the information which is derived will be used to update the SOIs of special districts, it may also be used to review other types of applications, such as annexations, and to initiate boundary changes.

9B. UPDATE ON MORGAN HILL'S MEASURE P REVISION COMMITTEE RECOMMENDATION

Ms. Palacherla reports that in the approval of the sewer extension to Holiday Lake Estates area during the April 9, 2003 LAFCO meeting, the Commission directed staff to provide an update on the status of the Morgan Hill's Measure P Committee. She states that the Measure P Committee recommended to the City Planning Commission on March 23, 2003 to exclude the area from the population ceiling established by Morgan Hill for 2020. The Planning Commission's recommendations were taken to the City Council on April 2, 2003. The Council, which will again take up the matter in July 2003, did not change the recommendations of the Committee; however, the City decided that Measure P will be included on the March 2004 ballot instead of the October 2003 ballot as originally proposed. She advises that there will be a community survey and workshop to determine if there is voter support for this recommendation. In addition to the exclusion of the area from the population ceiling, the Committee added provisions to remove the reference to the "east-west split" and revise the method for

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calculating the amount of vacant.

9C. UPDATE ON GREENBELT ALLIANCE'S COYOTE VALLEY VISIONING PROJECT

Ms. Palacherla reports that staff attended the final meeting on the project where the consultant presented an overview of the Smart Growth vision for Coyote Valley. The final report on the project will be published in late May or early June 2003.

10. PENDING APPLICATIONS

Ms. Palacherla advises the Commission of the following pending applications: (a) request for annexation of 13441 and 13445 Robleda Road (Corrigan) to Purisima Hills County Water District; (b) request for annexation of 12661 Robleda Road (Wu) to Purissima Hills County Water District; (c) request by the City of Morgan Hill to extend sewer and water services to Sobrato High School; and (d) request by the City of Morgan Hill to extend water services to Anderson Lake Boat Launch.

11. WRITTEN CORRESPONDENCE

There is no written correspondence.

12. ADJOURNMENT

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:19 p.m. to the next regular meeting to be held on Wednesday, June 11, 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