

Local Agency Formation Commission of Santa Clara County

MINUTES - WEDNESDAY, OCTOBER 13, 2004

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes the 13th day of October 2004 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: Chairperson Susan Vicklund Wilson, Commissioners Donald Gage, Chuck Reed, alternate to Commissioner Lezotte, and John Howe. The follow members are absent: Commissioners Alvarado and LeZotte.

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. PUBLIC PRESENTATIONS

There are no public presentations.

3. APPROVE MINUTES OF JUNE 9, 2004 MEETING

On motion of Commissioner Howe, seconded by Commissioner Gage, it is unanimously ordered that the minutes of June 9, 2004 be approved, as submitted.

4. STATUS REPORT ON SAN MARTIN INCORPORATION EFFORTS

Neelima Palacherla, LAFCO Executive Officer, informs the Commissioners that over the past several years, attempts have been made to incorporate San Martin. She states that recently the San Martin Neighborhood Alliance (SMNA) has been focusing on incorporation of San Martin. SMNA hired a consultant in June 2002 to conduct an initial analysis for incorporation to determine the feasibility of incorporation and the fiscal impact on other agencies. The report concluded that the incorporation would be financially feasible. Since that time, SMNA has been conducting community outreach to obtain feedback regarding incorporation.

Ms. Palacherla comments that a few months ago members of SMNA met with LAFCO staff to review the proposed incorporation boundaries. In order to determine whether

incorporation is the best method for SMNA to reach their goals, LAFCO staff suggested that SMNA conduct an analysis of alternatives to incorporation as required by the State Office of Planning and Research Incorporation Guidelines and local LAFCO policies. Further, she states that SMNA responded with a letter describing alternatives, but rejecting them in favor of annexation as well as indicating the intent to proceed with the incorporation.

In response, LAFCO staff requested SMNA to reconsider or clarify three issues. The first issue is the need for new retail development versus a goal of maintaining rural residential land use. The second is the fiscal viability of incorporation given changes in State and local government financing structure, as the initial analysis was conducted prior to the State government financial structure changes. The third is to consider the creation of an Area Planning Commission as an alternative to incorporation. Since that time, the Office of the County Executive forwarded a letter to LAFCO staff opposing the establishment of an Area Planning Commission.

Commissioner Gage comments that the letter from Pete Kutas, County Executive, opposed the establishment of an Area Planning Commission because it would set a precedent allowing other cities in the County to do the same, and Commissioner Reed expresses agreement. He suggests that a comprehensive plan for the area may alleviate concerns from residents in the community. Commissioner Gage responds that a plan was initiated in 1998 and that an update of the General Plan would be costly.

Ms. Palacherla comments that SMNA is expected to respond soon and that SMNA is collaborating with the consultant to address the remaining issues. At this time, a draft notice of intent to circulate a petition has been submitted, and LAFCO staff will review and provide comments within the next few days.

In response to an inquiry by Chairperson Wilson regarding LAFCO's role, Ms. Palacherla confirms that LAFCO is neutral and that her request to SMNA to conduct an alternative analysis was based on State guidelines and LAFCO policy. She adds that eventually LAFCO will conduct an independent feasibility study and has advised SMNA to contact the consultant to determine whether the original analysis still stands based on the amount of retail development.

5. SAN JOSE'S COYOTE VALLEY SPECIFIC PLAN (CVSP)

Ms. Palacherla announces that the City of San Jose is in the process of preparing a CVSP for the development of Coyote Valley. She notes that the North Coyote Valley Campus

Industrial area is located within the Urban Service Area (USA), the Mid-Coyote Urban Reserve area is located outside the USA, and the South Coyote Valley Greenbelt is an unincorporated area which will remain outside of San Jose's USA. Ms. Palacherla comments that the City is expected to adopt the Plan in December 2005 or early 2006.

Ms. Palacherla informs the Commissioners that LAFCO staff has been attending CVSP meetings and that the City of San Jose will be preparing a draft Environmental Impact Report (EIR) for the project. The City will begin collecting information and circulating documents in Spring 2005. She suggests that it is a good opportunity for LAFCO to provide the City with information regarding LAFCO policies and concerns relative to the USA amendment.

