

Local Agency Formation Commission of Santa Clara County

MINUTES OF LAFCO MEETING
WEDNESDAY, JUNE 9, 2004

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes the 9th day of June 2004 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 Susan Vicklund Wilson, Commissioners Donald Gage, Linda J. LeZotte and John Howe.

The LAFCO staff in attendance includes 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 Wilson and the following proceedings are had, to wit:

2. WELCOME NEW COMMISSIONERS

Chairperson Wilson announces that Commissioner Howe, former alternate, has been appointed to the Commission as the cities representative and Roland Velasco has been appointed as the alternate cities representative.

3. RESOLUTION OF COMMENDATION FOR COMMISSIONER MARY LOU ZOGLIN

Chairperson Wilson expresses appreciation for Commissioner Zoglin's contribution during her tenure with LAFCO and announces that a commendation resolution has been prepared for her.

On Commission consensus, it is unanimously ordered that a commendation resolution be awarded to Commissioner Zoglin for her contribution to LAFCO.

4. PUBLIC PRESENTATION

There are no public presentations.

5. APPROVE MINUTES OF APRIL 7, 2004 MEETING

On page three, third paragraph, Chairperson Wilson amends the minutes to reflect that Commissioner Zoglin seconded the motion.

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On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the minutes be approved, as amended.

6. APPROVE CORRECTION TO MINUTES OF FEBRUARY 11, 2004 MEETING

Ms. Palacherla amends the first page of the February 11, 2004 minutes to reflect that Commissioner Wilson was appointed as Chairperson and that Commissioner Zoglin was appointed as Vice-Chairperson. Further, she points out that due to Commissioner Zoglin's term expiration, Commissioner Howe is now the Vice-Chairperson.

On motion of Commissioner Gage, seconded by Commissioner Lezotte, it is unanimously ordered that the February 11, 2004 minutes be approved, as amended.

7. APPROVE CONSENT CALENDAR

On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the consent calendar be approved.

7.1 WEST VALLEY SANITATION DISTRICT 2004-02 (FORRESTER ROAD)

On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the petition by landowners to annex approximately 2.89 acres (APN 537-21-008) located at 237 Forrester Road in Los Gatos into the West Valley Sanitation District be approved (LAFCO Resolution No. 04-05) and the protest proceedings be waived.

8. SARATOGA 2004 URBAN SERVICE AREA (USA) AMENDMENT (BIG BASIN WAY)

Ms. Palacherla informs the Commissioners that the City of Saratoga is requesting an USA boundary amendment to include two parcels so that the City of Saratoga can obtain greater influence over the two properties. She points out that the two parcels are adjacent to Hakone Gardens, a historical Japanese garden. She explains that if the properties are within the USA, the City would have the option for initiating an annexation or the property owners could request to annex into the City.

Ms. Palacherla refers to a letter from property owners opposing the inclusion of their property in the USA stating that the City would not have any influence over annexation of their property. Ms. Palacherla points out that a proposal for a rebuild of the existing home could require annexation to City.

In response to an inquiry by Commissioner LeZotte regarding the involvement of the County versus Saratoga, Ms. Palacherla explains that if LAFCO does not include the property within the USA, and if the property is going to be developed, the County would have land use

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jurisdiction and the City would have no influence over the development of the property. If the property is included in the USA, the County would refer any development proposal to the City.

In response to an inquiry by Commissioner Howe regarding letters from the property owners, Ms. Palacherla comments that, at this time, a letter has been received from only one property owner. In response to an inquiry by Chairperson Wilson regarding how the parcels are being served, Ms. Palacherla states that water service is being provided by San Jose Water Company and sewer service is being provided by West Valley Sanitation District.

John Livingstone, Planner, City of Saratoga, explains that currently the City does not receive any notification regarding projects on those properties. Further, he states that the concern is that Hakone Gardens, listed as a national historic landmark, is adjacent to the properties and the City would like to receive notification if a major development is being planned on the property.

On motion of Commissioner Alvarado, seconded by Commissioner Howe, it is unanimously ordered that the request to amend the USA to include two parcels (APNs 503-48-028 and 029) be approved.

