

Local Agency Formation Commission
of Santa Clara County

MINUTES

WEDNESDAY, OCTOBER 8, 2003

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 8th day of October 2003 at 1:15 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: Vice-Chairperson Susan Vicklund-Wilson and Commissioners Donald Gage, Linda LeZotte 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 Vice-Chairperson Susan Vicklund-Wilson and the following proceedings are had, to wit:

2. PUBLIC PRESENTATION

There are no public presentations.

3. APPROVE MINUTES OF JUNE 11, 2003 MEETING

On motion of Commissioner Gage, seconded by Commissioner Zoglin, it is ordered on a 4-0 vote, with Chairperson Alvarado absent, that the minutes of the August 13, 2003 meeting be approved, as submitted.

4. MORGAN HILL 2003 URBAN SERVICE AREA AND SPHERE OF INFLUENCE AMENDMENT AND REORGANIZATION - BOY'S RANCH WATER TANK SITE

Ms. Palacherla advises that the City of Morgan Hill is requesting a minor Sphere of Influence (SOI) amendment to remove three parcels (APNs 728-35-003,

004 and 005) from the SOI of San Jose and include them within Morgan Hill's SOI. In addition, the City of Morgan Hill is requesting an amendment of its Urban Service Area (USA) to include these three parcels. She states that Morgan Hill is also requesting a reorganization to (1) detach APN 728-35-005 from San Jose, and (2) annex APNs 728-35-003 and 005, and (a) detach APN 728-35-003 from the South Santa Clara County Fire Protection District (SSCCFPD), and (b) annex APN 728-35-005 to the Santa Clara County Library Service Area (SCCLSA). Ms. Palacherla adds that the City is requesting these boundary changes to increase the water storage capacity of an existing half million-gallon tank to one million-gallon tank as a back up for emergencies and peak-hour usage. Morgan Hill owns the three contiguous parcels. APN 728-35-003 is in unincorporated County, APN 728-35-004 is in Morgan Hill city limits while APN 728-35-005 is in San Jose's city limits. She notes that the Morgan Hill could expand the water tank only after all the three parcels are merged into one. However, these parcels could only be merged together if they all lie within the same jurisdiction.

Ms. Palacherla advises that the San Jose City Council has adopted a resolution in support of Morgan Hill's SOI amendment and the detachment of APN 728-35-005 from San Jose. She adds that since San Jose has indicated support for the application, there are no city services being provided to the area, and no development planned for the site, staff considers the proposal as a minor SOI change and will not require a service review. With regard to the USA amendment, Ms. Palacherla advises the area is not a prime agricultural land and the application is a logical and orderly boundary change for Morgan Hill. She adds that there is no growth inducing impact because access to the site is restricted, its slope is more than 50 percent and there is no service being provided to the area. She states that the fiscal impact to the affected agencies is negligible and that the proposal complies with all policies for annexation.

Ms. Palacherla indicates that Government Code Section 56663(c) allows

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the Commission to waive protest proceedings if all the agencies gaining or losing territories as a result of boundary change consent to waive protest proceedings. However, she notes that since staff has not received the waiver of protest from the South Santa Clara County Fire Protection District, a protest proceeding should be held. She indicates that though there are no registered voters in the area, state law does not provide exemption from protest proceeding. Ms. Palacherla states that the Executive Officer was previously authorized by the Commission to hold proceedings.

In response to an inquiry by Commissioner Gage, Ms. Kretchmer advises that SSCCFPD was initially unaware that the protest waiver requires approval by the Board of Supervisors and that there are several steps required before it can be brought to the Board. She advises that the district has not taken the first step in the process at this time. Vice-Chairperson Wilson observes that the protest proceeding could be faster. In response to an inquiry by Commissioner Gage, Ms. Palacherla advises that the protest proceeding requires 30 days after the present hearing, and a 21-day notice period prior to the protest hearing itself.