Ms. Palacherla states that one major concern for LAFCO is development of agricultural land in Coyote Valley and the City's plan for mitigating the loss of agricultural land. The development of Coyote Valley will result in the conversion of several thousand acres of prime agriculture land; therefore, LAFCO will strongly encourage the City to develop effective mitigation measures to address this issue. She expresses concern about an adequate water supply source for the proposed new development. Discussions are being held between the City and water supply companies in the area. Ms. Palacherla emphasizes that LAFCO will require some evidence that there is an adequate water supply to the amendment area and that the proposed water would not include the supply needed for properties already within the City.

Finally, Ms. Palacherla comments that, regarding vacant lands within the USA, LAFCO will request information or an explanation of why the expansion is necessary and how an orderly, efficient growth pattern consistent with LAFCO mandates will be maintained. She states that LAFCO will be reviewing regional issues such as jobs, transportation, impact on services, infrastructure, schools, and local agencies. She requests that LAFCO authorize staff to forward a letter to the City of San Jose regarding issues that LAFCO will consider during the Coyote Valley USA amendment process.

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered that LAFCO staff be authorized to forward a letter to the City of San Jose regarding issues that LAFCO will consider during the Coyote Valley USA amendment process.

6. LAFCO DATABASE SERVICE AGREEMENT

Ms. Palacherla requests that the Commission approve authorization to enter into a service agreement with Dennis DeMattei, Contractor, to develop a LAFCO database in FileMaker Version 7.0 in an amount not to exceed \$5,000. She states that this agreement would include

enhancing the current database by upgrading to FileMaker Version 7.0. She explains that the consultant selection process was informal and that LAFCO staff met with three consultants and determined that Mr. DeMattei was best suited to fulfill the agreement.

On motion of Commissioner Gage, seconded by Commissioner Reed, it is unanimously ordered that the LAFCO Executive Officer be authorized to enter into a service agreement not to exceed \$5,000 with Dennis DeMattei for the development and upgrade of the LAFCO database for the period of time as referred to in said agreement.

7. LAFCO ANNUAL REPORT

Ms. Palacherla reviews for the Commissioners the number of applications processed for Annexations, Reorganizations, USA Amendments, Out-of-Agency Contracts for Service Requests, and Sphere of Influence (SOI) Amendments. She points out that in April 2004, LAFCO approved the first completed County-wide Fire Service Review and that LAFCO staff has begun the second Countywide Water Service Review. In addition, she notes that LAFCO adopted the budget in a timely manner and revised the fee schedule.

Ms. Palacherla states that LAFCO staff, as well as Commission members, have actively participated in California Local Agency Formation Commission (CALAFCO) activities. She announces that Chairperson Wilson has been elected to serve on the CALAFCO Executive Board. She highlights that staff made presentations at the CALAFCO Staff Workshop that included the LAFCO database presented by Emmanuel Abello, former LAFCO Clerk, and a roundtable for the attorney session headed by Kathy Kretchmer, County Counsel.

On motion of Commission Gage, seconded by Commissioner Reed, it is unanimously ordered that the LAFCO annual report be approved.

8. EXECUTIVE OFFICER'S REPORT

8.1 Update on Countywide Water Service Review

Dunia Noel, LAFCO Analyst, reports that the Water Service Review is progressing and that the Technical Advisory Committee (TAC) met on September 15, 2004. At that time, a draft profile and schematic was presented on each water service area identifying all major water agencies in Santa Clara County as well as other water supply sources. She adds that consultants presented preliminary issues for discussion.

Ms. Noel summarizes issues discussed at the last meeting. The issues included the key role recycled water plays for outdoor water use; Morgan Hill's recent issuance of a water shortage alert and whether this is a temporary or long-term situation; and County

policies and plans that do not include urban level of service in the San Martin area, and change in land use due to construction of larger homes. She comments that this trend creates an increased demand for water as well as an increased flow to septic systems.

Ms. Noel notes that consultants determined that San Martin County Water District provides water outside of its boundaries, and mutual water companies struggle with management, regulatory requirements, and water supply/quality issues. Further, she states that Gilroy expressed concern regarding how growth and development, including planning and levels of service in the Morgan Hill and San Martin areas, will impact groundwater quality.

Ms. Noel concludes by reporting that LAFCO staff and consultants will present the draft report to stakeholder groups in October and November. At that point, staff and consultants will carefully consider all comments received, and the revised Draft Water Service Report will be reviewed and revised as necessary. The Report will be released in mid-November for public review, a public hearing will be held on the revised Draft Report on December 8, 2004, and a public hearing to adopt the final Water Service Review Report will be held in February 2005.

In response to an inquiry by Commissioner Reed regarding the Hetch Hetchy system, Ms. Noel responds that this issue was addressed by one of the agencies and included in the service review.

8.2 Letter from Creston Improvement Association

Ms. Palacherla provides the background information regarding the unincorporated Creston area. She states that the Creston area is an unincorporated pocket located in the USA in Cupertino and notes that Cupertino has the ability to require annexation before allowing development to proceed.

She states that recently the Creston Improvement Association conducted a survey in the community and determined that the residents of Creston favor Los Altos over Cupertino as the choice for annexation. Reasons provided by the Creston community for choosing Los Altos are that Creston is closer to Los Altos, the postal codes are the same, the look and feel of Creston homes are similar to homes in Los Altos, and that the residents of Creston would like to retain the small-town atmosphere instead of a city atmosphere.

Ms. Palacherla states that LAFCO staff has advised the Creston Improvement Association to contact the City of Cupertino to see if the City is willing to amend the Sphere of Influence (SOI) by removing from the SOI, and to contact the City of Los Altos to obtain approval to annex to Los Altos.

8.3 Update on Mid-Peninsula Regional Open Space District's (MROSD) Annexation of Coastal Lands in San Mateo County

Ms. Noel reports that the Certificate of Completion was recorded on September 27, 2004 and is subject to certain terms and conditions. She states that all conditions were met prior to recordation of the Certificate of Completion. She notes that now that the annexation is complete, MROSD is in the process of holding community workshops in the coastal area.

8.4 Report Back on 2004 CALAFCO Annual Conference

Ms. Noel announces that this year the Conference panel discussions included municipal service reviews and the California water supply, which is a critical issue. There was an attorney roundtable session that covered tribal issues, and a session on local government finance and the impact it may have on annexations and incorporations. In addition, legislative updates were provided as well as a keynote address regarding Assembly Bill 2038.

8.5 Update on LAFCO Workshop Regarding City Conducted Annexations

Ms. Palacherla reports that the annual LAFCO Workshop was held on September 29, 2004 and focused on city-conducted annexations, specifically, island annexations. She states that LAFCO staff provided information regarding new changes in the State law and how it affects the annexation process.

Ms. Palacherla summarizes the recent changes in the State law which allow another timeline process for islands without election and protest. She comments that the majority of the attendees were from the west valley cities and that the focal point related to annexing pockets within a city. Colin Jung, Planner, City of Cupertino, was in attendance and provided information and strategies based on his experience with annexing pockets. Ms. Palacherla emphasizes that one of the changes in the State law relates to increased acreage for pockets from 75 acres to 150 acres and the ability to use a more streamlined procedure. She informs the Commissioners that LAFCO staff will be forwarding a letter to City Councils reminding them of this provision and requesting

them to consider conducting streamlined annexations due to the two-year timeline at which time this legislation expires.

9. PENDING APPLICATIONS (Information Only)

9.1 Application for Formation of Redwood Estates Community Services District (RECS)

Ms. Palacherla reports that the formation of RECS is a complicated proposal that involves Santa Cruz LAFCO, because RECS provides wholesale water in Santa Cruz County. She states that LAFCO received a proposal and that staff is collaborating with Santa Cruz LAFCO and Santa Clara County mutuals regarding this issue. She comments that analysis has begun and that she anticipates this proposal will be agendized for the December 8, 2004 LAFCO meeting.

In response to an inquiry by Chairperson Wilson regarding the water service, Ms. Palacherla responds that notices have been sent out to all agencies including Santa Clara Valley Water District.

9.2 Application for Detachment from San Jose of Property located at 15221 Skyview Drive (APN 595-06-002)

Ms. Palachera informs the Commissioners that because this application is a detachment from the City of San Jose, it must be referred to the City. Further, she states that if the City decides to oppose this detachment, then LAFCO must oppose it. This issue has been forwarded to the City to decide whether it will support this detachment. Ms. Palacherla concludes by stating that once LAFCO receives a decision from the City, staff will proceed accordingly.

Commissioner Reed comments that he is a member of the San Jose City Council and represents the Skyview Drive area. He announces that the City approved the recommendation for detachment and that residents in the east foothills misinterpreted the policy in San Jose.

10. WRITTEN CORRESPONDENCE

There is no written correspondence.

WEDNESDAY, OCTOBER 13, 2004

11. ADJOURNMENT

On motion of the Chairperson, there being no objection, the meeting is adjourned at 1:55 p.m. to the next regular meeting scheduled to be held on Wednesday, December 8, 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