9. FINAL LAFCO BUDGET FOR FISCAL YEAR 2004-2005

Possible Action: Consider and adopt the Final LAFCO Budget for fiscal year 2004-2005.

Ms. Palachera informs the Commissioners that staff is proposing some revisions to the draft budget that relates to data processing, computer hardware and software, and application fees. She points out that LAFCO received \$20,000 more in revenues than originally projected in the draft budget and that staff is proposing using these additional funds to reduce the net operating expenses for LAFCO. Ms. Palacherla recommends that LAFCO approve the final budget.

On motion of Commissioner Alvarado, seconded by Commissioner LeZotte, it is unanimously ordered that the final LAFCO budget for fiscal year 2004-2005 be adopted.

10. EXECUTIVE OFFICER'S REPORT

10.1 Update on Countywide Water Service Review

Dunia Noel, LAFCO Analyst, reports that Dudek and Associates have been retained to perform the countywide water service review. She informs the Commissioners that staff has contacted 20 water agencies in the County and forwarded information to the consultants. Staff will be meeting with the Technical Advisory Committee (TAC) and the consultant in the next

few weeks to review any outstanding issues and to come up with indicators to use for the analysis part of the project. She adds that after meeting with the consultants, staff will also meet with various water agencies including the cities to gather any additional information that is needed.

Ms. Noel notes that the first document coming from the service review will be a profile. She emphasizes that these documents will be used to do the analysis part of the review and that staff will continue to provide the Commission with status reports as the project progresses.

10.2 Update on Measure P and Holiday Lake Estates Issues

Ms. Noel informs the Commission that over the past few years, LAFCO has received several requests from the City of Morgan Hill to provide sewer service to the Holiday Lake Estates area. These requests have been on behalf of property owners in the area. Holiday Lake Estates is unincorporated and located east of Morgan Hill and is outside of the City's Urban Service Area (USA) and currently receives water service from the City and some properties also receive sewer service from the City. She notes that LAFCO policies favor annexation over allowing a City to extend services outside of their boundary. However, up until recently, Morgan Hill's policies prevented the City from expanding its USA until there is less than a five year supply of vacant residential designated land to the east of Monterey Road and thus the City of Morgan Hill was unable to annex properties in the Holiday Lake Estates Area. LAFCO staff sent a letter to the City of Morgan Hill requesting that the City take steps to include in the revision, language that facilitates the annexation of the entire Holiday Lake Estates Area.

On March 2004, voters in Morgan Hill passed a Measure that revised Measure P and included language that allows the City to annex existing subdivisions, including Holiday Lake Estates. The Ordinance revising Measure P went in to effect on April 17, 2004. However, a homebuilder filed a lawsuit challenging a portion of the Measure that does not relate to Holiday Lake Estates. At this time, the City does not know if the homebuilder will challenge the entire Measure or just a portion of it.

Ms. Noel continues by stating that Holiday Lake Estates has a history of failing septic systems. Recently, the County Environmental Health Department surveyed the residential area to determine the condition of the septic systems in the area. She announces that a meeting was held in the community and staff from Supervisor Don Gage's Office, Santa Valley Water District, and City of Morgan Hill's Planning Office was in attendance. She notes that according to County Environmental Health Department, the anonymous survey has had a 52%-56% response rate and

well over 50% of those that responded to the survey indicated that they would be interested in annexing to the City of Morgan Hill in order to receive sewer service from the City. However, 90% of those that responded to the survey indicated that they did not have a problem with their septic system at this time.

In response to an inquiry by Chairperson Wilson, Ms. Palacherla responds that the revisions made to Measure P allow LAFCO to condition sewer service extension approvals in the Holiday Lake Estates Area with the requirement that the property annex to the City of Morgan Hill.

10.3 Update on Mid-Peninsula Regional Open Space District's Annexation of Coastal Lands in San Mateo County

Ms. Palacherla announces that in mid February this issue was addressed by LAFCO and LAFCO recommended approval to San Mateo LAFCO. San Mateo LAFCO approved the annexation on April 7, 2004 at a public hearing. She states that the annexation included several conditions and that the next hearing is scheduled for June 11, 2004. Protesters circulated a form to withdraw the protest and that there is a temporary restraining order to stop LAFCO from holding the protest proceedings. She notes that a judge will decide this issue and that there is another lawsuit against San Mateo LAFCO. Further, she states that the day scheduled for the protest hearing is a holiday for the post office and as a result, the hearing is in the process of being postponed to the next day.

10.4 Report back on 2004 CALAFCO Clerks and Staff Workshop

Ms. Palacherla announces that LAFCO staff attended the annual CALAFCO Workshop in April and that this year's workshop combined the clerks and staff workshops. She comments that there were overlapping sessions that focused on technical aspects including tools for archival of records and databases. Emmanuel Abello, former LAFCO clerk, provided a presentation on the Santa Clara County LAFCO's database that was well received. Ms. Kretchmer headed the roundtable session for attorneys and several topics were discussed that will be beneficial in addressing future LAFCO issues.

In addition, Ms. Palacherla comments that there were sessions that covered water and housing issues. Commissioner LeZotte requests Ms. Palacherla to provide a copy of the reports regarding Mid Peninsula and Measure P.

**10.5 2004 CALAFCO Annual Conference (September 8-10, 2004) in Anaheim, CA
Possible Action: Authorize LAFCO Commissioners and staff to attend the workshop and authorize travel expenses funded by LAFCO budget.**

Ms. Palacherla advises that at this time, there is a link to the conference website and notes that the program is not yet finalized. However, she will provide the Commissioners with the necessary information on the Conference via email as it becomes available. She requests that the Commission authorize approval to attend the Conference and travel expenses.

On motion of Commissioner Alvarado, seconded by Commissioner Gage, it is unanimously ordered that authorization be approved to attend the Annual Conference and that the travel expenses be covered through the LAFCO budget.

10.6 LAFCO Staffing Changes

Ms. Palacherla announces that Emmanuel Abello will no longer be working for LAFCO due to a reassignment by the Clerk of the Board office. She states that Mr. Abello served as the LAFCO Clerk for three years and was instrumental in creating and maintaining the LAFCO database as well as contributed to many critical functions in the LAFCO office. She welcomes and introduces, Lena Vasquez, as the new LAFCO clerk who comes from the Office of the Clerk of the Board.

11. UPDATE ON PENDING LEGISLATION

Ms. Palacherla informs the Commission that the legislation of interest to the Commissioners is related to the Richman Assembly Bill 2306. The Bill prohibits LAFCO from imposing conditions for change of organizations or reorganizations not included in annexation proposals submitted by the city or district. LAFCO cannot impose conditions that would initiate or require another reorganization proposal. She refers to a letter from CALAFCO opposing this Bill. She advises that without flexibility options, LAFCO would be left with denying or approving a project. She states that staff recommends writing a letter to the State Assembly opposing the Bill.

In response to an inquiry by Commissioner Alvarado regarding the reason for the initiation of the Bill, Ms. Palacherla states that, the Bill originated in Ventura County to resolve an issue between Ventura LAFCO and the City of Simi Valley, where Ventura LAFCO has established a policy that requires a city to annex pockets as a condition of annexing other property.

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On motion of Commissioner Alvarado, seconded by Commissioner Howe, it is unanimously ordered that staff write a letter to the State Assembly opposing Assembly Bill 2306.

12. PENDING APPLICATIONS

12.1 PETITION FOR FORMATION OF REDWOOD ESTATES COMMUNITY SERVICES DISTRICT

Ms. Palacherla informs the Commission that the petition for formation of Redwood Estates Community Services District has been found to be sufficient and the affected agencies have been notified. She notes that she still has not received an application for the proposal.

13. WRITTEN CORRESPONDENCE

There is no written correspondence.

14. ADJOURNMENT

On motion of the Chairperson, there being no objection, the meeting is adjourned at 1:57 p.m. to the next regular meeting scheduled to be held on Wednesday, August 11, 2004 at 1:15 in the Chamber of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Susan Vicklund-Wilson, Chairperson
Local Agency Formation Commission

ATTEST:

Lena Vasquez, LAFCO Clerk