In response to an inquiry by Vice-Chairperson Wilson, Terry Linder, Senior Planner, City of Morgan Hill, states that the City wants to start the construction of the water tank as soon as possible and is willing to pay the costs of a protest hearing. In response to an inquiry by Commissioner Gage, Ms. Linder states that she is not in a position to determine whether the City is able to provide free water to the Boys Ranch facility and indicates that she will inform her superiors about this inquiry. Ms. Kretchmer advises that the Commission may conditionally approve the application contingent on the receipt of all the protest waivers, continue the hearing to December 10, 2003 or direct the Executive Office to hold the protest hearing. Ms. Kretchmer adds that staff could complete the protest hearing within 51 days. Ms. Palacherla indicates that the County and SSCCFPD expressed willingness to provide the waiver letters and attribute the delay of the waivers to the process involved. Commissioner Gage

notes that these agencies may not protest against this project because it will provide additional water for fire protection. He proposes that the Commission conditionally approve the application contingent upon the receipt of the waivers of protest from the County and SSCCFPD. In response to an inquiry by Commissioner Gage, Ms. Linder advises that Morgan Hill has sent a letter to SSCCFPD requesting for the waiver of protest from that agency. Commissioner Gage offers help with follow up for the waiver of protest letters if necessary.

On motion of Commissioner Gage, seconded by Commissioner Zoglin, it is unanimously ordered, on a vote of 4-0, with Chairperson Alvarado absent, that Resolution No. 03-11, (a) approving the minor SOI amendment between the City of San Jose and the City of Morgan Hill which removes APNs 728-35-003, 004 and 005 from the San Jose SOI and includes them into Morgan Hill's SOI, (b) approving the amendment to Morgan Hill's USA to include these three parcels into Morgan Hill's USA, and detach APN 728-35-003 from SSCCFPD, and annex APN 728-35-005 to SCCLSA, conditioned on the receipt of waivers of protest from the County and the SSCCFPD, be approved.

5. EXECUTIVE OFFICER'S REPORT

5A. UPDATE ON LAFCO'S COUNTYWIDE FIRE SERVICE REVIEW

Ms. Palacherla reports that the Technical Advisory Committee has reviewed the first draft of the fire service review report and will meet again to review the second draft. She states that the report may be released and presented for public review and comment by November 2003. During the public review and comment period, staff will solicit input from the fire agencies and other stakeholders. Ms. Palacherla advises that the report, which will include comments from the stakeholders, will be submitted for approval to the Commission on December 10, 2003.

5B. UPDATE ON GILROY'S AGRICULTURAL MITIGATION POLICY

Dunia Noel, LAFCO Analyst, advises that staff has received a draft City of

Gilroy Agricultural Mitigation Policies for review and comment. She reports that Gilroy City Council will hold a public hearing on October 22, 2003 to consider the policies. She indicates that the draft policy may be approved and would take effect in November 2003. Ms. Noel advises that the proposed policy was formulated by a task force, composed of representatives from the City Council, Planning Commission, citizens at large, agricultural interests, Open Space Authority and Land Trust. She reports that staff will review this policy and provide the Commissioners with copies of staff comment.

5C. REPORT ON THE 2003 CALAFCO ANNUAL CONFERENCE HELD IN SAN FRANCISCO

Ms. Palacherla reports that staff and commissioners attended the 2003 CALAFCO Annual Conference, during which, Commissioner Wilson was elected to the CALAFCO Board. Ms. Noel continues the report by saying that the conference had thirteen sections covering a variety of topics. The first session of interest was on the timely availability of water, particularly since LAFCO is required to review the availability of water when looking at boundary changes and service requests. She indicates that staff has amended the LAFCO policies to reflect this new requirement. Another topic of interest was on school facilities, state standards for school sites, boundary changes and provision of services to schools. Ms. Noel adds that while schools are regulated by the state and exempt from local land use controls, cities cannot extend services to schools outside their boundaries without LAFCO approval. She advises that staff has already sent a letter to all cities and school districts in the County on this matter. Ms. Noel continues by saying that the third panel talked about preservation of lands and advises the Commission that staff is working closely with the Department of Conservation to ensure compliance to state law in the annexation of lands under Williamson Act contracts. Ms. Noel states that a speaker from that agency made a presentation during the LAFCO City-Conducted Annexation Process Workshop held on May 14, 2003. Finally, she reports that another topic of

interest was on the California Environmental Quality Act and LAFCO's role under that law, particularly with regard to the ongoing municipal service reviews and SOI updates.

6. PENDING APPLICATIONS

Ms. Palacherla reports that staff received an application from the Cupertino Sanitary District (Pierce Road - Lands of Wilson) which is currently being reviewed.

7. WRITTEN CORRESPONDENCE

Ms. Palacherla advises that staff is providing the Commissioners with a copy of the report from the League of Women Voters about the LAFCOs in the Bay Area region.

8. ADJOURNMENT

On order of the Vice-Chairperson, there being no objection, the meeting is adjourned at 1:39 p.m. to the next regular meeting to be held on Wednesday, December 10, 2003 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Susan Vicklund-Wilson, Vice-Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk