



LAFCO MEETING AGENDA

Wednesday, June 8, 2005

1:15 p.m.

**Chambers of the Board of Supervisors
70 West Hedding Street, First Floor, East Wing
San Jose, CA 95110**

CHAIRPERSON: John Howe

COMMISSIONERS: Donald F. Gage, Linda J. LeZotte, Blanca Alvarado, Susan Vicklund-Wilson

ALTERNATES: Pete McHugh, Chuck Reed, Terry Trumbull, Roland Velasco

The items marked with an asterisk (*) are included on the Consent Agenda and will be taken in one motion. At the beginning of the meeting, anyone who wants to discuss a consent item should make a request to remove that item from the Consent Agenda.

If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than \$250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than \$250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings. If you or your agent have made a contribution of more than \$250 to any commissioner or alternate during the twelve (12) months preceding the decision, in the proceeding that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings.

Pursuant to Government Code Sections 56700.1 and 81000 et seq., any person or combination of persons who directly or indirectly contribute \$1,000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to Santa Clara County LAFCO and will require an election must comply with the disclosure requirements of the Political Reform Act of 1974 which apply to local initiative measures. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information about the requirements pertaining to the local initiative measures to be presented to the electorate can be obtained by calling the Fair Political Practices Commission at (916) 322-5660.

1. ROLL CALL

2. PUBLIC PRESENTATIONS

This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on this agenda. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

3. APPROVE MINUTES OF FEBRUARY 9, 2005 MEETING

4. APPROVE MINUTES OF APRIL 13, 2005 MEETING

5. APPROVE CONSENT CALENDAR*

***5.1. West Valley Sanitation District 2005-01 (Cypress Way, Lands of Pratt/Amiri)**

A petition by the property owners to annex a 1.32 acre property (APN 532-26-099) located at 16330 Cypress Way on the west side of Cypress Way between Miravel Road and Aztec Ridge Drive in the Town of Los Gatos to the West Valley Sanitation District.

Possible Action: Approve annexation to the West Valley Sanitation District and waive protest proceedings.

PUBLIC HEARINGS

6. COUNTYWIDE WATER SERVICE REVIEW

Possible Action: Consider and adopt the final report for the Countywide Water Service Review.

7. FINAL LAFCO BUDGET FOR FISCAL YEAR 2005-2006

Possible Action: Consider and adopt the final LAFCO budget for Fiscal Year 2005-2006.

8. UPDATE ON ISLAND ANNEXATION EFFORTS

Information Only.

9. UPDATE ON LAFCO'S SOUTH CENTRAL SUB-REGIONAL SERVICE REVIEW

Information Only.

10. EXECUTIVE OFFICER'S REPORT

**A. Update on LAFCO Clerk Position
Information Only.**

**B. 2005 CALAFCO Annual Conference, Portola Plaza, Monterey
(September 7-9, 2005)**

Possible Action: Authorize staff and commissioners to attend the 2005 CALAFCO Annual Conference and authorize travel expenses funded by LAFCO Budget.

11. PENDING APPLICATIONS

Information Only.

A. San Jose 2005 Urban Service Area Amendment

12. **WRITTEN CORRESPONDENCE**

- A. **The Sphere, CALAFCO Newsletter**
- B. **Great Oaks Water Company's Proposed Service Extension to Coyote Valley Area**

13. **NEWSPAPER ARTICLES**

14. **ADJOURN**

Adjourn to the next regular meeting on Wednesday, August 10, 2005.

NOTE TO COMMISSIONERS:

Upon receipt of this agenda, please contact Dunia Noel, LAFCO Analyst, at (408) 299-5148 if you are **unable** to attend the LAFCO meeting.

In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the Clerk of the Board's Office 24 hours prior to the meeting at (408) 299-4321, TDD (408) 993-8272.

Local Agency Formation Commission of Santa Clara County

MINUTES

WEDNESDAY, FEBRUARY 9, 2005

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes the 9th day of February 2005 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 John Howe, Commissioners Donald Gage, Susan Vicklund-Wilson, Linda J. LeZotte and Blanca Alvarado.

The LAFCO staff in attendance includes Neelima Palacherla, LAFCO Executive Officer; Kathy Kretchmer, LAFCO Counsel; Dunia Noel, LAFCO Analyst; and Ginny Millar, LAFCO Surveyor.

Chairperson Howe calls the meeting to order and the following proceedings are had, to wit:

2. PUBLIC PRESENTATIONS

There are no public presentations.

3. APPROVE MINUTES OF DECEMBER 8, 2004 MEETING

On motion of Commissioner Wilson, seconded by Commissioner LeZotte, it is unanimously ordered that the minutes of December 8, 2004 be approved, as submitted.

4. LAFCO'S ISLAND ANNEXATION POLICIES

This being the time and place regularly fixed for public hearing to consider LAFCO's Island Annexation Policies, the Chairperson declares the hearing open. Proof of Publication on file with the LAFCO Executive Officer establishes that due notice has been given as required by law.

Neelima Palacherla, Executive Officer, reports that the concept of urban unincorporated island annexations is not new in Santa Clara County. She points out that in 1973, the Urban Development and Open Space Plan, jointly adopted by LAFCO, the cities, and the County, requires that urban development only occur within a city's Urban Service Area (USA). The Plan states that the County must not allow urban uses outside of the USAs. It further states that cities must pre-zone and actively pursue annexation of urban unincorporated areas within a city's

USA. For more than 30 years, these policies have formed the foundation of land use policy for Santa Clara County and the cities.

Ms. Palacherla comments on the benefits received by the cities when annexing islands. She states that island annexations would enable the unincorporated island residents to receive services and allow the cities to regulate land use, complete city plans for the entire community, address neighborhood issues, and levy taxes on all residents who use city facilities such as streets and parks. She adds that another way to address annexing islands is on a case-by-case basis and points out that due to the number of pockets or islands in existence, the streamlined process would be the most efficient way to provide a long-term solution to this issue.

Commissioner Alvarado expresses agreement with the comments by Ms. Palacherla and adds that another important reason to annex islands is that it will enable residents in those areas to participate in the electoral process to elect mayors and city council members. Ms. Palacherla notes that in 2001, the State Legislature allowed for urban islands less than 75 acres to be annexed without requiring protest proceedings or elections. She advises that none of the cities in Santa Clara County have utilized the streamlined process yet and that approximately 180 unincorporated pockets remain in 14 cities. She further advises that the Legislature expanded the streamlined island annexation process to apply to islands that are 150 acres and less, and the provision will expire at the end of 2006.

She summarizes that in December 2004, LAFCO directed staff to develop policies for island annexations in Santa Clara County. LAFCO staff drafted the policies and maps for each city and forwarded the draft policies and maps to the cities for review and comment. The draft policies were posted on the LAFCO website, and a workshop was held on January 24, 2005 to discuss the policies and process. Several city representatives attended the workshop, and LAFCO staff received feedback from four agencies. Staff revised the draft policies to address concerns raised at the workshop and in the letters, and information was posted on the website regarding the revisions. This week, comments were received from the Cities of San Jose, Morgan Hill, and Gilroy. As a result, the policies were further revised, and a staff report was prepared addressing this feedback, and copies of the revised policies and staff report are available at the meeting this date. She continues by informing the Commission that feedback has been received during the past two days from the County Planning Office and the City of Cupertino, and the City of Morgan Hill forwarded comments this date, which are available for review.

Ms. Palacherla continues by discussing the State laws enacted to encourage annexation of developed urban islands. She notes that the legislation indicates that a city council may approve annexations without protest or elections at a public hearing with notice if that annexation proposal meets certain criteria, and she provides an overview of the criteria, noting that certain provisions of the law expire in 2007. She informs the Commission that the first step of the streamlined island annexation process is for a city council to adopt a resolution for initiation of annexation at a public hearing with a public notice. There are no requirements for protest proceedings or elections as part of this process. After the city council approves the annexation, the city would forward the resolution to LAFCO. She notes that there are certain criteria for streamlined island annexations. As per the Government Code such streamlined island annexations must be initiated or proposed by city council resolution, the island must not exceed 150 acres, the area should constitute the entire island, the annexation territory should be surrounded or substantially surrounded by the annexing city and County boundary, or annexing city and adjacent cities. Additionally, the island should not be a gated community served by a community services district, and the island should be substantially developed or developing based on availability of public utility services, presence of public improvements, and presence of physical improvements; the territory must not be prime agricultural land; and the territory will benefit from annexing, or is already receiving benefits from the city; and the island was not created after January 1, 2000. The Government Code gives LAFCO the authority to adopt written procedures, policies, and standards consistent with the State law.

She notes that the Commission has the third draft of island policies, dated February 9, 2005. She continues by outlining the following policies:

Policy Number 1: In order to fulfill the intent of the State Legislature and implement the joint urban development policies of the cities, County, and LAFCO, and in the interests of efficient service provision and orderly growth development, the cities should annex urban unincorporated islands.

Policy Number 2: That LAFCO will collaborate with the cities and the County in facilitating annexation of unincorporated urban islands.

Policy Number 3: LAFCO will provide a two-year LAFCO fee waiver for annexations that result in the elimination of entire unincorporated islands; the current LAFCO fee is \$670.00 for each annexation area, and the LAFCO fee waiver will expire on January 1, 2007.

Policy Number 4: Where feasible and in furtherance of goals to support orderly growth and development, cities are encouraged to annex entire islands rather than conducting single parcel annexations.

Policy Number 5: In the interest of orderly growth and development, cities should annex urban unincorporated islands existing within their current urban service areas before seeking to add new lands to their urban service areas.

Policy Number 6: Prior to seeking any urban service area amendment, except if the urban service area amendment is to resolve a significant demonstrable public health and safety issue or the urban service area amendment is a minor corrective action, the city must initiate and complete annexation proceedings pursuant to Government Code Section 56375.3(a)(1) for all unincorporated islands that meet the provisions of Government Code Section 56375.3 unless the island constitutes publicly owned land, and for any city that has unincorporated islands larger than 150 acres, the city must adopt an annexation plan for the islands after holding community meetings, applying a pre-zoning designation, and adopting resolutions to initiate annexation.

Policy No. 7: LAFCO encourages the County to remove incentives for property owners in the unincorporated islands to remain in the County by making development standards in the unincorporated islands comparable to development standards in the surrounding city.

Policy No. 8: LAFCO will provide information on the island annexation procedures to each of the cities. LAFCO will develop process flow charts and public hearing notice and resolution templates for the cities to use. LAFCO staff will conduct workshops on island annexation processes for cities' staff.

Policy Number 9: LAFCO will work with the County, the cities, and other interested parties or agencies to find ways to reduce or share the cost of processing unincorporated island annexations.

Policy Number 10: LAFCO staff will report to the Commission at each LAFCO meeting on the status of each city's island annexation efforts.

Commissioner Gage comments that local policies for Santa Clara LAFCO seem to contain more restrictions than the State policies. He notes that State policies include words such as "encourage" or "should" where the proposed local policies indicate "must" and "shall." He suggests that the words "must" and "shall" in Policies Number 4, 5, 6, and 7 be changed to "encourage" and "suggest." He additionally expresses concern that use of the wording "must"

and "shall" may result in cities annexing lands based on this policy instead of concentrating on their priorities for annexation.

Commissioner Alvarado expresses the opinion that the word "must" should be used, because some areas in East San Jose and Burbank have been left unattended, although other areas which were considered to be more desirable have already been annexed. She further states that the window of opportunity is limited and that the proposed policies address the issue of annexation costs by allowing for fee waivers. She emphasizes that it is in the interests of the residents in these pockets to have the lands annexed. She expresses the opinion that unincorporated area residents are living as "second class" citizens and that the annexations should proceed for moral and ethical reasons as well as for orderly growth and development and that the process should be expedited. In addition, she directs attention to the City of San Jose's letter in terms of the issues regarding Proposition Prop. 218, and states County staff and County Counsel have concluded that Proposition 218 is not applicable. Commission Alvarado recommends that LAFCO adopt the policies as proposed.

Commissioner Gage states that the residents in unincorporated communities have the ability to vote for annexation if they desire to have the lands annexed into the surrounding cities. Commissioner LeZotte expresses agreement with the comment that the residents can vote for annexation as a choice. She continues by commenting on the results of recent voting on the issue of annexations in 2002 for the Burbank area, noting that the annexation effort lost by a close vote. She further notes that the Planning Director for the City of San Jose is present to discuss the matter.

Chairperson Howe initiates a brief discussion with Ms. Palacherla relating to the annexation costs, and Ms. Palacherla clarifies that the fee of \$500 or more for preparing the legal description and map is paid by the city or a private developer who wants the property annexed; the County surveyor fee of \$2000 is a set fee; and the cost of community outreach varies based on the number of mailings and the type of outreach. In addition, she notes that the cost of pre-zoning and staff analysis can vary, as well, and are paid by the city or the developer. Furthermore, she clarifies that the filing fees for the State Board of Equalization is based on acreage and is paid by the city or the developer or proponent of annexation.

Chairperson Howe requests public comment. Carol Gruetzner, resident in an unincorporated area of Los Gatos, speaks to the commissioners encouraging island annexations,

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citing concerns that the area residents cannot vote in City elections and cannot serve on City commissions. She emphasizes that there is a limited time to complete annexation under this process. She states that County Counsel, the City of Los Gatos Planning Director, the City Attorney, and the Los Gatos City Council support annexation. Commissioner Gage comments that the streamlined process only relates to properties that are 150 acres or less.

Stephen Haase, Planning Director, City of San Jose, extends his gratitude to LAFCO staff for their efforts in preparing the draft policies and for including the City's comments in the staff report. He expresses concern regarding Policy Number 6 because it limits the ability of the City of San Jose to implement planning in the Coyote Valley area until the city annexes all of its unincorporated pockets. He further notes that issues regarding Proposition 218 have not been resolved. He states that the City is pro-annexation and states that annexation costs are more than the fees that are charged by LAFCO.

In response to an inquiry by Commissioner Howe relating to an estimate of annexation costs for the City of San Jose, Mr. Haase states that an annexation can range between \$1,000 to approximately \$10,000, depending on the circumstance. Commissioner Wilson notes that the new legislation provides a cost savings to the cities during the two-year period, and this will not be available after the period ends. Mr. Haase responds that there are jurisdiction, pre-zoning, outreach, and other costs for processing annexations. Ms. Palacherla adds that there is a savings if the City chooses to use the streamlined process that does not require holding protest hearings or elections, which are costly to the cities. Mr. Haase responds that from his point of view, which may not represent the point of view of the City Attorney, the streamlined annexation process does not allow the unincorporated area residents to vote on whether taxes will be imposed on their properties.

William Faus, Planning Division Manager, City of Gilroy, refers to a letter forwarded to LAFCO from the City of Gilroy and notes that the letter outlines a number of issues focusing on the text prepared by the LAFCO Executive Officer. He states that four of the five parcels being addressed in Gilroy are not true islands in the sense of the word; rather, they are properties at the far edge of the perimeter of the City's jurisdiction. He comments that the City is in support of most of the policy amendments, although he notes objection to the use of the word "must" in Policy Number 6. He states that prior to LAFCO considering any additions to the Urban Service Area (USA), the City would be required to take into its jurisdictional boundary all existing

properties that have not been annexed by the City and that the three main land use categories of residential, commercial, and industrial are grouped together. He further expresses concerns relating to annexation costs and property which has a federally listed endangered species and a property within a habitat conservation plan. He additionally states that Policy Number 5 is redundant and unnecessary.

Mr. Faus continues by directing attention to Policy Number 3, stating that within the Urban Service Areas, LAFCO does not review city annexations as noted on the LAFCO website, and he states that the proposed policies are in conflict with this information. Commissioner Alvarado states that LAFCO should consider annexation without designating the islands. In response to an inquiry by Chairperson Howe regarding designation of islands, Ms. Palacherla refers to the maps distributed to the cities and points out that the islands are "any" unincorporated lands within a city's USA; however, she notes that it does not mean that all islands qualify for the streamlined process. She continues by stating that if the cities decide that those lands are not intended for development, she recommends that the issue be reviewed by the city and discussed with LAFCO.

Mr. Faus responds that he further objects to the requirement that all islands be annexed before LAFCO considers any additional USA expansions. Discussion ensues among the Commissioners and staff regarding the islands, noting that some are encompassed within the city limits and some are within the USA although not in the city limits and are not surrounded on four sides by the city.

Commissioner Gage reminds commissioners that the Cities of Gilroy and Morgan Hill took in a substantial amount of land in order to attract jobs to the cities and comments on safety issues relating to the need for widening of roads. Commissioner Gage states that Gilroy has not exceeded 10 percent per year in developing available land for industrial and commercial use. He expresses concerns that forcing the City to annex lands would make it difficult for the City to implement some important projects. He continues by commenting on issues relating to a hospital in Gilroy and road safety issues. Ms. Palacherla states that the existing LAFCO policy states that if cities have more than five years worth of land within the USA, not within the city limit, the city must provide LAFCO with an explanation for why it is requesting additional land. She states that whether or not the proposed policies are adopted, there is an existing LAFCO policy that cities should not be adding lands beyond what they require for five years. Commissioner

Gage and Ms. Palacherla continue by discussing issues relating to the five years' supply of vacant land within the Urban Service Area. Supervisor Gage expresses a desire that the policies allow for smaller cities to have the flexibility to plan for their land use, and he states that cities might be penalized because they have already incorporated large amounts of land that will not be developed within a few years.

Commissioner LeZotte comments on the proposed requirement that a city must initiate and complete annexation unless the island constitutes publicly owned land. Ms. Kretchmer clarifies that if there is publicly owned land, it is not a mandate that it be annexed, it is an option and LAFCO will not look for the annexation to take place prior to approving an urban service area amendment.

Commissioner LeZotte continues by referencing Item B which states that relative to annexation of parcels that are larger than 150 acres will require that a city must adopt an annexation plan, hold community meetings, apply pre-zoning designations, and adopt resolutions to initiate annexation. She inquires why Item B is needed and suggests that only Item A is necessary and that a change can be made so it is more flexible and not use the word "must" in an effort to support the goal of orderly growth and suggests wording that "LAFCO should encourage the city to initiate annexation proceedings pursuant to Government Code section for all unincorporated islands that meet the provisions of . . ." She further states that the City of San Jose has quite a few parcels that are larger than 150 acres and the proposed policy would be restrictive. She suggests that the policy be that LAFCO should encourage cities to comply with the Government Code Sections. Ms. Palacherla responds that Item A reflects that the city would be asked to initiate and complete annexation proceedings using the streamlined annexation process for islands that meet the streamlined annexation criteria. She further indicates that the city is assured of annexation success because there would be no protest and election in those instances where the islands would be less than 150 acres. She further advises that in instances where the islands are larger than 150 acres, the city does not have that assurance when it initiates the annexation process, performs outreach, and holds public hearings, which may be followed with protest proceedings and the elections and that would determine the outcome of the election.

Commissioner LeZotte notes that this is the current process, and the streamlined process only applies to islands smaller than 150 acres. The proposed policy would require a city to initiate and complete annexation processes rather than allowing the city to decide on the property

to annex. Ms. Palacherla states that even for those islands less than 150 acres, the city is not mandated or required to go through those annexations, even for those islands less than 150 acres. She states that the proposed policies apply to islands beyond 150 acres, and the cities and LAFCO have to address the islands that are smaller than 150 acres as well as those that are larger than 150 acres. Ms. Kretchmer informs the Commission that Item B was included so that LAFCO has assurance that the city is moving forward on the annexation of islands greater than 150 acres. She further states that LAFCO cannot require a city to guarantee the result because it has to go to protest and election; however, LAFCO can at least ask for a plan from the city to ensure that the city is moving forward with an attempt to annex those properties.

Commissioner LeZotte expresses concern that the policy might require the City of San Jose to initiate annexation for properties where the attempts to annex would not succeed or that annexations may not result in orderly growth for the City of San Jose.

Ms. Palacherla states that islands, whether less than or more than 150 acres, are within the city's urban service area and that for all of the areas, the city has promised to annex and provide services. The only difference is that for islands less than 150 acres, the cities and LAFCO can be assured they will be annexed once the annexation proceedings have been started. She continues by stating that for islands larger than 150 acres, all LAFCO can ask is for the cities to demonstrate to LAFCO that they have tried to annex. The policies are not intended to make the cities follow a certain path towards annexation of islands that are more than 150 acres. The steps that would be required before an annexation can take place, pre-zoning, providing outreach, holding community meetings, preparing a plan with a timeline for annexation, would not be required if the city can demonstrate to LAFCO some other way that they are going to annex the islands that are larger 150 acres.

Commissioner LeZotte expresses concern that the proposed requirements would place a burden on the City of San Jose due to the large number of islands. Ms. Kretchmer states that LAFCO wants to make a point that the cities need to move forward on the island annexations before they start providing services outside their current boundaries, which is LAFCO's mandate by state law in terms of what is considered orderly growth.

Bill Shoe, Principal Planner, Santa Clara County Planning Office, reminds the commissioners that the current policies reflect valuable history and have been the foundation for LAFCO. He states that these policies are in support of island annexations, and he encourages

LAFCO to consider the importance of these policies in light of State law and in the context of the joint urban development policies adopted by the cities and County 30 years ago. Mr. Shoe provides an overview of the history of the policies in context of the County General Plan, noting that the County has agreed to defer to the cities' general plans. He urges LAFCO to continue to support the policies in order to continue growth management efforts.

Joe Carpenter, unincorporated area homeowner, Director of the Burbank Sanitation District, and President of the Buena Vista neighborhood Association, notes that the election that failed recently was in the Buena Vista area, not the Burbank area, and it lost because Proposition 218 requires two-thirds of the voters to support. He highlights that in unincorporated areas of the County, the standards are not as high as in the surrounding cities and some businesses of questionable reputation are located just outside of the city boundaries. He expresses agreement with Commissioner Alvarado that the word "must" should remain as part of the text in the policies.

Kathy Molloy Previsich, Community Development Director, City of Morgan Hill, states that annexation applications have been submitted for the City of Morgan Hill. She further states that she is uncertain whether the recent change in State law is realistic to adjust activities of the cities to accommodate completion of island annexations within the two-year period. She adds that it would be unfortunate for the cities not to have the option to amend the USA during that time. She continues by noting that although she appreciates LAFCO informing the cities of the streamlined process, she objects to the inflexible approach requiring annexation of unincorporated islands before any amendments to the USA are considered. In addition, she states that the City does not have sufficient resources to complete the annexations within the two-year period.

Brian Schmidt, Committee for Green Foothills, states that he supports the draft island policies, specifically Policy Number 6. He comments that LAFCO can continue with the status quo or adopt the draft policies, and he expresses the opinion that Policy Number 6 is a key element for attaining the goal of annexation. He speaks of the need for flexibility with limits and states that eliminating the word "must" in Policy Number 6 would result in unlimited flexibility and that Policy Number 6B should be reinforced. He expresses agreement with Commissioner Alvarado regarding residents' rights to vote in local elections if islands are annexed.

Michael McDermott, Gilroy resident, notes that the word "must" in Policy Number 5 was amended to reflect the word "should" and expresses a preference that the word "should" be included in Policy Number 6, as well. He further speaks of the costs of annexation, including California Environmental Quality Act review timelines and other issues. Mr. McDermott concludes by stating that if Policies Number 5 and 6 are approved, the word "must" should not apply to Year 2000-2003 applications that are actively in the planning process for Urban Service Area amendment annexations deemed completed by LAFCO prior to December 2006.

Lee Wieder, Access Land Development Services, Palo Alto, informs the Commission that he attended the island annexation workshop held on January 24, 2005. He distributes and refers to a list of questions for the Commissioners noting that Policy Number 5 now reflects the word "should" instead of "must" and that Policy Number 6 should be consistent with this wording. He notes concerns relating to timelines and costs for annexations and possible protections for the cities in cases of legal challenges. He references Policy Number 9 and comments on the need to do what is right and not only consider cost issues. Commissioner LeZotte inquires regarding Policy Number 9, and Ms. Kretchmer responds that LAFCO staff provides an analysis whenever an application for annexation is received.

Forrest Furth, resident of Blossom Hill Manner, inquires as to how many of the 180 unincorporated islands are 150 acres or greater, and the Chairperson responds that 20 are larger than 150 acres. Mr. Furth comments on Policy Number 7 regarding removing incentives for opposition to annexation, noting that there is opposition on the part of residents in the unincorporated area of Los Gatos due to disparities between County and City building regulations.

John Milner, resident of Holiday Lake Estates and Architectural Director of the Holiday Lake Estates Maintenance Association, informs the Commission that some homes in the Estates are in the City of Morgan Hill, while others are in unincorporated areas. He notes that homes in the unincorporated areas require septic tanks and are on hillside locations, and he speaks of health issues relating to failing septic systems and concerns relating to maintenance of roads. Mr. Milner expresses support for the proposed annexation policies.

Collin Jung, representative of the City of Cupertino, expresses appreciation to LAFCO staff for addressing the City's concerns in the latest revision of the proposed policies. He provides background information on City support for the urban pockets program and LAFCO

policies for orderly growth and development, noting that the City has annexed 39 islands over the past seven years. Mr. Jung states that the City Attorney continues to believe that Proposition 218 prohibits the City from legally extending city taxes to annexed territory without allowing for some form of protest, and he advises that the city taxes are needed to defray the costs of servicing the annexed areas. He further expresses the opinion that if the legal problem could be eliminated, cities would be more inclined to use the island annexation proceedings. He directs attention to Policy Number 7 which encourage the County to remove development incentives for property owners to remain in the County, and he states that help from the County is critical to the success of Cupertino annexations. He concludes by recommending that the County development standards be made even more restrictive than the standards in the surrounding City.

Trish Duarte, Town of Los Gatos Public Works Department, states that some of the unincorporated area residents mistakenly believe that Proposition 13 taxes will increase as a result of incorporation. She further expresses concerns regarding Policy Number 6, Item B, regarding the costs to the City to incorporate very small pockets of one to five houses only, stating that it will take the City years to recover the costs for small annexations. She requests that the policy be revised so that a different fee is established for annexation of such small areas. In response to inquires by Commissioner Alvarado and Chairperson Howe regarding the request, Ms. Palacherla states that staff will review the annexations on a case-by-case basis and that this could include parcels that are not contiguous.

The Chairperson determines that there are no additional members of the public who desire to address the Commission on this matter. On order of the Chairperson, there being no objection, it is ordered that the hearing be closed.

Commissioner Alvarado expresses the opinion that the members of the Board of Supervisors have a sense of urgency to review the land use policies and make revisions. She notes that her comments reflect her opinion and that she is not speaking on behalf of the Board. She further states that the differences between the County standards and city standards should be recognized and notes that the lack of County resources is a reason for some of the disparity between the County infrastructure and that of surrounding cities. Commissioner LeZotte expresses appreciation for the comments by Commissioner Alvarado and briefly mentions issues relating to code enforcement, police services, and traffic concerns.

Commissioner Wilson notes that orderly growth is a mandate, and she speaks of the need for annexation of islands which are totally encompassed by cities. She states that providing services to the islands is not an efficient use of government service and that islands promote out-of-agency services being extended, which is against LAFCO policy. She further expresses the opinion that LAFCO, the County, and the cities have a responsibility to take advantage of this opportunity and that this Commission and CALAFCO should approach the Legislature to suggest that the timeline for the streamlined annexation process be extended beyond the current two-year period. She further comments that Santa Clara County LAFCO is unique within the State, because once a property comes into the USA of a local city, LAFCO is obligated to allow annexation.

Commissioner Wilson continues by expressing support for the revised proposed policies and recommends that the term islands refer only to properties that are surrounded on four sides by city land; and that Policy Number 6B be modified to reflect "shall encourage" instead of "must" for properties larger than 150 acres and the word "must" be used for properties under 150 acres.

Chairperson Howe states that the proposed policies impose an unfunded mandate on cities. He indicates that the City of Sunnyvale would be negatively impacted by the cost of annexation of its two small, unincorporated areas and that the City is not looking to expand its USA. He requests that efforts be pursued to share the costs between the County and the City.

Commissioner Gage comments that LAFCO is going beyond what the State requires and expresses the opinion that the word "must" should be changed to "should" in Policy Number 6. He moves that the policies be approved and that the word "must" be changed to "should" in Policy Number 6. Chairperson Howe seconds the motion and speaks in support of providing some financial assistance for the cities, waiving the LAFCO fee, and removing the word "must" in Policy Number 6. He additionally requests that the \$60,000 reserve from LAFCO resources be used to assist in lowering the costs and that financial assistance be included in the budget for next year. Commissioner Gage requests that staff return to the Commission with information on whether these costs have been lowered, and he states that this issue will be reviewed in the Budget Committee meetings. Commissioner Gage and Chairperson Howe agree to amend the motion to reflect that staff be directed to consider waiving some of the annexation fees, consider utilization of LAFCO reserve funds to lower annexation costs to the cities, reserve financial

assistance in the budget for next year, and report to the Commission regarding methods to respond to concerns regarding the financial impact on the cities in terms of the LAFCO budget.

Commissioners Wilson states that her understanding of the policies is that cities would only be required to annex islands under 150 acres which are completely surrounded by city lands prior to requesting an increase in their USAs. She further speaks of the need to take advantage of the opportunity provided by the legislation and states that she does not support the motion.

Commissioner Alvarado states that she does not support the motion and comments on the historic lack of political support for cities to annex certain areas and for residents to vote to support annexation.

Commissioner LeZotte requests clarification regarding the motion, and Commissioner Gage states that the words "must" included in Policy Number 6 should be revised to reflect "should encourage" to allow for flexibility. He further states that he would like for cities to annex some of the unincorporated areas and does not want to have policies that are detrimental to cities when they want to incorporate certain areas before considering annexation of other areas. In addition, he cites concerns that the policies, as proposed, exceed State requirements.

Commissioner LeZotte speaks in support of providing financial incentives to the cities. She notes that she will support the motion and expresses a desire that cities will begin annexing properties if the financial burden is reduced and comments that the issue is balance relative to the need to provide services to the areas. She raises a question relating to the word "should" and how LAFCO will respond in interpreting whether cities are adhering to the intent of the language, and Ms. Palacherla states that the language may cause cities to be uncertain about whether they have done what they need to do before coming to LAFCO. She further states that the Commission will decide on that matter.

Commissioner Wilson comments on the financial constraints of the County and cities and expresses the opinion that if land use is tied to finances, the County will have no open space or green hills. Commissioner Alvarado expresses the opinion that the word "should" is too ambiguous and will allow the cities to continue with the status quo and the opportunity provided by the current legislation will be lost.

It is ordered on a vote of three to two, with Commissioners Wilson and Alvarado voting no, that the policies be approved and that Policy Number 6 be amended to reflect "should encourage" instead of "must," that some financial assistance be provided to the cities, and that

staff be directed to consider waiving some of the annexation fees, utilization of LAFCO reserve funds to lower annexation costs to the cities, inclusion of financial assistance in the budget for next year, and to report to the Commission regarding methods to respond to concerns regarding the financial impact on the cities in terms of the LAFCO budget.

In response to an inquiry by Ms. Palacherla, Commissioner Gage affirms that Policy Number 6 will reflect that prior to seeking any urban service area amendment, except if the urban service area amendment is to resolve a significant demonstrable public health and safety issue or the urban service area amendment is a minor corrective action, the city should . . .” In response to a further inquiry by Ms. Palacherla regarding the wording in Policy Number 6, Item B, Commissioner Gage affirms that the Policy will reflect that “for any city that has any unincorporated areas larger than 150 acres, the city is strongly encouraged to adopt an annexation plan . . .”

Ms. Kretchmer comments that the motion included consideration of financial incentives in the budget process.

(Commissioner Alvarado leaves at 3:45 p.m.)

On motion of Commissioner Wilson, seconded by Commissioner Gage, it is unanimously ordered on a vote of four to zero, Commissioner Alvarado being absent, that Commissioner Wilson, who is also CALAFCO Board Member, be authorized to approach the CALAFCO Legislative Committee to suggest that the two-year deadline provision in the Island Annexation Streamlined Process be extended.

(Commissioner LeZotte leaves at 3:55 p.m.)

5. OUT OF AGENCY EXTENSION OF SEWER SERVICE TO 17360 HOLIDAY DRIVE BY THE CITY OF MORGAN HILL

Ms. Kretchmer informs the Commission that she will not participate in this item because she has been working with the Environmental Health Department. She advises that Lizanne Reynolds, Deputy County Counsel, Office of the County Counsel, will represent the Commission on this matter.

Ms. Palacherla provides an overview of the staff report. She states that the City of Morgan Hill is seeking to provide sewer service to a property in the unincorporated area of Holiday Lake Estates. The parcel is surrounded by the City of Morgan Hill and the Lake

Anderson Reservoir and is outside of the USA; however, the City provides sewer and water service to several parcels in the area. Ms. Palacherla states that over the years, LAFCO has received several requests for sewer service in this area. Due to the age, size, and terrain, the area septic systems will fail and this issue will continue to be an ongoing problem in this area resulting in more requests for sewer service from property owners and a threat to the health and safety of area residents. She points out that the Water District has expressed concern relating to the potential impact of the failing septic systems on the quality of water in Lake Anderson Reservoir, which is a drinking water source. Additionally, she notes that LAFCO policy regarding service extension favors annexation over allowing a city to extend sewer services outside its boundaries. If annexation is not immediately feasible, then extension of service may be approved in anticipation of a future annexation if the agency is able to provide to LAFCO a Resolution of Intent to annex and to provide other appropriate assurances. Until now, Measure P prevented the City from including this area in its USA; however with the revision of Measure P, the City is able to include this area within its USA and not have it count towards its population cap.

She continues by advising that LAFCO received a request for extension of sewer service from another property in the area, and the request was approved with the understanding that the City would include it in its USA after the revision of Measure P and would pursue annexation of the entire Holiday Lakes Estate area. The City's application for the property under consideration this date does not indicate that the City will annex or that it will include this area within its USA. Ms. Palacherla states that staff recommends approval of the request, because Holiday Lake Estates is a developed area surrounded by the City and Anderson Lake Reservoir, the property is facing septic system failure which is a health and threat, and the problem can only be resolved by connection to the City's sewer service. She further notes that including the area within the City's USA would allow the City to annex individual parcels if they are contiguous to the City and if they face failing septic systems if sewer service is available. Additionally, she states that inclusion of the properties in the USA does not mean that the City immediately has to annex or provide sewer service to all of the properties in the area. Further, she notes her understanding that some of the properties can only be provided sewer service through extension of new sewer infrastructure, which would require planning and development of a financial mechanism to fund the infrastructure.

Commissioner Gage states that the problem has been an issue for many years and that all of the Holiday Lake Estates residents receive water from the City already, and many have sewer service. In response to an inquiry by Commissioner Gage, Ms. Palacherla clarifies that 80 out of 200 homeowners have City sewer services. Commissioner Gage expresses a desire that LAFCO receive a firm commitment from the City that they will accept the properties into its USA and assist LAFCO in handling the matter properly. He further cites concerns regarding the failing septic systems and the potential impact on the drinking water source.

Ms. Reynolds suggests that LAFCO may choose to approve the staff recommendation conditioned on the City submitting a Resolution to LAFCO and also taking a position that LAFCO will approve the request for extension of sewer service after the City submit information indicating that the City will include the entire area within its USA. She advises that after the extension is granted, if the City does not include the area within its USA, LAFCO would not be able to rescind the extension of service to this particular parcel. In response to an inquiry by Commissioner Gage, Ms. Reynolds confirms that LAFCO has the legal ability to take this action and the failing septic systems have been a problem for some time.

Commissioner LeZotte raises a question regarding the actions being taken by the County to prevent similar problems from happening. Commissioner Gage states that the County has implemented stricter controls and that these types of issues will be resolved prior to the County issuing building permits.

The Chairperson requests public comment. Scott Plambaeck, Planning Department, City of Morgan Hill, reports that the City only considered this particular request for extension of sewer services and did not consider the issue of including the entire Holiday Lake Estates within the USA. He further notes that the City has the intention to collaborate with LAFCO to address this issue; however, he expresses the opinion that it is premature to amend the USA. He additionally states that the situation of the property owner needs to be addressed quickly; however, the City does not have the resources currently to address all of the issues regarding annexation of the entire area.

Commissioner Wilson inquires about the steps taken by the city relating to inclusion of Holiday Lake Estates in the USA. Mr. Plambaeck responds that in November 2004 the City adopted Measure C relating to growth control which allows areas such as Holiday Lake Estates to be included in the City's USA without meeting the desired infill criteria/ standards.

Commissioner Gage inquires how long this issue has been in existence, and Ms. Palacherla responds that this issue has been ongoing for several years. Commissioner Gage recommends that the City Council recognize the time spent on this issue and take action.

John Milner, Holiday Lake Estates resident, states that he supports the statement that this issue has been ongoing for too many years. He comments that for the past several years, 80 of the 200 homes in Holiday Lake Estates that are approximately 30 years old have received sewer service. He emphasizes the need for the City of Morgan Hill to create an agreement to go forward with the expansion of the USA.

Kathleen Molloy Previsich, Community Development Director, City of Morgan Hill, extends her willingness to work with LAFCO, the water treatment provider and property owners. She reports that the City of Morgan Hill has been directed to take the lead regarding the existing septic systems issue. She further reports that surveys have been circulated to address this issue; however, the results are not yet known. As of this date, there is not sufficient information available in order to formulate a solution. She comments that in the interim, the City will continue with the existing septic systems and agrees that a collaboration effort with the property owners should begin. She recommends that LAFCO approve extension of sewer service for the subject property and focus on number three of the LAFCO staff report dated February 2, 2005, "to continue to facilitate the City, County and the Santa Clara Valley Water District working together." She adds that property owners should be included in that condition.

William Corbin, Property Owner, Holiday Lake Estates, informs the Commissioners that when he purchased his home, documentation on the home stated that it was on sewer service. He states that due to the septic system problem, he has been involved in a lawsuit for three years and that it has become very expensive. He expresses concern that the result of what happens in the public hearing today will negatively impact the result of his lawsuit if LAFCO does not approve the extension of sewer service to his property. Chairperson Howe closes the public hearing.

Commissioner Gage directs a question to Richard Fuchs, Director, Consumer Protection Division, regarding whether the extension of sewer service is the best solution because the septic system cannot be corrected due to the land issue and because the system is failing and is a public health hazard. Mr. Fuchs responds affirmatively.

Chairperson Howe inquires how long it would take to implement sewer service if approval were to be granted this date. Mr. Fuchs states that LAFCO would have to obtain the information from Department of Public Works. Ms. Palacherla announces that the property is surrounded by the City of Morgan Hill on three sides and the other side is bounded by Lake Anderson.

Commissioner Wilson inquires how long it would take for LAFCO to receive a resolution from the City and comply with the California Environmental Quality Act (CEQA) so that this property can be included in the USA. Ms. Reynolds states that CEQA should not be an issue and that it would take approximately six months. Commissioner Wilson announces that the approval should be on condition that the City include the remaining Holiday Lake Estate homes into the USA; otherwise, additional requests will be denied. Ms. Reynolds responds that the condition would be feasible.

Commissioner Wilson moves that the staff recommendation to extend sewer service to 17360 Holiday Drive be approved to include that LAFCO will not approve additional requests to extend service until the City includes the entire Holiday Lake Estates in its USA, and Commissioner Gage seconds the motion. Ms. Palacherla confirms that the City would have to return to LAFCO with a City resolution requesting LAFCO to amend the USA to include Holiday Lake Estates.

Ms. Reynolds suggests revising item 2 of the staff report, "Approve request for extension of sewer service to a single-family residence located at 17360 Holiday Drive in the unincorporated area conditioned on the City submitting a resolution to LAFCO requesting inclusion of the Holiday Lake Estates area within its USA, in anticipation of future annexation. In addition, that LAFCO require the City to report to LAFCO on its plan for annexation of the Holiday Lake Estates area," and that "the resolution be sent to LAFCO by a designated time and that there be no further expansions to the USA." Commissioner Wilson suggests that the motion be amended to reflect that a resolution be sent to LAFCO by a designated time and to add that there be no further extensions of service until then. Commissioners Wilson and Gage express agreement, and the motion is amended accordingly.

It is unanimously ordered on a vote of three to zero, Commissioners LeZotte and Alvarado being absent, that sewer service be extended to 17360 Holiday Drive and that LAFCO not approve additional requests to extend service until the City submits a resolution to LAFCO

within six months to include the entire Holiday Lake Estates in the City's Urban Service Area in anticipation of future annexation and report to LAFCO on its plans for annexation of the Holiday Lake Estates area.

6. REQUEST FOR PROPOSALS (RFP) FOR PREPARING THE SOUTH CENTRAL COUNTY AND NORTHWEST COUNTY SERVICE REVIEW

Dunia Noel, LAFCO Analyst, refers to number three of the staff recommendation stating that LAFCO Executive Officer should be delegated authority to enter into an agreement with the most qualified consultant in an amount not to exceed \$140,000 (not to exceed \$70,000 for each Service Review) and to execute any necessary amendment subject to LAFCO Counsel review and approval. She announces that the recommendation should be amended to reflect that the budget for this year allows funding for \$70,000 for the South Central County Service Review in fiscal year 2005 and \$70,000 in 2006 to complete the Northwest County Service Review.

Chairperson Howe suggests appointing a Commissioner to represent the Northwest County and one for the South Central County. He volunteers to represent the Northwest County and Commissioner Gage volunteers for the South Central County.

It is unanimously ordered on a vote of three to zero, Commissioners LeZotte and Alvarado being absent, that staff issue an RFP for preparing the South Central County and Northwest County Service Reviews and authorize LAFCO Executive Officer to enter into an agreement in an amount not to exceed \$140,000 and to execute any amendments subject to LAFCO Counsel review and approval. Also, Commissioner Gage is appointed to the South Central County Service Review Technical Advisory Committee and Commissioner Howe to appointed to serve on the North West County Service Review Technical Advisory Committee.

7. EXECUTIVE OFFICER'S REPORT

7.1 Update on Countywide Water Service Review

Ms. Noel refers to and reads the update on the Countywide Water Service Review. She reports that the release of the Report has been postponed to mid-February to provide water service agencies additional time to review agency information. She states that the Report will be available online and a hard copy can be obtained in the LAFCO office. The first public hearing will be April 13, 2005. Dudek and Associates,

consultants for the Review, will provide a presentation and the meeting will be a public hearing to receive comments on the draft report. Once the Report has been revised, another public hearing will be held in June for final adoption of the Water Service Review Report.

7.2 LAFCO Budget Sub-Committee for Fiscal Year 05-06

Ms. Palacherla reports that every year a Budget Sub-Committee is formed to prepare recommendations to the full Commission and that two Commissioners are appointed to serve on the Sub-Committee. Commissioners Gage and Howe volunteer for the Budget Sub-Committee.

On motion of Chairperson Howe, seconded by Commissioner Gage, it is unanimously ordered on a vote of three to zero, Commissioners LeZotte and Alvarado being absent, that Commissioners Gage and LeZotte be appointed to serve on the LAFCO Budget Sub-Committee for Fiscal Year 05-06.

**7.3 2005 CALAFCO Annual Staff Workshop in Bakersfield
(April 20-22, 2005)**

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered on a vote of three to zero, Commissioners LeZotte and Alvarado being absent, that staff and the Clerk be authorized to attend the 2005 CALAFCO Annual Staff Workshop in Bakersfield and that travel expenses be authorized to be funded by the LAFCO budget.

7.4 2005 CALAFCO Annual Conference in Monterey (September 7-9, 2005)

Ms. Palacherla announces that information on the conference is forthcoming and will be forwarded to the commissioners when it becomes available. Commissioner Wilson announces that the next CALAFCO meeting is scheduled to be held in San Jose on April 29, 2005.

8. PENDING APPLICATIONS (Information Only)

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

Ms. Palacherla states that there is nothing new to report and that RECS is in the process of selecting a consultant to assist in prioritizing issues regarding the formation. Upon completion of this process, RECS will submit a revised application to LAFCO.

9. WRITTEN CORRESPONDENCE

9.1 CALAFCO Newsletter (Distributed in agenda packets)

9.2 Newspaper Articles

There are no newspaper articles.

10. ADJOURN

On motion of the Chairperson, there being no objection, the meeting is adjourned at 4:10 p.m. to the next regular meeting scheduled to be held on Wednesday, April 13, 2005 at 1:15 p.m. in the Chamber of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

John Howe, Chairperson

Local Agency Formation Commission

ATTEST:

Lena Vasquez, LAFCO Clerk

LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY
MINUTES
WEDNESDAY, APRIL 13, 2005

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes the 13th day of April 2005 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 John Howe, Commissioners Donald Gage, Linda J. LeZotte and Blanca Alvarado. Commissioner Susan Vicklund-Wilson arrives at 1:43 p.m.

The LAFCO staff in attendance includes Neelima Palacherla, LAFCO Executive Officer; Kathy Kretchmer, LAFCO Counsel and Dunia Noel, LAFCO Analyst.

Chairperson Howe calls the meeting to order and the following proceedings are had, to wit:

2. PUBLIC PRESENTATIONS

Brian Schmidt, Committee for Green Foothills, addresses the Commission regarding the recent permission given by the California Public Utilities Commission (CPUC) to the Great Oaks Water Company for extension of water service by Great Oaks into Almaden Valley. He emphasizes that this is not within LAFCO purview; however, since it presents a significant problem of creeping urbanization, he requests that LAFCO monitor the situation.

Neelima Palacherla, Executive Officer, notes that staff has sent a letter to the CPUC. LAFCO has no jurisdiction over Great Oaks Water Company; however, LAFCO apprised the CPUC that extension of water service into Almaden Valley is not consistent with LAFCO policies and the County's General Plan.

Commissioner Wilson arrives at 1:43 p.m.

3. APPROVE MINUTES OF FEBRUARY 9, 2005 MEETING

The minutes of the February 9th meeting, are not available and will be prepared for the next LAFCO meeting in June.

4. COUNTYWIDE WATER SERVICE REVIEW REPORT

Carolyn Schaffer, Project Manager (Dudek and Associates) for the Water Service Review, reports that LAFCO formed a Technical Advisory Committee (TAC) composed of LAFCO staff; Commissioner Wilson; Jay Baksa, City Administrator, Gilroy; Jim Ashcraft, Public Works Director, Morgan Hill; Darryl Wong, Utilities Engineer, Milpitas; Walt Wadlow, Chief Operating Officer, Santa Clara Valley Water District; and George Belhumeur, Vice President of Operations, San Jose Water Company.

Ms. Schaffer advises that an initial questionnaire was completed by the agencies and reviewed by the TAC, which then met with the agencies to discuss their concerns and clarify responses to the questionnaire. The Technical Draft was released in mid-February for review by TAC and the agencies. Their comments were incorporated into the Revised Draft for public review. The final public hearing on the service review will be held in June.

The comprehensive review included both public and private water companies. Public agencies are under LAFCO purview; private purveyors are not; however, the private purveyors were encouraged to participate. Great Oaks was the only private company that elected not to participate.

Ms. Schaffer reviews the schematic showing the various water districts, departments, and sub-basins. She explains that the San Martin area received much consideration since water quality is seriously impacted by perchlorates and nitrates in that area. The State has encouraged small water systems to join with public systems. Significant expansion is being planned in the Coyote Valley although there have been no formal determinations on water demand or sources. Some parts of the Coyote Valley are outside San Jose's Urban Service Area and applications will come before LAFCO for expansion.

Guadalupe Coyote Resource Conservation District (RCD) in the North County primarily serves the area outside the Valley, while Loma Prieta RCD in the South County serves most of the area except small parts of Gilroy, Morgan Hill, and San Martin. Guadalupe Coyote RCD is watershed-oriented, and also is involved in education and research. The Loma Prieta RCD works more with rural landowners, advising as to the best use of land, septic systems, fire-resistant plants, and other issues.

Carle Hylkema, Director of Guadalupe Coyote RCD, expresses willingness to look at economies of scale and points out that the Santa Clara Valley Water District and RCD have different goals and that it is infeasible to merge the two districts.

Commissioner LeZotte expresses appreciation to LAFCO staff for the report and notes that the San Jose City Planning Department did not receive a copy. Ms. Palacherla explains that LAFCO sent notices to all city managers, planning directors, City Councils, special district managers and others who asked to be notified. The notice stated that the report was posted on the website and gave the date and time of the hearing. The notice also reflected that public comment could be made at the hearing or submitted in writing. The report is more than 200 pages long; maps are included as downloads. LAFCO will take public comment until and including the June 8, 2005 public hearing.

On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that staff be directed to prepare the final report and set the hearing date of June 8, 2005 at 1:15 p.m.

5. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2006

Ms. Palacherla reports that, at the February 9, 2005 LAFCO meeting, Commissioners appointed a Budget Subcommittee composed of Commissioners Gage and LeZotte and LAFCO staff. The Subcommittee developed a draft budget for Commission consideration.

She continues by reporting that the proposed budget for Fiscal Year 2005-2006 is \$649,776. She notes that the Cortese Knox Hertzberg Local Government Reorganization Act (CKH Act) of 2000 requires that LAFCO adopt a draft budget by May 1 each year

and a final budget by June 15 at noticed public hearings. The CKH Act requires that the budget be at least equal to that of the previous year unless the Commission finds that statutory responsibilities can be fulfilled in spite of reduced staffing or program costs.

Ms. Palacherla further advises the Commission that service reviews and facilitation of island annex policy will be LAFCO's focus in 2006. Following the June 8, 2005 public hearing on the Water Service Review Report, LAFCO staff will begin sub regional service reviews and Sphere of influence studies for fire districts and water districts. Other items in the work plan include hiring and training of a new LAFCO Clerk, and update of LAFCO policies, web site and database. The LAFCO annual report at the end of the current fiscal year will detail the current year's LAFCO activities. Despite no increase in cost or staffing, the proposed budget is seven percent higher than that of the current year. Contract services includes \$45,000 for a consultant to conduct the sub regional service review, with the remaining \$55,000 designated for consultants who will provide assistance to cities developing annexation plans.

Ms. Palacherla states that revenues from application fees are anticipated to be much lower than in the previous year. Net operating expense is equal to expenditures less revenues less projected year-end savings. Fifty percent of costs are apportioned to the County, 25 percent to the City of San Jose, and 25 percent among the other 14 cities, based on their total revenues as reported in the 2002-2003 State Controller's Report.

The Chairperson determines that there is no additional public comment.

On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the proposed LAFCO budget be adopted for Fiscal Year 2006 and that staff be authorized to transmit the proposed budget, as well as the notice for public hearing scheduled for June 8, 2005 on the adoption of the Final Budget for Fiscal Year 2006, to each of the cities, the County, and the Cities Association.

6. UPDATE ON ISLAND ANNEXATION EFFORTS

Dunia Noel, LAFCO Analyst, reminds the Commission that LAFCO adopted the Island Annexation Policies in February 2005 to encourage cities to annex urban

unincorporated islands. LAFCO staff attended the March 23, 2005 Mayors and City Managers of West Valley Cities monthly meeting and the Los Gatos City Council's April 4, 2005 study session on island annexations. The cities are seeking County assistance with road improvements and the annexation processing costs. They also requested LAFCO assistance in development of plans and gathering of technical information. She further notes that LAFCO's proposed budget includes some funds for this purpose. LAFCO staff have spoken to representatives from San Jose, Los Altos, Los Altos Hills, and Cupertino, who requested similar assistance. LAFCO staff will prepare background information for cities and will continue to hold workshops and meet with city staff to review procedures.

Ms. Noel continues by informing the Commission that the County Planning Office is in the process of producing revised maps of urban unincorporated islands, and the maps will be included on the LAFCO website. Ms. Palacherla states that LAFCO staff have attended a Los Gatos City Council preliminary study session. Commissioner Alvarado comments on the need for a process to update LAFCO on specific jurisdiction's requests and what issues and incentives might be involved. She expresses concern about running out of time since authority for the streamlined process expires at the end of 2007. Commissioner Alvarado asks whether there has been consideration of asking for an extension of statutes allowing streamlined annexation. She references a letter that she and Commissioner Gage wrote to the County Executive regarding costs, requirements, and fees. She emphasizes the need to work in a unified manner.

Commissioner LeZotte expresses agreement and notes that city mayors and managers are also concerned about the timeframe and have asked questions regarding responsibility for road improvements, benefits, and development standards. She states that there is a need to prioritize timing and take a more aggressive stance in order not to miss the window of opportunity.

Commissioner Wilson reports that the CALAFCO Legislative Committee has discussed the issue of possible extension of the timeline with the State Legislature, and she comments that she will keep Commissioners updated.

Commissioner Alvarado suggests that LAFCO start with one area in San Jose as a pilot to show how annexation works. Commissioner Gage suggests that the members of the Board of Supervisors reconfirm with cities that the cities still want to annex islands. Ms. Palacherla advises that LAFCO staff will provide updates to Commissioners. Commissioner Howe expresses concern that costs to cities are unknown, and he states that annexation must be made revenue neutral. He suggests that LAFCO speak to the Cities Association to address the positive benefits of annexation now rather than later and to specifically address costs. Commissioner Alvarado notes that the City of Cupertino made a choice to annex without any incentive from the County because the City knew it was the right action. She further comments that lighting, curbs, and sidewalks have been overlooked in unincorporated parts of cities with poor neighborhoods.

7. SUB-REGIONAL SERVICE REVIEWS

Ms. Noel states that LAFCO has received proposals from three firms to perform the service reviews. She advises that a consultant selection committee has been formed to interview the firms on April 19, 2005, and will select one of the firms and will negotiate a final agreement, including budget, schedule, and scope of services. Two Technical Advisory Committees (TACs) are being formed, with Commissioner Gage on the South-Central Sub-Regional Service Review TAC, which will meet in mid-May, and Commissioner Howe on the northwestern sub-regional service review TAC, which may not meet until year-end. Ms. Noel explains that each TAC will also include LAFCO staff, along with one representative each from Santa Clara County Special Districts Association, City Managers Association, Santa Clara County Municipal Public Works Officials Association, and the Santa Clara County Planning Officials Association.

8. PENDING APPLICATIONS

There are none.

9. WRITTEN CORRESPONDENCE

Ms. Palacherla directs attention to the letter from the County in response to the City of Monte Sereno's request for clarification of County General Plan policy with regard to development within the City's urban service area and sphere of influence.

10. ADJOURNMENT

On motion of the Chairperson, there being no objection, the meeting is adjourned at 2:33 p.m. in honor of Mary Lou Zoglin, former LAFCO Member.

The next regular LAFCO meeting is scheduled to be held on Wednesday, June 8, 2005 at 1:15 p.m. in the Chamber of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

John Howe, Chairperson
Local Agency Formation Commission

ATTEST:

Martha Jurick, Deputy Clerk

REPORT OF THE EXECUTIVE OFFICER

Type of Application: Annexation to the West Valley Sanitation District (WVSD)
Designation: WEST VALLEY SANITATION DISTRICT 2005-01 (CYPRESS WAY)
Filed By: Landowner Petition (100% Consent)
Support By: WVSD, per Resolution No. 05.05.11 Dated 5/26/2005
LAFCO Meeting Date: June 8, 2005

1. REVIEW OF PROPOSAL:

a. Acreage and Location of Proposal:

The proposal consists of approximately 1.32 acres (APN: 532-26-099) and is located at 16330 Cypress Way in the Town of Los Gatos.

b. Proposal is: Inhabited • Uninhabited

c. Are boundaries Definite and Certain? • Yes No

d. Does project conform to Sphere of Influence? • Yes No

e. Does project create island, corridor or strip? Yes • No

f. Does project conform to road annexation policy? • Yes No

g. Does project conform to lines of assessment? • Yes No

If no, explain _____

h. Present land use: Vacant

i. Proposed land use: Single Family Home

j. Involves prime agricultural land or Williamson Act land? No

2. ENVIRONMENTAL REVIEW:

The Town of Los Gatos is the Lead Agency and has prepared a Mitigated Negative Declaration.

3. SUGGESTED CONDITIONS OR OTHER COMMENTS:

None

4. PROTESTS:

None

5. CONSENT TO WAIVE PROTEST PROCEEDINGS: (received from the following):

1. West Valley Sanitation District

6. RECOMMENDATIONS:

1. Approve annexation to the West Valley Sanitation District (WVSD) of area depicted in Exhibit A & B.

2. Waive protest proceedings.

3. Take CEQA action as recommended in the LAFCO Analyst Report (Attachment 1)

By: Neelima Palacherla
Neelima Palacherla, Executive Officer

Date: 5/31/2005

EXHIBIT "A"

LEGAL DESCRIPTION

**PROPOSED ANNEXATION TO THE WEST VALLEY SANITATION DISTRICT
W.V.S.D. 2005-01 (APN 532-26-099)
TOWN OF LOS GATOS, COUNTY OF SANTA CLARA
STATE OF CALIFORNIA**

MAY 16, 2005

BEING ALL THAT CERTAIN REAL PROPERTY DESIGNATED AS 'PARCEL ONE' WITHIN THAT CERTAIN GRANT DEED RECORDED JULY 31, 2002 AS DOCUMENT NUMBER 16392498, OFFICIAL RECORDS OF SANTA CLARA COUNTY, WHEREAS ROD WILSON, TRUSTEE AND HOLLY KAUFFMANN WILSON, TRUSTEE OF THE ROD AND HOLLY WILSON LIVING REVOCABLE TRUST GRANTS TO THOMAS M. PRATT AND NEDA AMIRI, HUSBAND AND WIFE AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP; SAID 'PARCEL ONE' IS SHOWN AS "PARCEL 1" ON THAT CERTAIN PARCEL MAP RECORDED IN BOOK 638 OF MAPS, PAGE 5, SANTA CLARA COUNTY RECORDS; SAID 'PARCEL ONE' BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIPE AT THE MOST SOUTHERN CORNER OF SAID "PARCEL 1" FROM WHICH AN IRON PIPE AT AN ANGLE POINT ON THE EASTERN BOUNDARY OF SAID "PARCEL ONE" BEARS NORTH 47° 22' 30" EAST 108.45 FEET DISTANT; THENCE ALONG THE BOUNDARY OF SAID "PARCEL 1" AS SHOWN ON SAID PARCEL MAP

- 1) NORTH 67° 54' 30" WEST 222.07 FEET; THENCE
- 2) NORTH 28° 18' 30" EAST 173.56 FEET; THENCE
- 3) NORTH 69° 08' 40" EAST 71.04 FEET; THENCE
- 4) NORTH 89° 56' 15" EAST 180.11 FEET; THENCE
- 5) SOUTH 14° 49' 00" WEST 192.21 FEET; THENCE
- 6) SOUTH 66° 43' 00" EAST 6.45 FEET TO AN IRON PIPE; THENCE
- 7) SOUTH 47° 22' 30" WEST 108.45 FEET TO THE POINT OF BEGINNING.

CONTAINING 57,444 SQUARE FEET (1.319 ACRES), MORE OR LESS.

THE SOUTHEASTERN BOUNDARY (SOUTH 47° 22' 30" WEST 108.45 FEET) OF SAID "PARCEL 1" AS DESCRIBED WITHIN THIS LEGAL DESCRIPTION IS CONTIGUOUS WITH AND ADJACENT TO THE EXISTING WEST VALLEY SANITATION DISTRICT BOUNDARY AS ESTABLISHED BY ANNEXATION 1996-4 WVSD, CYPRESS WAY, RESOLUTION NO. 97.1.1, RECORDED AS DOCUMENT NUMBER 13689439, OFFICIAL RECORDS OF SANTA CLARA COUNTY.

THIS DESCRIPTION IS BASED ON RECORD INFORMATION. THE BASIS OF BEARINGS IS THAT AS REFERENCED ON SAID PARCEL MAP. THE ATTACHED PLAT MAP IS MADE A PART OF AND SHOWS THE INTENT OF THIS DESCRIPTION.

**COMPILED BY DUNBAR AND CRAIG LAND SURVEYS, INC.
FILE NO. 05148.**

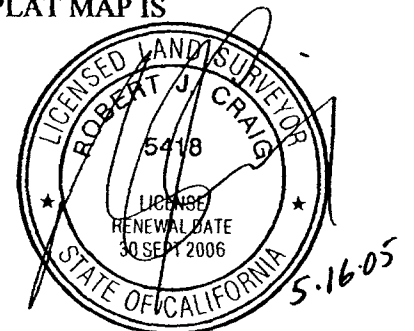


EXHIBIT 'B'

PROPOSED ANNEXATION
TO: WEST VALLEY SANITATION DISTRICT
ENTITLED: W.V.S.D. 2005-01
LOS GATOS CALIFORNIA

DUNBAR & CRAIG
LICENSED LAND SURVEYORS
236 N. SANTA CRUZ AVE, SUITE 104
LOS GATOS, CALIFORNIA 95030
(408) 399-6929

APN: 532-26-099

DATE: 5/4/05

SCALE: 1"=80'

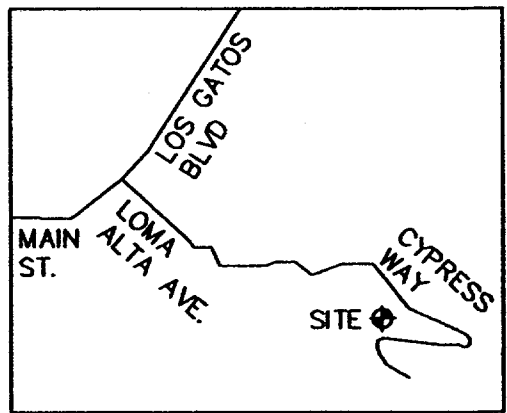
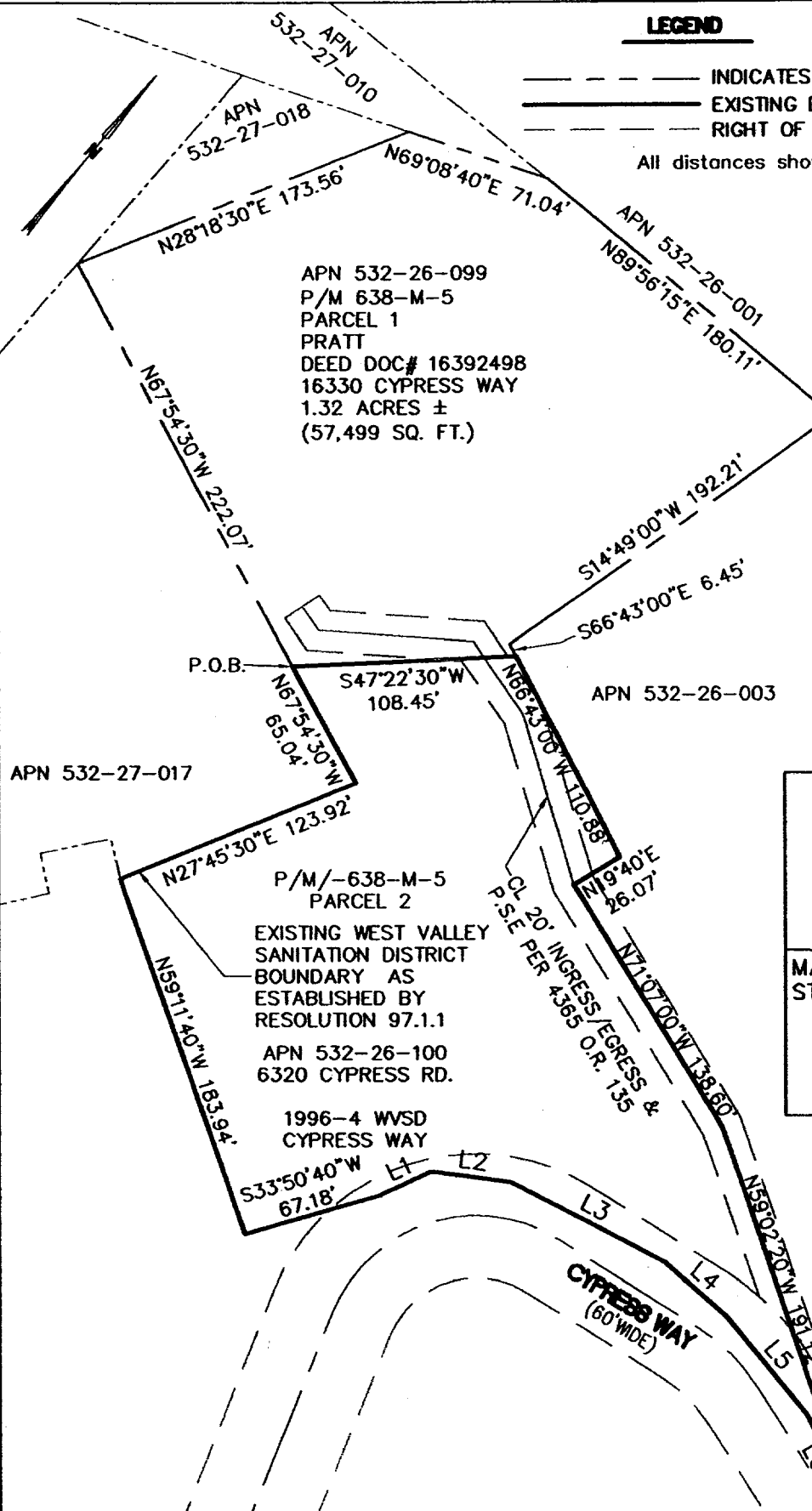
LEGEND

- INDICATES BOUNDARY OF PROPOSED ANNEXATION
- EXISTING DISTRICT BOUNDARY
- - - RIGHT OF WAY / EASEMENTS

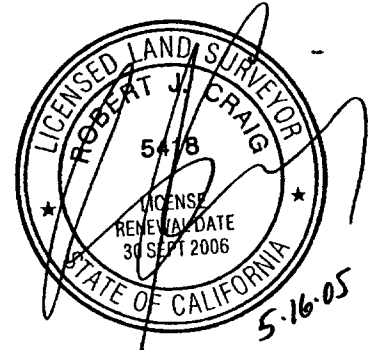
All distances shown are in feet and decimals thereof.

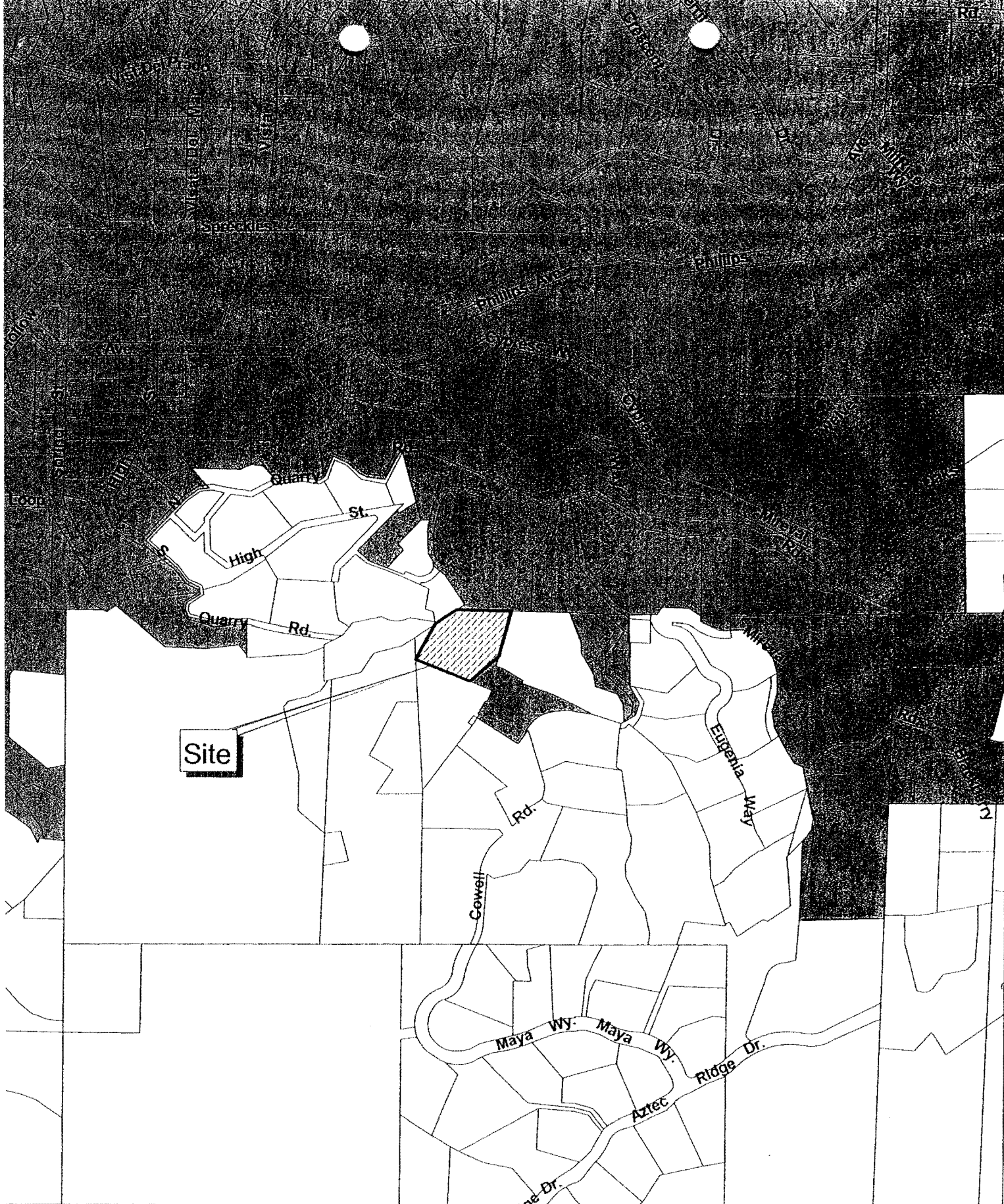
LINE TABLE

- L1 - N25°00'40"E 28.00'
- L2 - N57°52'10"E 39.37'
- L3 - N77°37'40"E 83.62'
- L4 - N88°56'50"W 39.54'
- L5 - N79°32'20"W 62.64'
- L6 - N67°05'50"W 45.55'



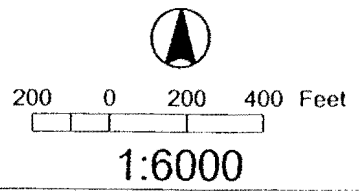
VICINITY MAP





Vest Valley Sanitation District 2005-01
 Cypress Way (Pratt/Amiri)

WVSD 2005-01
 West Valley Sanitation District



Date prepared: May 24, 2005

Hearing Date: June 8, 2005

To: The Santa Clara County Local Agency Formation Commission
From: Dunia Noel, LAFCO Analyst
Subject: West Valley Sanitation District Annexation 2005-01 (Cypress Way, Lands of Pratt/Amiri)

Recommended CEQA Action:

As a Responsible Agency under CEQA, LAFCO must take the following actions regarding the Negative Declaration for any project approved by the Commission:

1. Find that [a] the *Initial Study and Mitigated Negative Declaration* approved by the City of Los Gatos was completed in compliance with CEQA and is an adequate discussion of the environmental impacts of the project, [b] prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as shown in the *Initial Study and Mitigated Negative Declaration*.
2. Find that the Town of Los Gatos submitted a monitoring program, and that the monitoring program ensures compliance with the mitigation measures identified in the *Mitigated Negative Declaration* that would mitigate or avoid significant impacts associated with the annexation to the West Valley Sanitation District, over which LAFCO has responsibility.

Background

A property owner has petitioned LAFCO for approval to annex a 1.32 acre parcel into the West Valley Sanitation District. The parcel (Assessor Parcel No. 532-26-099) is located on the west side of Cypress Way between Miravel Road and Aztec Ridge Drive on a hillside at 16330 Cypress Way in the Town of Los Gatos. The property owners are building a single-family residence on an undeveloped site and require sewer service. The property can be accessed from Cypress Way through a new 400-foot long, 12-foot wide driveway that will have to be improved to meet Town standards.

On January 28, 2004, the Planning Commission of the Town of Los Gatos approved the construction of a new single-family residence on the property and a height variance for an accessory structure. One of the Town's conditions of approval was for the parcel to be

annexed into the West Valley Sanitation District. According to the applicant, the sewer line would be extended from Cypress Way to the proposed home, along the new driveway. An adjacent parcel is already within the West Valley Sanitation District.

The parcel is located within the town limits, urban service area and sphere of influence of the Town of Los Gatos. The 1.32 acre property is zoned HR 2-1/2 (Hillside Residential – 2.5 acres to 10 acres minimum lot size, based on slope density). The property is therefore not eligible for further subdivision. No more than 1 principal residential structure per lot is permitted in the “Hillside Residential” Zoning District. The Los Gatos General Plan designates the project site for “Hillside Residential” and this designation allows for residential uses at densities of zero to one unit per acre. Since the site is 1.32 acres, the General Plan would only allow up to one single-family residence. Because the proposed development is consistent with the density allowed under the General Plan and Zoning, and would not result in any further development potential under the current General Plan designation. The parcel is located within West Valley Sanitation District’s Sphere of Influence. The applicants are not proposing any change to the existing zoning or general plan designations.

Environmental Assessment

A Mitigated Negative Declaration was prepared for the project and adopted by the Town of Los Gatos on January 28, 2004. The applicant has submitted a mitigation monitoring program adopted by The Town of Los Gatos and that monitoring program ensures compliance with the mitigation measures identified in the *Mitigated Negative Declaration* that would mitigate or avoid significant impacts associated with the annexation to the West Valley Sanitation District, over which LAFCO has responsibility.

Environmental Factors of Concern to LAFCO

Premature Conversion of Agricultural and Open Space Lands

The project site is undeveloped and is zoned for residential uses. None of the site is considered prime agricultural land. Therefore, there are no impacts on agriculture. In addition, there would be no significant impacts on open space resources.

Growth Inducement

The 1.32 acre property is zoned HR 2-1/2 (Hillside Residential – 2.5 acres to 10 acres minimum lot size, based on slope density). The property is therefore not eligible for further subdivision. No more than 1 principal residential structure per lot is permitted in the “Hillside Residential” Zoning District. The Los Gatos General Plan designates the project site for “Hillside Residential” and this designation allows for residential uses at densities of zero to one unit per acre. Since the site is 1.32 acres, the General Plan would only allow up to one single-family residence. Because the proposed development is consistent with the density allowed under the General Plan and Zoning, and would not result in any further development potential under the current General Plan designation, the project would have no direct growth inducing impacts. The project site is located

adjacent to existing residential uses and there are residences developed on all surrounding contiguous parcels.

Provision of Public Services

According to the *Mitigated Negative Declaration*, services are currently provided to other residences in the surrounding area. The addition of one residence would not significantly increase demand for public services since services (water, electricity, fire protection, police, and garbage) are already provided to the project area. The West Valley Sanitation District has indicated that the District does have adequate sewer capacity to provide services to the property without detracting from the existing service levels within this area. As such, the overall impact on the service is minimal.

Attachments:

- A. January 28, 2004 City of Los Gatos Planning Commission Meeting Action Minutes
- B. 16340 Cypress Way *Mitigated Negative Declaration*
- C. 16340 Cypress Way Mitigation Monitoring Plan



TOWN OF LOS GATOS
PLANNING COMMISSION MEETING
ACTION MINUTES
TOWN COUNCIL CHAMBERS
110 E. MAIN STREET
WEDNESDAY, JANUARY 28, 2004 -- 7:15 P.M.

Please refer to compact disk # 01-28-04 to hear the entire proceedings of this meeting.

ROLL CALL:

Present: Paul Dubois, Chair; Michael Burke, Morris Trevithick, Lee Quintana
Absent: Jeanne Drexel, Vice Chair; Phil Micciche, Joanne Talesfore
Others: Community Development Director Bud Lortz, Associate Planner Sandy Baily and Associate Civil Engineer Fletcher Parsons

VERBAL COMMUNICATION:

Ray Davis Commented on Commissioner Dubois' service to the community and issues related to the Sobrato Development.

CONSENT CALENDAR - None

APPROVAL OF MEETING MINUTES - None

CONTINUED PUBLIC HEARING

ITEM 1 **16330 Cypress Way**
Architecture and Site Application S-03-15
Negative Declaration ND-04-2
Variance V-04-002

Requesting approval to construct a new single family residence on property zoned HR-2 ½ and a height variance for an accessory structure. No significant environmental impacts have been identified as a result of this project, and a Mitigated Negative Declaration is recommended. APN 532-26-099
PROPERTY OWNER: Tom Pratt
APPLICANT: Michael McKay
(Continued from October 22 and November 12, 2003)

PUBLIC TESTIMONY by Michael McKay, Brent Altman and Ray Davis.

MOTION: Commissioner Trevithick moved and Commissioner Burke seconded the motion to approve Architecture and Site application S-03-15. The required findings were made and the application incorporated conditions as noted in Exhibit N of the report dated January 21, 2004 with the added conditions as follows:

1. **REDWOOD TREES:** The applicant shall eliminate the redwood trees as shown in Exhibit R to the satisfaction of the Town Arborist. Four additional redwood trees shall be installed to screen the project from the neighbors with input from the Director of Community Development
2. **PLEXIGLASS EXTENSION ON DECK RAILING** The applicant shall install plexiglass on the balcony to attenuate noise to the satisfaction of the Consulting Architect and the Director of Community Development.
3. **LIGHTING PLAN FOR GUARDRAIL:** The placement and intensity of the lighting on guardrail show be installed such to ensure its conformance with the Hillside Standards to the satisfaction of the Director or Community Development.
4. **GENERATOR:** If the applicant has a generator on site, it must be n an enclosed structure and designed to attenuate sound and meet all Fire Department requirements.

Motion carried 3-1. Commissioner Quintana dissenting. Commissioners Micciche, Talesfore and Drexel absent.

Appeal rights recited by Mr. Korb.

NEW PUBLIC HEARINGS

ITEM 2 **15047 Los Gatos Blvd**
Planned Development Application PD-04-2
Architecture and Site Application S-04-05
Negative Declaration ND-04-1

Requesting approval to demolish a single family residence and to construct a two-story office building on property zoned CH. No significant environmental impacts have been identified as a result of this project, and a Mitigated Negative Declaration is recommended. APN 424-07-087.

PROPERTY OWNER: Josco Properties

APPLICANT: John Lien, Architect

PUBLIC TESTIMONY by Brad Krouskup, John Massey, Kirk Churukian, Leo Semkiw, Rob Naber, Peter Abaci, Bill George, Joan Oloff, Matthew Mingrove and John Lien.

MOTION: Since the Commission could not agree to support the PD application (original vote 2-2 and 4 votes needed in favor), they agreed to recommend denial so that the item could move forward to the Council. Chair Dubois moved and Commissioner Trevithick seconded to recommend denial of Planned Development application PD-04-2 and Architecture and Site application S-04-05. Motion to deny carried 4-0. Commissioners Micciche, Talesfore and Drexel absent.

Chair Dubois moved and Commissioner Burke seconded to approved Negative Declaration ND-04-1. Motion carried unanimously. Commissioners Micciche, Talesfore and Drexel absent.

Appeal rights recited by Mr. Korb.

ITEM 3 **815 Pollard Road**
Conditional Use Permit Application U-02-08
Architecture and Site Application S-02-49
Subdivision Application M-02-02
Negative Declaration ND-02-11

Requesting a modification of an existing conditional use permit for a new Master Plan for Community Hospital, Architecture and Site approval to construct phase one of the proposed campus expansion and Subdivision approval for a parcel merger on properties zoned O. No significant environmental impacts have been identified as a result of this project, and a Mitigated Negative Declaration is recommended. APNS 406-26-006, 007, 009, 031 through 033 and 406-27-018, 020 and 022.

PROPERTY OWNERS: Community Hospital of Los Gatos, Olga and Severino Manni and Dr. Ernest Thomas

APPLICANT: Cuschieri Horton Architects

PUBLIC TESTIMONY by Paul Estess, Terry Wilson, Suzanne Wilson, Garry & Jean Cassetta, Suneel Jan, Matthew Mingrone, Russell Andrews, Mark Johnson, Mark LaMar, Ernest Thomas, Gary Schenin, and Michael Wirtz.

Chair Dubois moved and Commissioner Trevithick seconded to continue the meeting after 11:00 p.m.

MOTION: Chair Dubois moved and Commissioner Trevithick seconded to continue this item. Item is continued to the Planning Commission meeting of March 10, 2004.

Motion carried 4-0. Commissioners Micciche, Talesfore and Drexel absent.

ITEM 4 **15280 Oak Ridge Way**
Architecture and Site Application S-03-57

Requesting approval to exceed the allowable floor area ratio on a sloping lot zoned R-1:20. APN 424-30-058.
PROPERTY OWNER/APPLICANT: David V. Alaimo

PUBLIC TESTIMONY by David Alaimo.

MOTION: Commissioner Burke moved and Commissioner Trevithick seconded to approve Architecture and Site application S-03-57. The required findings were made and the application incorporated conditions as noted in Exhibit B of report dated January 21, 2004 with a notation to the permits system **that any additional decking over the slope be limited.**

Motion carried 3-1. Commissioner Quintana dissenting. Commissioners Micciche, Talesfore and Drexel absent.

Appeal rights recited by Mr. Korb.

CONTINUED OTHER BUSINESS - None

NEW OTHER BUSINESS

ITEM 5 **Election of Chair and Vice Chair**

Commissioner Drexel appointed Chair and Commissioner Micciche appointed Vice Chair effective with the next meeting on February 11, 2004. Appointments carried 4-0.

Sub-Committee Reports

General Plan Committee - Commissioner Burke reported on the consulting architect's presentation for the Commercial Design Guidelines.

Report from Director of Community Development - Mr. Lortz thanked Commissioner Dubois for his dedication to the Commission.

In conclusion, Commissioner Dubois thanked staff and the other Commissioners for all their assistance during his three years on the Planning Commission.

ADJOURNMENT

Chair Dubois adjourned the meeting at approximately 12:15 A.M.

Planning Commission - January 28, 2004
Action Meeting Minutes
Page 5

TOWN OF LOS GATOS PLANNING COMMISSION
January 28, 2004

Commissioner Lee Quintana

APPROVED AS TO FORM AND ATTEST:

Bud N. Lortz
Director of Community Development

N:\DEV\ADMIN\SEC\PC\ACTIONMIN\2004\PC1-28-04.min.wpd

NOTICE

Town of Los Gatos Environmental Impact Review

Recommended Mitigated Negative Declaration

Lead Agency: Town of Los Gatos
Community Development Department
110 East Main Street
Los Gatos, CA 95031

**Project Title and
Location:** 16330 Cypress Way
Architecture and Site Application S-03-015

Project Description: The project applicant is requesting Architecture and Site approval to construct a new single-family residence and two-car detached carport.

The 1.32-acre project site (57,444 square feet, s.f.) is currently vacant, but previous grading activities have resulted in a steep cut slope near the southeastern project boundary and level bench to the north of this slope. The proposed home would be constructed on this bench, while the proposed carport, driveway and turnaround would be located on portions of the steep cut slope.

The proposed home would be 3,746 s.f., while the two-car carport (with storage/shop below) would be 434 s.f. It would also be two stories with building heights of 25 feet or less above the existing grade. The proposed home would cover approximately four percent of the site (2,290 s.f.), while total site coverage (including residence, carport, decks, walks, stairs, and driveway) would be approximately 10 percent of the site.

To provide access to the home from Cypress Way, a new 400-foot long, 12-foot wide driveway would be developed and it is proposed to be improved to Town standards. This driveway would connect to a hammerhead turnaround, with the ends of the hammerhead extending to two open parking spaces on the south end and a two-car carport on the north end. Due to the length of the driveway, an automatic fire sprinkler system would be installed in the proposed home.

Water, sanitary sewer, electrical, and gas lines are proposed to be extended underground from Cypress Way to the proposed home, along the proposed driveway. Wastewater would be pumped from the proposed home to the sewer line in Cypress Way.

Determination: Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures listed below have been added to the project, mitigating potential impacts to a less-than-significant level. An Environmental Impact Report will not be required.

Statement of Reasons to Support Finding:

1. Aesthetics: The undeveloped project site is located west of Cypress Way, on a north-facing slope overlooking the Town and Santa Clara Valley. At present, existing trees and brush obscure most views of the site from surrounding areas. There are four residential properties abutting the project site. Portions of the project site are visible from all four homes.

Negative Declaration – 16630 Cypress Way

on sites of three acres or less) to mitigate the project's construction-related air quality impacts to a less-than-significant level.

4. Biological Resources: Policies 11 and 12 of the Open Space Element of the Los Gatos General Plan emphasize preservation of public and private landscaping. The Los Gatos Landscaping Policy states that any tree over 12 inches in circumference that is removed by a project shall be replaced with a minimum of three 15-gallon trees. When it is not possible to replace trees removed at a 3:1 ratio, the new trees planted are required to be larger in size than 15 gallons to adequately mitigate for those trees removed; this policy satisfies the Town Tree Protection Ordinance and Town landscaping policies.

The Town retained Arbor Resources to conduct an arboricultural survey and evaluation of the project site. This survey was completed in July 2003, and report findings and recommendations are included in Attachment 1 of the Initial Study. Arbor Resources identifies 80 ordinance-size trees in the vicinity of the proposed residence: 65 coast live oaks (*Quercus agrifolia*), 1 blue oak (*Quercus douglasii*), 1 Monterey pine (*Pinus radiata*), 2 Douglas firs (*Pseudotsuga menziesii*), 8 California bay (*Umbellularia californica*), 1 deodar cedar (*Cedrus deodara*), 1 almond (*Prunus dulcis*), and 1 photinia (*Photinia sp.*). The project applicant proposes removal of 26 existing trees as part of project development: 20 coast live oaks (5- to 16-inch diameters; Trees #26, 33, 34, 36, 37, 41, 45, 46, 48, 50, 54b, 56, 57, 58, 59, 60, 61, 62, 63, and 64 shown in Attachment 1 of the Initial Study), four bay trees (5- to 13-inch diameters; Trees #10, 13, 15, and 16), 1 almond (5-inch diameter, Tree #47), and 1 photinia (4-inch diameter; Tree #49). To mitigate proposed tree removal, the Town's consulting arborist recommends replacement with 23 trees (24-inch box size), which would be equivalent to installing one tree for each one removed except for Trees #13, 47 and 49, which are in poor condition. The Parks and Public Works Department or the Town's consulting arborist will ultimately determine the adequacy of the project's landscape plan with respect to compliance with the Town's Tree Protection Ordinance and Landscaping Policy, as well as the appropriate selection of replacement tree species, reducing potential conflicts with local policies and ordinances to a less-than-significant level (Recommendation #23, Attachment 1 of the Initial Study).

In addition to proposed tree removals, proposed plans would also affect the survival and longevity of the following trees:

- *Trees #30, 31, 35, 38, 39, 42, and 43, 44, and 51:* Nine trees would be damaged so severely that long-term survival is not expected: seven coast live oaks (4- to 15-inch diameters), 1 deodar cedar (12-inch diameter), and 1 Monterey pine (32-inch diameter). Due to the extensive amount of roots that would be removed, their long-term survival and stability would be threatened. Whether or not these trees are retained, the Town's consulting arborist recommends replacement with 12 trees (24-inch box size) to mitigate potential damage. This amount is equivalent to one tree for each one affected and four trees for damage to Tree #51 (Recommendation #24, Attachment 1 of the Initial Study).
- *Tree #55:* Proposed construction of the driveway/carport and home as well as trenching of the proposed sewer and storm drain lines beneath the canopy of Tree #55 (one of two large coast live oaks that occurs on the project site) would threaten the survival and longevity of this tree. Cumulative damage to the root area would be more than 50 percent, which would be twice the tolerable impact level for this tree. The proposed driveway alone could result in severe enough damage to threaten the tree's longevity. If this tree is expected to survive with a reasonable assurance, the soil beneath the driveway and garage must remain relatively undisturbed. This would involve establishing the garage and northern portion of the driveway (including the retaining wall) without any soil grading, such as through using piers. In addition, the storm drain and sewer lines proposed above the toe of the slope should be relocated outside the tree's dripline (Recommendations #7 and 8, Attachment 1 of the Initial Study). If these revisions cannot be feasibly implemented, the

Negative Declaration – 16630 Cypress Way

This investigation concluded that development of the site as proposed is feasible from a geotechnical engineering perspective, provided recommendations in the UPP report are incorporated into the design and construction of the proposed residence and associated improvements. The primary constraints to development include: the moderately steep to steep slopes in the building area and along the driveway alignment; the variable thickness of fill and colluvium mantling the proposed building site; the unsupported cuts and engineered fills along the driveway; and the site's proximity to active and potentially active faults. The following discussion is based on information presented by UPP.

The subject property is situated on the crest of a ridge that slopes down steeply from the end of the access road. A level bench is located in the upper, southern portion of the property and a review of aerial photographs indicates it was created prior to 1965. This bench was created by cutting into the natural slope and placing fill along the downhill side of the bench. Subsurface investigations revealed that the outer edge of the existing bench (where the proposed residence would be located) and the outer edge of the existing access road are underlain by wedges of fill. These materials will likely experience consolidation and lateral creep from the force of gravity over time. UPP concluded that limestone and sandstone bedrock underlying this fill should provide adequate support for proposed foundations and therefore, the proposed residence would not be adversely affected by these conditions, provided the residence is constructed in accordance with UPP recommendations. However, such movement of the existing road fill could cause distress to the proposed driveway surface, requiring periodic driveway maintenance. UPP concluded that the risk of more significant fill failure along the downhill edge of the driveway is relatively low because of the limited extent of the fill in this area. Nonetheless, it is possible that a failure of this nature could temporarily impede site access and necessitate repairs to the driveway. Given the nature and intended use of the driveway, UPP concluded this is a reasonable risk and mitigation is not necessarily required. However, if this relatively low level of risk is deemed unacceptable, the fill should be retained. UPP recommends retaining the cut slope that occurs along the uphill side of the proposed driveway to prevent a failure of this cut (which could extend onto the adjacent property).

UPP's investigations revealed no evidence of landsliding on or immediately adjacent to the subject property. Because the moderately steep to steep slopes across the property are blanketed with fill and colluvial soil, there is a potential for relatively shallow landsliding on the slope below the residence. A landslide of this nature could be triggered by excessive precipitation or strong ground shaking associated with an earthquake. In addition, the potential exists for boulders along the fill slope on the downhill side of the existing bench to become dislodged and roll downhill. The slope below the proposed residence extends down into a seasonal drainage; there is no development below the proposed residence that could be affected by such hazards. Therefore, UPP concluded these hazards do not present a significant risk to people or improvements.

UPP concluded that no known active or potentially active faults pass through the subject property. The main trace of the Berrocal Fault, which appears to form the western boundary of the potentially active Monte Vista-Shannon Fault zone, is located approximately 1,200 feet north of the subject property. Subsurface investigations revealed a Franciscan fault trace traversing the southeastern portion of the subject property. UPP concluded that this fault is an ancient, inactive trace and does not represent a hazard to the proposed improvements. Along the eastern property boundary is a faulted contact between the Franciscan *mélange* and metasandstone. In addition to this trace, several other fault traces associated with the Franciscan Assemblage are located in the site vicinity. It is generally accepted in the local geologic community that these Franciscan fault traces are ancient and inactive. However, the San Andreas Fault and traces associated with the Monte Vista-Shannon Fault zone are considered design-faults for the area because of their proximity to the subject property and capability of producing the strongest ground shaking at the site.

Negative Declaration – 16630 Cypress Way

excavations) and drainage improvements. Prior to project completion, UPP shall submit an 'as built' construction observation letter to the Town.

Mitigation: The residence shall be located a minimum of five feet away from the fault trace.

Mitigation: Footings shall be embedded a minimum depth of 12 inches into the bedrock or to a depth at which there is a minimum five-foot horizontal separation between the bottom of the foundation and the bedrock surface, whichever is greater.

Mitigation Monitoring: The Building Division of the Community Development Department and the Engineering Division of the Parks and Public Works Department will be responsible for ensuring that all recommendations are incorporated into the project design and properly implemented during construction.

7. Hazards and Hazardous Materials: A Phase I Environmental Site Assessment (ESA) was conducted on the site by PIERS Environmental Services, Inc. and a copy of this report is available for review at the Los Gatos Community Development Department. The Phase I ESA indicates that the site is vacant with no structures or improvements. Based on historical research conducted as part of the ESA, the site has never contained any improvements. The project area has historically been developed with residences on large parcels. No quarrying has occurred at the subject property. A small amount of bedrock was moved during the creation of the level bench in the southeastern portion of the site.

The ESA indicates there is no evidence of water supply, irrigation, oil, injection, or dry wells, nor were any drains, sumps, or storage tanks observed. No hazardous materials or other chemicals were observed at the subject property. There was no evidence of any improper usage, storage, or disposal of hazardous materials or other chemicals, nor was any stained soil observed.

No evidence was found of environmental impairment resulting from on-site activities at the project site. Based on research conducted during this study, it appears unlikely that the subsurface conditions at the site have been significantly affected by contaminants originating on other nearby, agency-listed chemical use or release sites. Therefore, no further investigation of the site's subsurface conditions is recommended at this time.

According to the Los Gatos General Plan, the project site is located in a fire hazard area. General Plan Policy S.P.2.3 encourages design and siting of new development in fire hazard areas to minimize hazards to life and property, such as fire preventive site design, access, landscaping and building materials, and use of fire suppression techniques. Emergency access and fire flows at the project site are currently inadequate. As part of project development, the Santa Clara County Fire Department will require an automatic fire sprinkler system in the proposed home as well as improvement of the access driveway and driveway turnaround to fire department standards (including providing a minimum, unobstructed width of 12 feet, a paved, all-weather surface, and a maximum gradient of 15 percent, particularly on the lower portion of the driveway).

8. Hydrology and Water Quality: Elevations on the site range from a high of about 950 feet at the southeast site boundary (at the west end of the proposed access driveway) to a low of about 840 feet in the northwest corner. The project site is located on the crest of a ridge that slopes down steeply (50 to 100 percent slopes) to the north. North of (below) the cut slope and level bench that comprises the southeastern portion of the site, the slope continues down into a seasonal drainage channel that is located beyond the northwestern project boundary. Surface drainage across the site is characterized as uncontrolled sheet flow to the northwest into this seasonal drainage. No free groundwater was encountered on the site in test borings/pits conducted as part of the geotechnical investigation.

10. Noise: The Town Noise Ordinance (Chapter 16) restricts construction activities to the hours of 8:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 7:00 p.m. on weekends and holidays. This ordinance also limits noise generation to 85 dBA at the property line or 85 dBA at 25 feet from each individual piece of equipment. Project construction would result in temporary short-term noise increases due to the operation of heavy equipment. Construction noise sources range from about 82 to 90 dBA at 25 feet for most types of construction equipment, and slightly higher levels of about 94 to 97 dBA at 25 feet for certain types of earthmoving and impact equipment. If noise controls are installed on construction equipment, the noise levels could be reduced to 80 to 85 dBA at 25 feet, depending on the type of equipment. With controls, construction noise levels could be made to comply with the Town Noise Ordinance.

Residential uses are generally considered to be noise-sensitive uses or sensitive receptors. There are four single-family residences located on properties contiguous to the project site. They are located 100 feet or more from the proposed home site. The closest home is located 100 feet to the south (16320 Cypress Way), while the proposed driveway would be located as close as 65 feet from this home. The existing home at 16340 Cypress Way is located as close as 125 feet north of the proposed driveway and approximately 200 feet east of the proposed home. There are two other homes to the north and west, but they are located near the northern and western project boundaries and located farther away than the two residences to the southeast and east. At 100 feet, the ordinance noise limit (85 dBA at 25 feet) would result in maximum noise levels of 73 dBA at the adjacent residence to the southeast. Construction activities associated with the proposed driveway would be closer to this home, resulting in maximum noise levels of 77 dBA at this residence. Temporary disturbance (e.g., speech interference) can occur if the noise level in the interior of a building exceeds 45 to 60 dBA. To maintain such interior noise levels, exterior noise levels at the closest residences (with windows closed) should not exceed 70 to 80 dBA and this exterior noise level is used as a significance threshold or criterion. Maximum construction noise levels would meet but not exceed this criterion. Due to the small size of this project and short duration of home and driveway construction, such a temporary impact is considered to be mitigated to a less-than-significant level by enforcement of time restrictions and noise level standards contained in the Town Noise Ordinance.

Long-term noise increases associated with the project would result from increased traffic along the project driveway and residential activities (i.e., operation of appliances and maintenance equipment such as lawnmowers, blowers, etc.). Traffic increases associated with the project would be minor and would not significantly or measurably increase ambient noise levels in the project vicinity. Noise generated by project residential activities would be similar to noise generated by adjacent or nearby residential uses and would not conflict with the existing residential noise environment in the neighborhood.

11. Population and Housing: The proposed project would consist of one single-family residence on one parcel, and would not result in intensification of residential uses or significantly increase local or regional population. Since the project would not extend new roadways or utilities to any adjacent undeveloped lands, the project would not induce new growth. The project site is currently undeveloped and no existing housing units would be displaced by the project.

12. Public Services: Services are currently provided to other residences in the surrounding area. The addition of one residence would not significantly increase demand for public services since services are already provided to the project area. The Santa Clara County Fire Department provides fire protection services to the project area. The project would be subject to Department requirements regarding provision of an approved automatic fire sprinkler system (the proposed home is located more than 150 feet from the centerline of a public roadway containing public fire hydrants) and adequate access (turnarounds as well as driveway width, grade, and length). The Department will also require that access

Negative Declaration – 16630 Cypress Way

Date

Bud N. Lortz, Director of Community Development

MITIGATION MONITORING PLAN

DATE: February 11, 2004

PROJECT: 16330 Cypress Way, ND-01-11, M-01-13 and S-01-77

<u>Impact</u>	<u>Mitigation</u>	<u>Monitoring Action</u>	<u>Responsibility</u>	<u>Timing</u>
<p>GEOLOGY AND SOILS</p>	<p>The project design shall incorporate all applicable recommendations in UPP Geotechnology Inc's (UPP) geotechnical investigation (May 19, 2003), supplemental investigation (August 14, 2003), and supplemental information letter (August 22, 2003) for the proposed project in order to minimize the potential impacts resulting from regional seismic activity and slope instability hazards.</p>	<p>Required as a condition of approval.</p>	<p>Director of Community Development and the Parks Division of the Parks and Public Works Department.</p>	<p>Prior to the issuance of permits.</p>
	<p>The residence should be located a minimum of 5 feet away from the fault trace.</p>	<p>Required as a condition of approval.</p>	<p>Director of Community Development and the Parks Division of the Parks and Public Works Department.</p>	<p>During Construction.</p>
	<p>Footing should be embedded a minimum depth of 12 inches into the bedrock or to a depth at which there is a minimum 5-foot horizontal separation between the bottom of the foundation and the bedrock surface, whichever is greater.</p>	<p>Required as a condition of approval.</p>	<p>Director of Community Development and the Parks Division of the Parks and Public Works Department.</p>	<p>During Construction.</p>
	<p>UPP shall review final project plans to ensure that the project design reflects the intent of their geotechnical engineering design recommendations (including vertical and lateral resistance on sloping conditions). Prior to the issuance of the building and grading permits, UPP must review final construction plans (including the foundation and structural plans) for conformance with UPP and Geomatrix recommendations and submit a plan review letter to the Town.</p>	<p>Required as a condition of approval.</p>	<p>Director of Community Development and the Parks Division of the Parks and Public Works Department.</p>	<p>During Construction.</p>
	<p>UPP shall observe and document the geological conditions and geotechnical engineering aspects of construction (including retaining wall and pier foundation excavations) and drainage improvements. Prior to project issuance of a certificate of occupancy, UPP shall submit an 'as built' construction observation letter to the Town.</p>	<p>Required as a condition of approval.</p>	<p>Director of Community Development and the Parks Division of the Parks and Public Works Department.</p>	<p>During Construction.</p>

MITIGATION MONITORING PLAN

<p>GEOLOGY AND SOILS</p>	<p>All geotechnical aspects of project building and grading plans (i.e. site preparation and grading, site drainage improvements and design parameters for foundations, retaining walls, and driveway) shall be reviewed and approved by the applicant's geotechnical consultant to ensure that their recommendations have been properly incorporated. Specifically, geotechnical aspects of design calculations for any Keystone modular block retaining walls shall be reviewed by the geotechnical consultant. The results of the plan review shall be summarized by the geotechnical consultant in a letter and submitted to the Town Engineer for review prior to insurance of permits for building or grading.</p> <p>All technical aspects of the project construction shall be inspected, tested (as needed), and approved by the applicant's geotechnical consultant. The inspections shall include, but not necessarily be limited to: Site preparation and grading, site surfaces and subsurface drainage improvements, and excavations for foundations and retaining walls prior to the placement of steel and concrete. The results of these inspections and the as-built conditions of the project shall be described the geotechnical consultant in a letter and submitted to the Town Engineer for review prior to final occupancy project approval.</p>	<p>Required as a condition of approval.</p> <p>Required as a condition of approval.</p>	<p>Director of Community Development and the Parks Division of the Parks and Public Works Department.</p> <p>Director of Community Development and the Parks Division of the Parks and Public Works Department.</p>	<p>During Construction.</p> <p>During Construction.</p>
<p>BIOLOGICAL RESOURCES</p>	<p>The applicant shall meet with the Parks Superintendent concerning the need for protective fencing around the existing trees. Such fencing is to be installed prior to, and be maintained during construction. The fencing shall be a four foot high chain link attached to steel poles driven two feet into the ground when at the Dripline of the tree. If the fence has to be within eight feet of the trunk of the tree, a fence base may be used, as in a typical chain link fence that is rented.</p>	<p>Required as a condition of approval.</p>	<p>Director of Community Development and the Parks Division of the Parks and Public Works Department.</p>	<p>Prior to the issuance of a demolition permit.</p>
<p>AESTHETICS</p>	<p>All project outdoor lighting shall be low wattage, downward directional lighting to minimize lighting impacts on surrounding residences. Floor lights or pole mounted lights shall be prohibited. Outdoor light shall be incorporated into the final approved plans prior to the issuance of a building permit to minimize additional impacts on wild life, all lighting shall be designed to minimize the intensity of light reaching the creek and adjacent riparian corridor.</p> <p>The applicant shall implement the 39 recommendations made in the Arbor Resources Report, dated July 25, 2003. Installation shall be to the satisfaction of the Director of Parks and Public Works.</p>	<p>Required as a condition of approval.</p> <p>Required as a condition of approval.</p>	<p>Director of Community Development.</p> <p>Director of Community Development and the Parks Division of the Parks and Public Works Department.</p>	<p>Prior to the issuance of permits.</p> <p>Prior to the issuance of permits.</p>

Date Prepared: May 31, 2005
LAFCO Meeting: June 8, 2005

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer *af*
Dunia Noel, Analyst

**SUBJECT: Countywide Water Service Review
Final Report and Determinations**

Agenda Item # 6

STAFF RECOMMENDATION

Service Review Report

1. Consider comments at the public hearing and consider any necessary revisions to the Countywide Water Service Review Report.
2. Adopt the Countywide Water Service Review Final Report with revisions as necessary.
3. Adopt service review determinations by resolution for each of the nine categories.
4. Direct staff to prepare the Countywide Water Service Review Final Report and distribute to all the affected agencies.
5. Direct staff to begin the sphere of influence review and update process for the following special districts:
 - Santa Clara Valley Water District
 - Aldercroft Heights County Water District
 - Purissima Hills County Water District
 - San Martin County Water District
 - Pacheco Pass Water District
 - Guadalupe-Coyote Resource Conservation District
 - Loma Prieta Resource Conservation District

CEQA Action

Determine that the Countywide Water Service Review is categorically exempt from CEQA under §15306 Class 6 of the CEQA Guidelines.

BACKGROUND

State Law Requirements

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code §56000 et seq.) requires that each LAFCO conduct service reviews prior to or in conjunction with the 5-year mandated sphere of influence updates. As part of the service review, LAFCOs must prepare an analysis and written statement of determinations regarding each of the following nine categories:

- Infrastructure needs and deficiencies
- Growth and population projections
- Financing constraints and opportunities
- Cost avoidance opportunities
- Opportunities for rate restructuring
- Opportunities for shared facilities
- Government structure options (including advantages and disadvantages of consolidation or re-organization of service providers)
- Evaluation of management efficiencies
- Local accountability and governance

Service Reviews in Santa Clara County

To meet this requirement, Santa Clara LAFCO in 2002, established a work plan for conducting service reviews. This work plan required LAFCO to first gather general information and develop resources (mapping and contact information for cities and special districts) and then to develop a methodology for conducting the service reviews. Later in the year, LAFCO adopted policies for conducting service reviews, developed a method for structuring the service reviews in Santa Clara County and established priorities for conducting the reviews. The Countywide fire service review was established as the first priority, and to be followed by the water service review, after which the other sub-regional service reviews would be conducted. The Countywide Fire Protection Service Review was completed in April 2004 and LAFCO has contracted with LSA Associates, Inc. to prepare two sub-regional service reviews over the next 18 months. LSA Associates has begun to collect information on the participating agencies and

LAFCO Staff and the consultants will be holding a Project Kick-Off meeting for staff from affected agencies on June 6th.

Countywide Water Service Review Process

In April 2004, LAFCO retained Dudek and Associates to conduct the countywide water service review. A technical advisory committee (TAC) for the countywide water service review was established. In addition to LAFCO Commissioner Susan Wilson and LAFCO staff, the members of the TAC for the countywide water service review include:

Representing the Santa Clara County/Cities Managers' Association

Jay Baksa, City Administrator, City of Gilroy

Representing the Santa Clara County Municipal Public Works Association

Jim Ashcraft, Public Works Director, City of Morgan Hill

Representing the Santa Clara County Water Retailers Group

Walt Wadlow – Chief Operating Officer-Water Utility, Santa Clara Valley Water District

George Belhumeur –V.P. Operations, San Jose Water Company

Darryl Wong – Utility Engineer, City of Milpitas

The purpose of the TAC was to serve as a liaison between LAFCO and the water service agencies, to help in the consultant selection process and to provide technical expertise and advice through out the service review process.

Preparation of Water Services Profile

As a first step, the consultants interviewed and collected information and developed profiles for each of the agencies providing water services in Santa Clara County. Based on this information and input from stakeholder meetings, the consultants identified a few key issues relating to water service provision in the county.

Agencies of subject to this service review included 8 cities, 7 special districts, 5 private water purveyors and two related agencies providing water service within Santa Clara County.

Cities

1. City of Milpitas
2. City of Mountain View
3. City of Palo Alto
4. City of San Jose

5. City of Santa Clara
6. City of Sunnyvale
7. City of Gilroy
8. City of Morgan Hill

Special Districts

1. Aldercroft Heights County Water District
2. Purissima Hills County Water District
3. Guadalupe Coyote Resource Conservation District
4. San Martin County Water District
5. Santa Clara Valley Water District
6. Pacheco Pass Water District
7. Loma Prieta Resource Conservation District

Private Water Companies

1. San Jose Water Company
2. California Water Service Company
3. Great Oaks Water Company
4. West San Martin Water Works Company
5. Stanford University

Other

1. San Francisco Public Utilities Commission
2. Bay Area Water Supply and Conservation Agency

Preparation of the Draft Service Review Report

Through a process of meetings, reviews and revisions with the TAC, stakeholder groups and LAFCO staff, a draft service review report was prepared which includes an analysis of the issues and trends affecting water service in Santa Clara County. This report also includes the required service review determinations addressing the nine evaluation categories. A Technical Draft of the Countywide Water Service Review Report was released to participating agencies in February 2005. Several agencies provided comments in writing, by email, and verbally to LAFCO staff and the consultant. The Draft Report was then revised to address each agency's comments. The Revised Draft Countywide Water Service Review Report was released in mid-March for public review and comment.

The Report was posted on the LAFCO website (www.santaclara.lafco.ca.gov) and all affected agencies and interested parties were notified by mail that the Report was available for public review and comment on the LAFCO website. The notices of availability and notices of public hearings were mailed to Special

District Managers, City Managers, County Executive, City Public Works Directors, City/County Planning Directors, Private Water Company Managers, LAFCO Commissioners, and other interested parties.

Public Hearings

In April 2005, a LAFCO public hearing was held to consider the Draft Countywide Water Service Review Report and in order to accept further comments. Since the April 13, 2005 public hearing, we have received comments from the following agencies:

- City of San Jose (Municipal Water System),
- City of Gilroy, and
- City of Sunnyvale.

The consultants have prepared a response to all the comments received since the April 13th public hearing. We may receive comments from the Santa Clara Valley Water District in the next few days. If we receive them prior to the June 8th LAFCO Meeting, we will prepare a response and provide that response to the Commission at the June Meeting. Please see Attachment A for a copy of each agency's comments and the Consultant's/LAFCO Staff's response to those comments. Minor revisions have been made to the Report to address each agency's comments where appropriate. The final service review report, with all the changes incorporated into it, will be distributed to all affected agencies in Santa Clara County and posted on the LAFCO web site (www.santaclara.lafco.ca.gov).

Environmental Analysis

The Countywide Fire Protection Service Review Study is intended to serve as a information gathering tool to help LAFCO, the public and other agencies better understand water services and resource conservation services in Santa Clara County and to develop information to update the spheres of influence (SOIs) of water districts, resource conservation districts, and cities in the county. The Countywide Water Service Review consists of the following items:

- Summary Profiles of all Agencies Providing Water Services and Resource Conservation Services in Santa Clara County
- Population Projections for Santa Clara County
- Water System Regulation for Santa Clara County
- Role Recycled Water Plays in Santa Clara County
- Issues and Trends in Water Services and Resource Conservation Services in Santa Clara County and Analysis of Alternatives for Addressing Those Issues

- Service Review Determinations

LAFCO is not required to initiate boundary changes based on this service review. No action on the alternatives presented in the service review report will be taken at this time. The service review report and the determinations are Categorical Exempt under §15306 Class 6 of the CEQA Guidelines.

Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities that do not result in serious or major disturbance to an environmental resource. According to the CEQA Guidelines, these may be strictly for information gathering purposes, or as part of a study leading to an action that a public agency has not yet approved, adopted, or funded.

LAFCO, local agencies or the public may subsequently use the service reviews together with additional research and analysis where necessary, to pursue changes in jurisdictional boundaries or spheres of influence. Such changes in jurisdictional boundaries or spheres of influence will be subject to CEQA.

Government Structure Options & SOI Reviews and Updates

The report includes potential government structure options that could address specific issues for the following agencies:

Purissima Hills County Water District

The Purissima Hills County Water District's Sphere of Influence and Boundary are coterminous. However, there are two parcels currently being serviced that are located outside of the District's boundary. LAFCO discourages special districts and cities from providing services outside of their boundaries. The Report identifies two potential government structure options to address this issue:

1. Maintain the status quo, or
2. Annex the two parcels currently receiving service to the District.

San Martin County Water District

The San Martin County Water District's boundary is not coterminous with its Sphere of Influence. The District is currently serving the area within its boundaries as well as nine parcels outside its boundaries (three are for County facilities). LAFCO is aware of these areas and will address them as part of the District's Sphere of Influence update. There have been discussions in the recent past regarding the potential incorporation of the San Martin area. The proponents have indicated that they would utilize service from the existing water providers; however LAFCO can approve, deny, modify or approve in part

an incorporation proposal brought before it. To date, a formal application for incorporation has not been filed with LAFCO.

The San Martin County Water District (SMCWD) stated that it would like its service area and Sphere of Influence to be expanded such that it would include all of the San Martin Planning Area east of Monterey Road. SMCWD is working with Cherry Ranch Mutual Water Company on their request to connect their system, which serves 17 parcels, to the SMCWD. The State has ordered Cherry Ranch to disconnect its water system due to high nitrate levels. Directly across the street from Cherry Ranch is Candy Ranch Mutual Water Company, which serves five parcels. If Candy Ranch were connect to SMCWD, the project costs of a pipeline extension would drop significantly. SMCWD is working with the two mutuals, as well as other property owners along the pipeline, to try to maximize the pipeline potential and reduce the costs. The report identifies four potential government structure options for addressing these issues:

1. Maintain the status quo,
2. Dissolve the San Martin County Water District,
3. Annex:
 - a. Areas served by the current out-of-agency connections
 - b. Cherry Ranch and Candy Ranch Mutual Water Companies
4. Expand the District's boundaries to include the entire San Martin Planning Area east of Monterey Road.

Guadalupe-Coyote Resource Conservation District

The Guadalupe-Coyote Resource Conservation District (GCRCDD) is providing programs and service for the benefit of the Guadalupe, Coyote and all other watersheds within the District including the following: San Francisquito Creek, Matadero/Barron, Permanente, Stevens, Calabazas, San Tomas Aquino-Saratoga, Lower Penitencia, Upper Penitencia, and Upper Calaveras. There is the potential for some of GCRCDD's and the Santa Clara Valley Water District's watershed stewardship services to be similar, however the SCVWD could not fully provide all the conservation services and programs GCRCDD is authorized to provide. The report identifies two potential government structure options for addressing this issue:

1. Maintain the status quo.
2. Dissolve the Guadalupe-Coyote Resource Conservation District and name the SCVWD as the successor agency.

Loma Prieta Resource Conservation District.

The Loma Prieta Resource Conservation District's boundaries are entirely within the boundaries of the Santa Clara Valley Water District (SCVWD). There is the potential for some of Loma Prieta's and the Santa Clara Valley Water District's watershed stewardship services to be similar, however the SCVWD could not fully provide all the conservation services and programs LPRCD is authorized to provide. When LPRCD was originally formed, it was intended to provide soil and water conservation services to rural areas outside the cities and San Martin area. There were no subsequent updates and areas that have been annexed by the cities are still within LPRCD's boundaries. The report identifies three potential government structure options for addressing this issue:

1. Maintain the status quo.
2. Dissolve the Loma Prieta Resource Conservation District and name the SCVWD as the successor agency.
3. Detach annexed areas from the Loma Prieta Resource Conservation District

Some preliminary analysis of these options including advantages and disadvantages of each option is included in the report. Prior to implementation of these options by any party, further research and analysis is required. During the SOI review and update process, LAFCO will evaluate these options as part of the SOI review. Other groups or agencies may take this information and decide to apply to LAFCO to pursue a specific action.

Next Steps

Upon adoption of the final service review report with any changes recommended by the commission, the report will be distributed to all the affected agencies and posted on the LAFCO website (www.santaclara.lafco.ca.gov). LAFCO staff will then start work on the SOI reviews for the water districts by first meeting individually with each water district.

ATTACHMENTS

- Attachment A: Consultant's Response to Comments Received to Date
- Attachment B: Service Review Determinations
- Attachment C: Resolution Adopting Water Service Review Determinations

SAN JOSE MUNICIPAL WATER SYSTEM – RESPONSE TO COMMENTS

ITEM NO. 6
ATTACHMENT A

Comment #1:

The San Jose Municipal Water System has three wells in the Coyote Service Area and one storage tank. The wells each have a capacity of 1,800 gallons per minute, with a combined capacity of 5,400 gallons per minute; the tank has a capacity of 3.6 million gallons. These facilities serve the Metcalf Energy Center which is expected to go online in July 2005.

Comment #2:

The financial summary for the San Jose Municipal Water System will be updated to reflect FY 2003-2004.

Comment #3:

The San Jose Municipal Water System staffing levels will be updated in the final report as noted.

Comment #4:

As noted by the San Jose Municipal Water System, groundwater production capacity and storage does not equal maximum day demand in the Evergreen Service Area. The SJMWS will not be able to meet maximum day demand in this service area in the event that the SCVWD water supply is interrupted. This will be clarified in the report as noted.

Other Comments:

Minor corrections as noted will be included in the final report.

A. SAN JOSE MUNICIPAL WATER SYSTEM

Overview

The City of San Jose is the largest city in Santa Clara County, extending from the San Francisco Bay in the north to Morgan Hill in the south. There are three major water purveyors providing water service within the City's incorporated area: the San Jose Water Company and the Great Oaks Water Company, both private companies, and the San Jose Municipal Water System (SJMWS). The SJMWS serves approximately 33.3 square miles in four separate areas of the City: North San Jose/Alviso, Evergreen, Edenvale, and Coyote. Water supply includes a combination of groundwater, imported water and recycled water. The City is a member agency of BAWSCA.

1. Growth and Population

The San Jose Municipal Water System's four service areas comprise approximately 10% of the City's total population and 12% of total land area. They also include 29% of the City's land available for development. The estimated population within the combined service areas was 95,000 in 2000 and is projected to reach 144,000 by 2020. This represents an annual growth rate of 2.6%, significantly higher than other the projected rate for other cities in Santa Clara County.

The four service areas can be characterized as follows:

- North San Jose/Alviso: 3,378 acres bounded by the Alviso Slough to the north, Trimble Road to the south, Coyote Creek to the east and the Guadalupe River to the west. Land use is predominantly industrial with some residential/commercial. The area is approximately 74% developed and is expected to be fully built-out by 2010.
- Evergreen: 10,100 acres bounded by Hwy 101 on the west, the foothills of the Mount Diablo range on the east, Tully Road to the north, and City limits to the south. Land use is approximately 83% residential and 13% commercial. The area is approximately 70% developed.
- Edenvale: 600 acres of rural area east of Coyote Creek and south of Hellyer Avenue. The area is zoned for industrial use. It is currently only 10% developed and expected to be 70% developed by 2020.
- Coyote: ~~1,440~~ 1440 acres located west of Hwy 101, south of Tulare Hill, and north of Palm Avenue. It is zoned as campus industrial and currently undeveloped. The area is expected to be 50% developed by 2010.

The SJMWS currently provides service to the following connection types:

Connection Type	Count	Percent of Total
Residential	23,822	92%
Manufacturing/Industrial/Commercial	737	3%
Recycled	145	0.5%
Irrigation/Commercial/Public Agencies/Temporary	1,122	4.5%

Total	25,826	100%
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The City uses a Greenline/Urban Growth Boundary in order to define the ultimate perimeter of urbanization. Land outside the Greenline/Urban Growth Boundary is intended to remain rural permanently and kept under the County's jurisdiction.

Coyote Valley will become a major new community within the City of San Jose over the next twenty years. The Coyote Valley Specific Plan (CVSP) area encompasses 7,000 acres of mostly undeveloped land between San Jose and Morgan Hill. 3,400 acres of the northern and central sections are envisioned as an integrated living and working environment with the remaining 3,600 acres remaining as a permanent non-urban buffer between San Jose and Morgan Hill.

The City of San Jose is the lead agency for this planning effort. All of the northern Coyote Valley area is within the city limits. The City intends to expand its Urban Service Area in order to annex the mid-Coyote area, an action which will require LAFCo approval. According to the Coyote Valley Specific Plan Progress Report No. 2, "The South Coyote Valley Greenbelt will remain outside San Jose's Urban Growth Boundary, and the City has no plans to extend urban services into this area nor annex existing unincorporated properties." This level of growth will significantly increase water demand, and require major infrastructure investments. Some water system projects have already been implemented in order to support other up-front infrastructure facilities such as the Metcalf Energy Center.

There is a dispute between San Jose Municipal Water and the Great Oaks Water Company over which agency should provide water service in the North Coyote area. Great Oaks has filed a law suit over this issue, which is currently in the discovery phase. The area in question includes the Metcalf Energy Center, a major new facility that will supply electricity to Coyote Valley. The plant is expected to go online in July, 2005. The SJMWS has constructed a 3.6 million gallon water storage tank as well as ~~two~~ three new wells to serve the generating facility.

The City has made conservative projections on growth and water demand within each of its four service areas, in keeping with the City's General Plan. These projections were used for the City's 2001 Urban Water Management Plan as well as the upcoming Water Master Plan.

2. Infrastructure Needs and Deficiencies

The San Jose Municipal Water System service areas are not contiguous and therefore operate with separate systems and sources of water supply. The combined infrastructure of the SJMWS includes the following:

Facility	Quantity
Pipelines	325 miles
Reservoirs (Tanks)	17
Total Water Storage Volume	36.5 mg
Pump Stations	15
Wells	14
Total Well Pumping Capacity	26MGD
Pressure Zones	8

Water Supply

The SJMWS relies on treated surface water and groundwater for its potable supply. Groundwater accounts for approximately 3% of total supply and is primarily used in the Edenvale and Coyote areas. It serves as a backup supply for the North San Jose/Alviso and Evergreen areas. Treated water purchased from the SFPUC is used in the North San Jose/Alviso area. In the Evergreen area, treated water is supplied by the SCVWD. The following table lists the City's current and contractual water supply:

Supply	Current Volume	Maximum Available (Contractual)	Percent of Total
San Francisco Public Utilities Commission	1,685 MG	978 MG	24%
Santa Clara Valley Water District	5,064 MG	NP	73%
Groundwater Wells	210 MG	NA	3%
Total	6,958 MG		100%

NA – not applicable; NP – not provided

As noted above, the four SJMWS service areas are not interconnected and water availability in one area cannot necessarily be considered supply for the other three areas.

Recycled water is provided by South Bay Water Recycling, a program designed to provide a reliable, sustainable and drought-proof water supply to the South Bay area. This water is produced at the San Jose/Santa Clara Water Pollution Control Plant which treats wastewater from a 300 square mile area including San Jose, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga and Monte Sereno. The Plant is located in Alviso and has the capacity to treat 167 million gallons per day. Approximately 10% is treated to a tertiary level and sold for landscape, agricultural and industrial uses. The program is managed and operated by the SJMWS. Recycled water use within the SJMWS service area has successfully replaced up to 7% of potable demand in areas where it is available.

Water Demand

The aggregated existing and build-out water demands for the four service areas of the SJMWS are as follows:

Demand	Quantity
Existing Average Annual Demand (2003/4)	19 MGD
Existing Maximum Day Demand (2003/4)	33.3 MGD
Existing Peak Demand (peak hour)	47.5 MGD
Build-Out Average Annual Demand (2020)	37 MGD
Build-Out Maximum Day Demand*	69 MGD

* Based on current max day peaking factor of 1.8

The City is implementing all 14 demand management measures recommended by the California Urban Water Conservation Council to encourage water conservation and reduce water use.

Infrastructure Overview by Service Area

North San Jose/Alviso Service Area

The North San Jose/Alviso area receives water from the Hetch Hetchy system through two turnouts of from the Hetch Hetchy Aqueduct. San Jose has an temporary, interruptible contract with SFPUC for up to 3,000 acre-feet per year (approximately 978 million gallons). The contract which is set to expire in 2009 may be terminated by SFPUC with two years notice. There are four wells in the area capable of producing 5,600 gallons per minute. This can be used to supplement the imported supply if necessary. (No groundwater was used in 2003.) There are two storage tanks with a total capacity of 6 million gallons as well as two booster stations. The system pressure and capacity is adequate for domestic and fire protection service. The City has one emergency intertie in this area with the City of Santa Clara.

The SFPUC changed its water disinfectant from chlorine to chloramines in February 2004. This required some SJMWS system changes as well as public outreach. The change in water chemistry impacted dialysis patients as well as industrial users and biotechnology firms. The changeover occurred smoothly and no outstanding issues were noted.

Evergreen Service Area

The Evergreen service area primarily depends on treated, imported water supplied by the SCVWD. The water is imported through the State Water Project and the Central Valley Project and delivered to the area through three turnouts from the SCVWD system. The City has a three year contract with the SCVWD for deliveries with a provision for annual price adjustments. There are four wells in the area that are used to supplement imported supply, and the City noted that storage is more than adequate. The City has one emergency intertie in this area with the San Jose Water Company.

There is a concern about supply limitations in the Evergreen area. The City noted that in the event of an emergency and SCVWD supply is interrupted, groundwater production capacity plus storage does not equal the maximum day demand. The system is closely monitored during the summer to ensure system reliability and adequate pressure for customers and fire flow. Future growth is expected in the area as it is only approximately 70% developed. The City noted that it is unable to drill any new wells in the area and they are maximizing the available treated water.

Edenvale Service Area

The Edenvale service area relies entirely on groundwater for supply. There are three existing wells in the area each with a capacity of 1,600 gallons per minute and a 3 MG storage tank. A fourth well ~~was constructed~~ is being constructed in 2004/2005. This area is zoned for industrial use, which has the potential to have higher water demands than residential use. Future development will likely require infrastructure improvements to increase system capacity, but this is typically financed through development fees.

Coyote Service Area

The Coyote area is also dependent on groundwater. There are three wells in the area with a capacity of 1,800 gpm and a 3.6 MG storage tank. ~~One has a temporary capacity of 300 gallons per minute and is the main source of water. There are plans to complete pumping facilities for the other two wells in the future so that at build-out there will be three pumps with a combined capacity of 4,500 gallons per minute.~~

The current SJMWS Coyote service area boundaries include a portion of the future Coyote Valley community. When this community is developed, water demand will significantly increase. The SCVWD has a Central Valley Project turnout in the area for raw imported water, but there are currently no water treatment facilities. The Santa Teresa treatment plant is further north. The SJMWS recently constructed a 3.6 million gallon storage tank as well as two new wells in the North Coyote area ~~to serve the new Metealf Energy Center.~~

Summary

~~With the exception of the Evergreen area, the SJMWS has adequate supply to meet the current and projected demands for its service area provided that planned strategies are implemented by the SCVWD and SFPUC. These strategies include structural improvements to the Hetch Hetchy system, water banking, conservation measures and expansion of recycled water systems. The City is in the process of updating its Water System Master Plan and has an ongoing capital improvements program to address aging infrastructure and other infrastructure needs. The City noted that improving system security and maintaining funding levels for capital improvements will be some of the challenges it faces in the next few year~~

3. Financing Constraints and Opportunities

The San Jose Municipal Water System operates as an enterprise activity. The following table summarizes its financial activity for FY 2003-2004, as provided by the City.

San Jose Municipal Water System -FY 200 -200 Financial Summary				
Revenue -	Water Sales/Service Charges	\$17,538,000	19,941,000	968%
	Other Revenue - Interest	\$691,000	392,000	42%
	Total	\$18,229,000	20,333,000	100%
Expenses -	Operations	\$3,838,000		17%
	Water Purchases*	\$13,099,000	10,920,000	8449%
	CIP Projects	\$3,032,000	6,244,000	1928%
	Admin/Management	\$1,054,000		4%
	Dep./Ins./Transfers/Other	425,000		2%
	Total	\$16,131,000	22,481,000	100%
Reserves		\$12,172,000	10,878,000	6753% of Revenue

* Purchases from SFPUC and SCVWD

The SJMWS maintains reserves for both operations and capital improvements. At the end of FY 2003, approximately 65% of total reserves were for operations and 35% for capital needs. The SJMWS is required by ordinance to transfer funds to the City's General Fund for a prescribed Rate of Return and overhead costs. The Rate of Return is based on water revenues and other factors and has an annual cap of 8%.

The City has an AA+ credit rating by both Standard and Poor's and Fitch. There are no outstanding bonds for the water system. The last audit was completed by the Macias Group in June, 2003.

The SJMWS noted that increasing costs for wholesale water purchases and other operational expenses have become a financial constraint, particularly when coupled with the costs for capital improvements. The recent escalation in projected costs for the SFPUC Regional CIP will only exacerbate the situation as it is expected to further increase the wholesale water rates. The City is committed to stabilizing rates to the greatest extent possible and does not fully integrate annual cost increases into the retail rate structure. Therefore, the SJMWS must use reserves or reduce expenses elsewhere to cover the shortfall.

4. Cost Avoidance Opportunities

The San Jose Municipal Water System is actively utilizing cost avoidance and cost savings opportunities for its water service. For example, the SJMWS is automating a number of

processes and incorporating the use of a Geographic Information System (GIS) to inventory pipelines and other infrastructure.

The SJMWS is also rehabilitating or replacing aging infrastructure. This includes a program for water main replacement which can be accelerated if necessary based on the number of breaks. Preventative maintenance and planned replacement are effective cost avoidance opportunities as they reduce the potential for more costly repairs in the future.

In January 2004, the South Bay Water Recycling program was reorganized and the management was transferred to the SJMWS. This has provided economies of scale and greater efficiency the SJMWS and the SBWR program.

Lastly, San Jose is a signatory to the California Urban Water Conservation Council's Memorandum of Understanding regarding urban water conservation and implements all 14 Best Management Practices through its partnership with SCVWD.

5. Management Efficiencies

The San Jose Municipal Water System operates with the following staff:

Staff Type	Number FTE's
Management/Administrative	3
Operational	1315
Professional/Support	19
Total	3537

The City uses planning documents to guide operations and system improvements. The SJMWS is in the process of updating its Water Master Plan. The Urban Water Management Plan was completed in 2000 and will be updated in 2005 as required by law.

The SJMWS is in the process of automating a number of systems, including the use of GIS and a computerized maintenance management system. Performance measurements are used to evaluate efficiency and cost effectiveness, and the results are reported to the City Council quarterly.

As mentioned above, the management of South Bay Water Recycling was recently transferred to the SJMWS during the reorganization of the program. The operational aspects of the recycling program are highly complementary to water operations and efficiency has increased due to synergy between the staff.

6. Shared Facilities

The San Jose Municipal Water System shares facilities where appropriate and beneficial to the City's water utility. It participates in water conservation programs sponsored by SCVWD

consisting of several residential and commercial programs as well as public education efforts. The SJMWS also manages the South Bay Water Recycling program, which has multiple partners including the Cities of San Jose, Milpitas, and Santa Clara; five sanitation districts; the San Jose Water Company and the Great Oaks Water Company; the Santa Clara Valley Water District, and the US Bureau of Reclamation.

The SJMWS has emergency water interties with the City of Santa Clara in the North San Jose/Alviso area and the San Jose Water Company in the Evergreen area. These jointly-owned and maintained connections allow the agencies to share water as needed during emergencies or temporary service interruptions.

The SJMWS has a ten-year contract with the San Jose Water Company to provide emergency repair services. The City is a member of BAWSCA and actively participates in the regional coordination that the Agency provides.

7. Rate Restructuring

Supply Rates

The San Jose Municipal Water Service is currently paying the following rates for its water supply:

SFPUC: Treated Water = \$479/AF

SCVWD: Treated Water = \$495/AF, Groundwater = \$405/AF

The SFPUC rate increased 25% from the prior year, and the SCVWD rate increased 9.5%. Rates for both SFPUC and SCVWD are expected to continue to increase significantly over time, which will result in rate increases for retail water customers. The City makes every effort to stabilize retail rates and has not directly passed on all cost increases in the past. It was noted that in recent years two public safety positions have been eliminated as a direct result of the increased cost for water service. The City sees this issue as one of its most significant challenges in the next few years and is actively working through BAWSCA and the SCVWD Water Retailers Group regarding a strategy to stabilize water rates.

Demand Rates

The San Jose Municipal Water Service uses a multi-tiered rate structure to encourage conservation. The structure also includes pricing by zone, with four price zones in the Evergreen service area, two in the North San Jose/Alviso area and a single zone in the other two areas. Customers also pay a meter service charge and a 5% utility tax. For a standard residential customer using a ¾" meter and 500 gallons a day (20 hundred cubic feet per month), the monthly cost would be as follows:

$\$6.00 \text{ meter charge} + 7 @ \$1.45 + 7 @ \$1.67 + 6 @ \$1.87 = \$39.06$

The SJMWS has increased rates 8% over the past two years and expects to increase them another 42% annually in the next two years. These consumer rate changes reflect the increased cost of wholesale water as well as general cost increases associated with utility operations and maintenance.

8. Government Structure Options

The San Jose Municipal Water Service is operated through the City's Environmental Services Department. Other City departments such as Finance, Legal, Planning and Fire provide related services. No other government structure options were noted.

9. Local Accountability and Governance

The San Jose Municipal Water Service provides information pertaining to water service, conservation and water recycling on its website (www.sanjoseca.gov). The City has prepared and published their annual 2003 Water Quality Report; there were no violations to report. The City also has an online customer satisfaction survey that provides an opportunity for customers to provide feedback on their interactions with the SJMWS, City, and Environmental Services Department staff.

The SJMWS is addressed by the City Council during Council meetings. Council members are elected at large to serve staggered four-year terms. The 11-member Council generally meets every Tuesday at 1:30 PM. Public hearings are generally held every other Tuesday evening on the first and third Tuesdays of the month at 7:00 PM. Agendas and minutes are posted on the City website.

The City is meeting the required standards for local accountability and governance, with public notice of council meetings and actions.

- DETERMINATIONS -

1) Population and Growth

The San Jose Municipal Water System serves approximately 12% of San Jose's incorporated area including 10% of the City's population. Population within the water service area is expected to reach 144,000 by 2020.

The SJMWS has four distinct service areas: North San Jose/Alviso, Evergreen, Edenvale and Coyote.

The City has planned for growth and development through its General Plan and Urban Water Management Plan and is integrating the projections into its upcoming Water Master Plan.

2) Infrastructure Needs and Deficiencies

The San Jose Municipal Water System uses treated surface, ground and recycled water for its supply. Treated surface water is purchased from SFPUC for the northern reach of the service area; treated surface water from the SCVWD is used in the Evergreen area. The Edenvale and Coyote service areas rely on groundwater.

~~Water supply capacity is below SJMWS will not be able to meet maximum day demands standards in the Evergreen area in the event SCVWD water supply is interrupted; groundwater production capacity and storage does not equal the maximum day demand, and the system must be closely monitored in warmer months to ensure adequate service levels.~~

Recycled water supply is obtained from the San Jose/Santa Clara Water Pollution Control Plant; demand is increasing.

The SJMWS is upgrading its water delivery system through rehabilitation and replacement of aging facilities.

3) Financing Constraints and Opportunities

The San Jose Municipal Water System operates as an enterprise activity. Per ordinance, the SJMWS is required to reimburse the General Fund for overhead costs as well as a Rate of Return. ~~The annual cap on the Rate of Return-General Fund transfers is set at 8% of revenues.~~

The SJMWS maintains reserves for both operations and capital expenditures.

4) Cost Avoidance Opportunities

The San Jose Municipal Water System is in the process of automating a number of processes and is including the use of Geographic Information System technology. This is expected to provide greater efficiency and result in future cost savings.

The SJMWS has an ongoing program for water main replacement, which will reduce the risk of more costly repairs in the future.

5) Management Efficiencies

The San Jose Municipal Water Service uses performance measurements to monitor efficiency. The results are reported quarterly to the City Council.

The SJMWS uses a computerized maintenance management system to monitor and plan for system maintenance. This increases operational efficiency and allows for coordinated preventative maintenance.

6) Shared Facilities

The City of San Jose is a member agency of BAWSCA and is a partner with SCVWD for implementation of water conservation measures. The City jointly operates several water turnout facilities and manages the South Bay Water Recycling program.

7) Rate Restructuring

The San Jose Municipal Water System uses a multi-tiered rate structure to promote water conservation. The rate structure is based on delivery zones, allowing the underlying costs for water acquisition, treatment and delivery in a given area to be included.

The expected increase in the cost of imported water from both SFPUC and SCVWD represents a significant challenge to the City in terms of moderating future rate increases.

San Jose reviews and adjusts water rates annually based on internal budget projections.

8) Government Structure Options

The San Jose Municipal Water System is operated through the Environmental Services Department. The SJMWS utilizes other departments within the City to accomplish such tasks as finance, planning, fire protection, and information technology for operations. No other government structure options were noted.

9) Local Accountability and Governance

The City of San Jose ensures local accountability and governance standards are met through the oversight and management provided by the City Council. The San Jose Municipal Water System is addressed during City Council meetings. The City provides information on the water utility, water conservation and water recycling on its website and in printed form.

CITY OF GILROY – RESPONSE TO COMMENTS

Comment #1:

The location of the SCRWA treatment plant will be corrected in the final report. According to the SCVWD's Water Use Efficiency Annual Report for 2002-2003, the 2004 Recycled Water Master Plan identifies short-term and long-term capital improvement projects for recycled water expansion. The City of Gilroy noted that there is no issue with obtaining recycled water customers in the areas where recycled water is available.

Comment #2:

The City of Gilroy did expand its 20-year boundary to include 660 acres of agricultural land in 2002. If development was to occur, total water demand for non-agriculture uses would increase significantly, based on the type of land use. There may be impacts to groundwater resources that would need to be evaluated as part of the consideration regarding whether to extend the City's Urban Service Area.

Comment #3:

The SCVWD's report "Groundwater Conditions 2001" references past overdraft conditions but does not specifically state that the Llagas Sub-basin, which Gilroy draws from, is overdrafted. The SCVWD is the groundwater management agency for Santa Clara County and conjunctively manages groundwater and surface water. Per the District's 2001 report, "Groundwater production is offset by the District's artificial recharge program and through natural recharge."¹ The Water Service Review report will be corrected.

Comment #4:

The City noted that septic systems do not impact water quality due to distance from the City's wells. The primary issue for Gilroy is agricultural operations which use nitrates that eventually filter into the groundwater. Perchlorate contamination originating in the northern portion of the Llagas sub-basin is also an issue.

Comment #5:

<<City to provide follow-up on UWMP data versus their comment>>

Gilroy noted in its 2000 Urban Water Management Plan that it expects demand to increase to 11 MGD at build-out of the General Plan.

Comment #6:

The City noted that it does not expect water service to be impacted by the State budget act of 2004. Gilroy operates its water utility as an enterprise activity with the cost borne by the rate payers. The Water Service Review report will be corrected.

¹ SCVWD. Groundwater Conditions 2001. July 2002. page 15

Comment #7:

The City is not timing pumping operations to use off-peak electricity rates. The Water Service Review report will be corrected.

Comment #8:

The SCVWD has increased rates for FY 2005-2006 to \$215 per acre-foot, which represents a 7.5% increase rather than the 25% expected at the time the Water Service Review report was prepared. Future rate increases are projected to range from 6.5% to 7%. The City will factor the SCVWD rate increase into its water rate adjustment for the next fiscal year. The City noted that it has asked the SCVWD to develop long-term rate projections that fully consider the issues and associated costs for water supply, water quality, and infrastructure in the South County so that the City can undertake long-range fiscal planning for its water utility.

Comment #9:

The determination will be deleted per the response to Comment #7.

Other Comments:

Minor corrections as noted will be included in the final report.

A. CITY OF GILROY

Overview

The City of Gilroy, located in the southern most portion of Santa Clara County, encompasses 14.65 square miles and provides water services to approximately 46,000 residents. The water utility is managed by the Operations Division of the City's Community Services Department. Gilroy's only source of water is groundwater, making groundwater quality a critical issue. Moderate growth is projected for the South County, including Gilroy. The City recently completed its Water System Master Plan to ensure that system reliability and capacity is in keeping with the projected growth.

1. Growth and Population

The City of Gilroy has three planning boundaries: the city limits of the incorporated area, the Urban Service Area, and a 20-year planning boundary. The City's sphere of influence extends from Fitzgerald Avenue/Masten Avenue south to the San Benito County border. The City considered growth and population projections in its 2020 General Plan, estimating a population of 60,500 to 62,500 in 2020. In October 2003, the 2020 projection was revised to 65,082. A higher rate of growth is projected up until 2010 with an incremental increase of 1,100 additional residents per year. Growth from 2010 through 2020 is projected to be somewhat slower with an increase of only 800-1,000 new residents per year. This yields an average annual growth rate of 2.8% through 2020. ABAG's 2005 projections estimate Gilroy's population at 53,500 in 2005, reaching 66,400 by 2030. The estimated build-out population based on land use designations in the General Plan is 82,136.

The City currently provides water service to the following connection types:

Connection Type	Count	Percent of Total
Residential	10,324	89.33%
Manufacturing/Industrial/Commercial	837	7.24%
Irrigation/Agriculture	392	3.39%
Recycled	3	.03%
Total	11,556	100%

The City has developed a vision for the character and quality of Gilroy which provides guidance and direction for the General Plan's goals, policies and implementing actions. The vision identifies desirable city attributes which include the following that relate to growth, development and the provision of water service:

- Small town character
- Rural setting, surrounded by open space
- Compact, integrated development pattern; and
- Link between growth and resources.

City Water Agencies: C. Gilroy

Two primary principles of Gilroy's 2020 General Plan include managing growth and minimizing cost. Growth is managed through the use of the 20-year growth boundary, Urban Service Area boundary, Residential Development Ordinance, and policies that coordinate development approvals with infrastructure extensions and service provision. Costs are minimized by directing growth to areas that will be less expensive to serve and where potential impacts can be reduced.

The amount of undeveloped land within a jurisdiction also serves as an indicator of potential growth. Gilroy's 2020 General Plan noted the following inventory of undeveloped land in 1999: Residential 26%, Commercial 29%, and Industrial 74%. Land uses of developable land also indicate the potential for increased water demand, particularly in the industrial sector. Depending on the industry type and processes, industrial water demand can be significantly greater than residential or commercial demand. Industrial demand can be met with recycled water in some cases. The City of Gilroy in conjunction with the Santa Clara Valley Water District (SCVWD) and South County Regional Waste Water Authority (SCRWA) are working to maximize the use of recycled water in South County. Existing SCRWA recycled water treatment facilities can produce 3 million gallons per day (mgd) of tertiary treated recycled water, and expansion to 6 mgd capacity is expected to be completed by the end of 2005. The October 2004 Recycled Water Master Plan, that was developed jointly by SCRWA and the SCVWD, includes pipeline projects to deliver recycled water to new customers.

1 Deleted: Some areas in California have made major inroads in replacing potable water with recycled water specially treated to industry standards. However, in Gilroy the majority of the developable vacant land is east of Highway 101 on the opposite side of the freeway from the wastewater treatment plant. Extending service into the area would require a major infrastructure investment and may not be cost effective under current conditions.

Growth will continue to be a significant issue for Gilroy, both in terms of planning for infrastructure and the resultant increase in water demand. The County's planning and development approvals within the adjacent San Martin area inherently affect Gilroy for groundwater impacts. Gilroy's groundwater flows southward from Morgan Hill and San Martin, and the continued use of septic systems outside the two Urban Service Areas increases the risk of nitrate levels exceeding acceptable limits in Gilroy. The cost for more intensive water treatment processes to mitigate lower water quality will ultimately be borne by the rate payers. As the South County area increases in population, jurisdictions with more employment opportunities will see increased demand within commercial and industrial areas. The South County Joint Area Plan establishes the framework for planning coordination between the three jurisdictions (Morgan Hill, Gilroy and the County). Continued collaboration and coordination among the water purveyors in South County will benefit the Gilroy community.

2 Deleted: In 2002 Gilroy expanded its 20-year boundary to include 660 acres of agricultural land. If development were to occur, the total water demand for Gilroy would increase significantly, requiring greater levels of groundwater recharge in the area. 1

The City has addressed the impact on water service from growth and the projected increase in population in its 2020 General Plan, 2004 Water Master Plan and 2000 Urban Water Management Plan.

2. Infrastructure Needs and Deficiencies

Gilroy's water system is comprised of the following:

Facility	Quantity
Pipelines	120 miles
Reservoirs (Tanks)	11
Total Water Storage Volume	14.07 MG
Pump Stations	6 (booster)
Wells	8
Total Well Pumping Capacity	15.47 MGD
Pressure Zones	3

Gilroy has adopted infrastructure standards that are more costly to construct but have a longer usable life and reduced maintenance and repair costs. In particular, the Gilroy distribution system is constructed with cast iron pipe and the storage reservoirs are all steel or concrete. The oldest reservoir was built in 1969.

The City adopted its Water Master Plan in May 2004. The Plan provides for system improvements based on projected growth and increased demand, using the build-out conditions of the 2020 General Plan. The Master Plan includes recommendations in several areas, and implementation is planned to coincide with development and capacity needs.

- Distribution System: new or increased capacity pipelines to extend service to areas of new development
- Supply Capacity: construction of 8 new wells to meet increased demand in 2005 equal to a total of 22.8 MGD
- Storage Capacity: additional storage capacity of 5.3 MG for Pressure Zone 1 and 0.71 MG storage reservoir for Pressure Zone 2 South
- Mesa Ridge Water System: new pipelines and infrastructure that would be required to serve a proposed development
- Fire Flow Improvements for Downtown Commercial Area: pipeline replacement to provide adequate capacity for fire flow.

The Master Plan includes a recommended Capital Improvement Program based on the findings and recommendations.

The City noted several infrastructure improvements that are either planned or in the process of being implemented. These include four new wells to be constructed over the next few years: two in 2005, one in 2006 and one in 2009. The City is also adding two new storage reservoirs at 0.710 MG each. The budget includes funding for improvements to 9,188 feet of pipeline.

The City has budgeted for capital improvements through FY 2023. One significant annual budget item is for meters; this expenditure is budgeted at \$300,000 per year through the 2010 and \$100,000 per year

City Water Agencies: C Gilroy

through 2023. For FY 2004-2005, the City has budgeted \$683,612 for capital improvements to the water system and \$5.6 million for water development projects such as wells and the sports park water main extension.

It was noted in the Water Master Plan that there is insufficient fire flow in the downtown area during peak demand conditions. Recommendations include replacing 7,300 feet of existing 4" pipe with 6, 8 and 10" mains. The City will be addressing the upgrades through its maintenance and replacement budget rather than the CIP.

Water Demand

Existing and build-out water demands within Gilroy are as follows:

Demand	Quantity
Existing Average Day Demand	7.44 MGD
Existing Maximum Day Demand*	17.1 MGD
Existing Peak Demand	13.7 MGD
Build-Out Average Day Demand	14.8 MGD
Build-Out Maximum Day Demand	34.0 MGD*

* Based on current max day peaking factor of 2.3

Per the City's 2000 Urban Water Management Plan, Gilroy has experienced a range of per capita consumption rates in the past. This is expressed as "gallons per capita per day" (GPCD). The high was 205 GPCD in 1984 and the low was 143 GPCD in 1991. The City currently uses a rate of 180 GPCD for its planning. Using an estimated household size of 3.46 persons per ABAG projections, the daily demand per residential unit is 622.8 gallons.

Water Supply

Gilroy's current water supply is as follows:

Supply	Current Volume	Maximum Available (Contractual)	Percent of Total
Groundwater Wells	17,362 AF	NA	100%
Total	17,362 AF	NA	100%

Gilroy overlies the Llagas Sub-basin and shares this groundwater resource with the other water providers in the South County. Groundwater is the sole source of domestic supply as the City has no interconnections to other systems. Gilroy operates eight wells on the valley floor, treating the water at the wellhead prior to distribution. Groundwater recharge is performed by the SCVWD, and the City pays a pump tax to cover its share of those costs.

3 Deleted: Gilroy is actively pursuing overdraft reduction through the use of Demand Management Measures and water recycling.

City Water Agencies: City of Gilroy

There is no groundwater flow model for the South County. However, State Department of Water Resources maps dated 1914 and 1974 indicate a south-southeasterly direction of groundwater flow under the City of Gilroy. The water elevation map prepared by the SCVWD in 2001 indicated a southeasterly direction of flow as well. Agriculture is known to increase nitrate levels in groundwater. The highest incidence of nitrates in Gilroy is in Well No. 8 with a Maximum Contaminant Level (MCL) of 36 mg/L, still below the threshold of 45 mg/L for drinking water.

4 Deleted: This has implications for the groundwater quality within Gilroy, particularly with the continuing use of septic systems in the San Martin area and previous manufacturing land use. Septic systems and agriculture

Perchlorate contamination from previous manufacturing operations further north has been identified in the northeastern outskirts of the City, east of Highway 101. The City is actively participating in the Perchlorate Working Group, along with the SCVWD, Morgan Hill and the County, to restore groundwater quality in the most expedient, cost-effective manner. The group is also pursuing cost recovery to ensure that the financial burden for treatment does not rest on the water utility agencies.

Deleted: are
Deleted: However, if land use intensifies in the San Martin area, there is a concern that the nitrate levels will rise.

Recycled water is treated to a tertiary level at the South County Regional Wastewater Authority (SCRWA) facility in south east Gilroy. The SCVWD owns the distribution system. Water is distributed to five irrigation customers with a combined usage of 700 acre feet per year. Gilroy noted in its 2000 Urban Water Management Plan that it expects demand to increase to 11 MGD at build-out of the General Plan.

5 Deleted: is available in the northern portion of Gilroy. The water
Deleted: northern
Deleted: The plant has the capacity to treat up to 3 MGD.
Deleted: by 2020
Deleted: The SCRWA is in the process of upgrading its treatment capacity to 9 MGD.

Water Storage

Current water storage capacity is 14.07 MG, which can supply up to 1.6 days of average daily demand. The City is in the process of adding an additional 1.42 MG capacity. The 2004 Water Master Plan includes recommendations, based on build-out conditions, to add an additional 5.3 MG of storage for Pressure Zone 1 and 0.71 MG storage for Pressure Zone 2 South for higher emergency storage for Zones 1 and 2.

Summary

Gilroy relies on groundwater extracted from the Llagas Sub-Basin; there is no other source of supply. The City extracted 8,333 acre feet in 2004. Groundwater quality is a growing concern as the groundwater flows in a south-southeasterly direction under the City and can transfer contaminants generated in areas to the north. The City is actively working to protect groundwater resources through the Perchlorate Working Group. The City has addressed its infrastructure needs through its 2004 Water Master Plan, Capital Improvements Program, and 2000 Urban Water Management Plan.

3. Financing Constraints and Opportunities

The City of Gilroy operates its water utility as an enterprise activity, financing it through the Water Fund. Capital improvements are financed through the Capital Improvement Budget. The following table summarizes the financial activity in the Water Fund for FY 2002-2003:

City of Gilroy – Water Fund FY 2002-2003 Financial Summary			
Revenue -	Water Revenues	\$4,586,060	94.51%

City Water Agencies: CIL Gilroy

	Interest	\$215,927	4.45%
	Other Income/Adjustments	\$50,282	1.04%
	Total	\$4,852,269	100.00%
Expenses -	Operations	\$3,155,124	67.90%
	Water Purchases*	0	0%
	Admin/Management	\$1,491,480	32.09%
	Dep./Ins./Transfers/Other	0	0%
	Total	\$4,646,604	100.00%
Reserves		0	

* SCVWD pump tax

Gilroy uses a rolling five-year financial plan that is updated annually to budget for its services. This gives the City a long term perspective in planning for services, including water. The City noted in the introduction to its 2004-2009 Financial Plan that they are projecting increasing financial constraints due to a number of factors, including the slow-down in the regional economy and exponential increases in employee benefit costs. However, the primary reason is the impact caused by the State's reallocation of local revenues.

The City designates reserves for both operations and depreciation/capital replacement. It was noted in the introduction to the Financial Plan that the operating reserves of the Water Fund had been virtually depleted due to cost increases that could not be absorbed through rate increases. The depreciation reserves were approximately \$5.9 million in FY 2003-2004. 5.5% of the Capital Improvements Budget is allocated to water projects for the five year period covering 2002-2007.

The City of Gilroy has used bonds in the past to finance major infrastructure projects; none of the current bonds are related to the water system. The City has an AAA credit rating from all of the major credit raters. The City was audited by an independent auditor in June 2003, and the results were not qualified.

4. Cost Avoidance Opportunities

The City is actively pursuing cost avoidance opportunities for various aspects of the water delivery process. For example, it was noted in the introduction to the 2004-2009 Financial Plan that the City had made significant progress in its efforts to lower electricity costs related to water pumping.

Gilroy's 2004 Water Master Plan serves as a significant cost avoidance measure. The Plan includes recommendations for system improvements that will allow the City to implement the projects in a timeframe that coincides with projected increases in demand. It also includes recommendations that will allow the City to avoid costly repairs in the future. The Plan includes analysis on the extent to which projects will benefit existing development or new development, which will enable the City to charge the appropriate fees when service is extended to new developments.

6 Deleted: The State's budget act of 2004 significantly changed how local revenues are allocated. Cities within California will be required to contribute to the State's General Fund in both FY's 2004-2005 and 2005-2006. Gilroy's estimated contribution in the first year is approximately \$612,827. Although the water utility is an enterprise activity and revenues are expected to cover all costs, the impact of this reduction in revenue will likely be felt across all affected city departments, including Community Services.

7 Deleted: The City has been able to take advantage of off-peak electricity rates due to the new reservoir coming on line.

City Water Agencies: City of Gilroy

Reducing potable demand is an effective cost-avoidance measure, and the City has a comprehensive conservation program in place.

The Community Services Department utilizes the services of other City departments such as finance, communications, legal, and the Engineering Division of the Community Development Department to improve cost efficiency for the water utility.

Deleted: planning

5. Management Efficiencies

Gilroy manages the water utility with the following staff:

Staff Type	Number FTE's
Management/Administrative	1
Operational	9
Professional/Support	8
Total	18

The City adopted its Water Master Plan in 2004 and the City has adopted its 2000 Urban Water Management Plan. The Urban Water Management Plan will be updated in 2005 in accordance with the State's requirements. The Capital Improvements Plan and budget is projected out to 2023 and reviewed annually as part of the budget process.

Deleted: in 2000

The City is achieving management efficiencies through its service model and a high degree of coordinated planning with other City departments.

6. Shared Facilities

The City of Gilroy shares facilities with other agencies where appropriate in order to reduce costs and improve efficiencies. Gilroy is one of the three jurisdictions participating in the South County Joint Area Plan, a component of the County's General Plan. The Plan provides the framework for a coordinated planning effort in the South County.

Gilroy is actively involved in the Perchlorate Working Group, a partnership of the SCVWD, the cities of Morgan Hill and Gilroy, and the County. The Group's efforts are directed toward promptly and cost-effectively restoring groundwater quality in the South County.

As one of the SCVWD's water retailers, Gilroy partners with the District on water conservation programs. In addition, the SCVWD manages the groundwater recharge program and facilities for the benefit of Gilroy and other South County providers.

7. Rate Restructuring

City Water Agencies: Cit, Gilroy**Supply Rates**

Water supply costs are an ongoing concern for the City. The City pays a pump tax to the SCVWD in exchange for groundwater recharge services. The City is currently paying the following pump tax rate:

SCVWD: Groundwater = \$200/AF

Gilroy is expecting the pump tax rate to continue to increase significantly over time, which will result in rate increases for its water customers. The City has depleted reserves that could be used for rate stabilization and will be forced to pass on the entire increase to its customers in the future. The City sees the rate issue as one of its most significant challenges in the next few years.

Demand Rates

Gilroy uses a multi-tiered rate structure to promote water conservation. Account types include residential, seniors, commercial/industrial, and irrigation. Accounts within the two hillside pressure zones pay a higher rate to cover the increased cost for pumping; this price differential was implemented on July 1, 2004. Customers pay a meter charge as well as a usage charge.

The rate tiers are based on 1,000 gallon units of measurement. The first tier is through 5,000 gallons per month; the second is through 15,000, and the third is through 30,000. The fourth tier is anything above 30,000. Irrigation-only customers have two tiers (less than and over 30,000 gallons); they pay the same rates as residential users at those tiers.

For purposes of comparison, this report uses the rates for a standard residential customer using a 3/4" meter and 500 gallons a day, or 20 CCF (14,961 gallons) per month. The monthly bill for a Gilroy customer would be \$22.28 (5 @ \$0.71 + 10 @ \$1.39 + \$4.83 meter charge = \$22.28).

Water service to connections outside the City's boundaries is charged at twice the normal rate. The City noted that there are four accounts in this category: one domestic, two manufacturing/industrial, and one irrigation.

The City uses a rolling five-year rate analysis to determine required rate increases on an annual basis. Rates have increased approximately 24% over the past three fiscal years, primarily due to the increased pump tax and increased electricity costs. Annual rate increases are projected for the foreseeable future.

8. Government Structure Options

The City of Gilroy operates its water utility through the Operations Division of the Community Services Department. Other City departments provide related services, such as finance, legal, planning, engineering and fire.

8

Deleted: It was noted in the introduction to the City's 2004-2009 Financial Plan that it would be impossible for Gilroy's rates to keep pace with the rate increases instituted by SCVWD.

The City's Urban Service Area is not coterminous with the boundaries of its incorporated area. There are portions of incorporated area that are not served by the City's water system as well as unincorporated areas that are. The City noted that it serves four accounts outside the City's boundaries. The law requiring out-of-agency agreements and approval by LAFCo was enacted in 1994; services existing prior to 1994 do not require LAFCo review and approval. Santa Clara LAFCo has approved two of these agreements for Gilroy, one in 1997 and another in 2000.

There are no other retail public water agencies in the area. No other government structure options were noted.

9. Local Accountability and Governance

Gilroy provides some information related to its water service and conservation on the City's website (www.ci.gilroy.ca.us). The City's annual 2003 Water Quality Report is available to the public on the City's web page and in the Community Services Department.

Gilroy has a seven-member City Council. The water utility is addressed by the Council during regular meetings. Council members are elected at large to serve staggered four-year terms. The Council meets the first and third Monday of each month at 7:00 PM. Meeting notices are posted in the City's offices as well as on the website.

The City has protocols and procedures in place to ensure that standards for local accountability and governance are met, including public notice of council meetings and actions as well as water service information.

- DETERMINATIONS -

1) Population and Growth

Gilroy had an estimated population of 45,000 in 2003. The City projects its annual growth rate to be 2.8% to reach a population of 65,082 in 2020. ABAG estimated Gilroy's population at 53,500 in 2005 with an annual growth rate of 1% to reach 66,400 by 2030.

The City has planned for growth and development through its 2020 General Plan, 2004 Water Master Plan and 2000 Urban Water Management Plan.

2) Infrastructure Needs and Deficiencies

Gilroy relies on groundwater extracted from the Llagas Sub-basin through eight wells in the valley floor.

Groundwater quality is a concern as groundwater flows from the north in a south-southeasterly direction under the City. Perchlorate contamination has been identified at the northeastern edge of the City.

City Water Agencies: City Gilroy

The City plans for infrastructure needs through its 2004 Water Master Plan and CIP program. For FY 2004-2005, the CIP has budgeted \$683,612 for water system projects and \$5.6 million for water development projects.

3) **Financing Constraints and Opportunities**

Gilroy operates its water utility as an enterprise activity such that revenues are expected to cover all costs related to water service.

The City maintains reserves for operations and depreciation; the operating reserves have been depleted due to cost increases that could not be covered through rate increases.

The City uses a 5-year rolling Financial Plan, which provides the benefits of long-term financial planning.

The City is facing increasing financial constraints due to cost increases that may affect the water utility.

Deleted: and State budget impacts

4) **Cost Avoidance Opportunities**

The City's 2004 Water Master Plan provides recommendations and benefit analysis to ensure the timely implementation of system improvements and appropriate cost allocations.

9 Deleted: Gilroy actively pursues cost avoidance measures related to water service, such as lowering electricity costs related to water pumping by taking advantage of off-peak rates.

5) **Management Efficiencies**

Gilroy is achieving management efficiencies for its water utility through its service model and planning efforts. The 2004 Water Master Plan will provide significant benefits in terms of planning for future improvements and capitalizing on opportunities to maximize efficiency.

6) **Shared Facilities**

Gilroy shares facilities with other agencies where appropriate to benefit its water utility service, such as groundwater recharge and conservation programs provided by the SCVWD and recycled water produced at the SCRWA facility.

The City is an active participant in the Perchlorate Working Group whose focus is to restore groundwater quality in South County.

7) **Rate Restructuring**

Gilroy uses a tiered rate structure to promote water conservation. The rate structure includes incremental rate increases for customers in the hillside pressure zones to cover increased pumping costs.

The City adjusts its water utility rates annually based on budget projections.

The expected increase in the pump tax imposed by the SCVWD represents a significant challenge to the City in their ability to moderate future rate increases.

8) Government Structure Options

Gilroy's water utility is operated by the Community Services Department. Other departments within the City are used to accomplish such tasks as finance, planning, engineering and fire protection, and information technology for system operations. No other government structure options were noted.

9) Local Accountability and Governance

The City of Gilroy ensures that local accountability and governance standards are met through the oversight provided by the City Council. The water utility is addressed during City Council meetings and information is available to the public through the City's website and in printed form.

CITY OF SUNNYVALE – RESPONSE TO COMMENTS

Comment #1:

The report will be corrected to reflect the current use of the GIS water system database.

Comment #2:

The report will be updated to include the current staffing for the City of Sunnyvale's water utility.



May 26, 2005

Ms. Dunia Noel, AICP
LAFCO Analyst
Local Agency Formation Commission
Santa Clara County
11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110

Subject: Countywide Water Service Review

Dear Ms. Noel:

Following are our comments to the information available in the review regarding our agency.

Item 4 - Cost Avoidance Opportunity, second paragraph, reads "The City maintains a Geographic Information System (GIS) database of the water system to effectively inventory assets, track maintenance orders, perform hydraulic modeling, and provide a means of indexing personnel costs during slower production times." ①

The City does maintain a GIS database of the water system, but at this time it does not inventory assets, track maintenance orders, etc. We hope to add these capabilities in the future, but are not there yet.

Item 5 - Management Efficiencies, the table after first paragraph has no information for several staff types and indicates a total staff of 28. There are seven Management/Administrative staff, 38 Operational staff, and one Professional/Support staff, for a total of 46 employees. ②

Thanks for your help regarding this issue. If you need to contact me, you can do it by phone at 408-730-7560 or by e-mail at vconzet@ci.sunnyvale.ca.us.

Sincerely,

Val Conzet
Public Works Supervisor

cc: J. Craig
File

ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707
For deaf access, call TDD/TTY (408) 730-7501

Santa Clara LAFCO Countywide Water Service Review Determinations

SANTA CLARA VALLEY WATER DISTRICT

- DETERMINATIONS -

1) *Population and Growth*

The Santa Clara Valley Water District's service area encompasses the entire area of Santa Clara County. Population within the County is expected to reach 2,267,100 by 2030, with an average annual growth rate of 1.2%.

Projected growth rates vary by region; the highest rate of growth is projected in the North County for the cities of Milpitas, San Jose and Santa Clara. The District has factored the County's growth patterns into their long range plans.

2) *Infrastructure Needs and Deficiencies*

The Santa Clara Valley Water District receives water supply from a combination of sources including imported, ground, and local surface water. Imported water from the State Water Project is delivered through the South Bay Aqueduct and Federal Central Valley Project water is delivered through the San Felipe Project.

Per its enabling act, the District is responsible for the comprehensive management of the water resources within Santa Clara County. To fulfill this requirement, the District has taken a prominent role in providing watershed stewardship programs and services for over 700 miles of streams within Santa Clara County.

The District completed an Integrated Water Resources Planning process in FY 2003-2004 and is implementing the strategies for developing water supplies, including water banking, water conservation, and groundwater recharge. Per the District's 2001 Urban Water Management Plan, water supply in year 2020 will be adequate to meet demand provided the water resources are developed as planned.

The District is the designated groundwater management agency for Santa Clara County. A Groundwater Management Plan was prepared in 2001 to guide planning and operations for groundwater recharge and water quality protection.

The District is providing leadership in the Perchlorate Working Group to address the groundwater contamination issue in South County.

The District has a comprehensive Capital Improvement Plan that uses a 10-year planning horizon for water system infrastructure.

3) *Financing Constraints and Opportunities*

The SCVWD accounts for its operations with the use of governmental and proprietary funds. The water utility is operated as an enterprise activity.

The District uses long term debt, such as revenue bonds, certificates of participation, and commercial paper to finance major projects. At June 30, 2004, the District had \$294 million in long term debt.

The District's expected contribution to the Educational Revenue Augmentation Fund is approximately \$51 million for FY 2004-2005 and 2005-2006. The District has eliminated the requirement for operating reserves as a result and is in the process of evaluating other options in order to maintain essential service levels to the greatest extent possible.

4) *Cost Avoidance Opportunities*

The SCVWD is avoiding costs where feasible in order to maintain essential services and project implementation schedules to the greatest extent possible. This includes eliminating 90 vacant positions, 10% of the permanent work force.

The District has been able to reduce debt financing costs by \$6.2 million through re-prioritizing and delaying some capital projects.

Reducing demand for potable water is an effective means to avoid future costs. The District has a comprehensive water conservation program and actively supports the use of recycled water. The District provides an incentive of \$115 per acre foot to North County agencies for the development of recycled water supplies in order to offset potable demand.

5) *Management Efficiencies*

The SCVWD is achieving management efficiencies through its organization, operational programs and planning documents. The District has reorganized operations into two core service areas: Water Utility Enterprise and Watersheds. Its Watershed Operations and Capital Programs Division are ISO 9001:2000 certified. Watershed Operations is also ISO 14001 certified.

The District uses performance measurements to evaluate the achievements and performance of each organizational component. Annual targets are set and progress is tracked quarterly.

6) *Shared Facilities*

The SCVWD shares facilities with a number of agencies related to water supply, water management, and water use efficiency, including the District's water retailers and the US Bureau of Reclamation.

The District recently completed a 40 million gallon treated water intertie with the SFPUC system that improves reliability in the North County.

The District has a contract to operate some US Bureau of Reclamation Facilities related to the San Felipe project.

The District is providing leadership in the Perchlorate Working Group in order to seek mitigation and restitution for groundwater contamination in South County.

The District has partnered with the South County Regional Wastewater Authority and the Cities of Gilroy and Morgan Hill to expand water recycling in South County. The District is the recycled water wholesaler in South County and owns and maintains recycled water infrastructure that provides system reliability for recycled water deliveries.

The District provides a comprehensive water conservation program county-wide in cooperation with its retailers.

7) *Rate Restructuring*

The District annually reviews its rate structure based on expected costs. Input is obtained from the water retailers group regarding project priorities. Each spring, the District holds a public hearing on multiple dates to receive comments from citizens and interest groups on the water rates proposed for the next fiscal year.

The District increased rates 8% in North County and 25% in South County for 2004-2005.

8) *Government Structure Options*

The SCVWD was established by an act of the state legislature and is authorized to provide comprehensive water management services, including water wholesaling, groundwater management and flood control, throughout the County. No other government structure options were noted.

9) *Local Accountability and Governance*

The SCVWD is governed by a seven-member Board of Directors. The District maintains a website which contains comprehensive information regarding District operations, water supply in the County, and watershed programs. The District provides public notice of meetings and posts agendas and minutes online.

The District's Clean, Safe Creeks & Natural Flood Protection special tax approved by voters in November 2000 includes provisions for an independent oversight committee comprised of community volunteers. An annual report is prepared by the committee which includes an evaluation of performance, actions, costs and project status for those programs funded by the special tax.

ALDERCROFT HEIGHTS COUNTY WATER DISTRICT

- DETERMINATIONS -

10) Population and Growth

The Aldercroft Heights County Water District currently serves a population of 190. The population within the service area is stable and little or no growth is expected.

11) Infrastructure Needs and Deficiencies

The Aldercroft Heights County Water District relies entirely on local surface water pumped from Los Gatos Creek under an agreement with the San Jose Water Company. The SJWC holds pre-1914 water rights to the creek.

The District maintains water storage reservoirs with capacity for 12.3 days at maximum day demand. The storage tanks also compensate for daily peaking and emergencies.

The District has undertaken some capital improvement projects in the past few years to improve system pressure and reliability for fire fighting as well as storage tank replacement.

12) Financing Constraints and Opportunities

The Aldercroft Heights County Water District's revenues are sufficient to cover operating costs and provide for an adequate level of reserves.

The District uses a "pay as you go" approach, financing the majority of infrastructure projects out of reserves. The District currently has no long-term debt.

13) Cost Avoidance Opportunities

The District is avoiding costs through the use of independent contractors to manage the District's operations and system.

The District does not have a water conservation program.

14) Management Efficiencies

The Aldercroft Heights County Water District is managed by a business manager and a water manager, (both independent contractors), under the direction and oversight of the District's Board of Directors.

15) Shared Facilities

The Aldercroft Heights County Water District is geographically isolated and there are limited opportunities to share facilities.

16) Rate Restructuring

The District uses a two-tiered rate structure. Water rates were last increased in 2002.

17) Government Structure Options

The District is providing water service in an unincorporated area in the Santa Cruz Mountains. No other public agency was identified which could provide water service to the area. No other government structure options were noted.

18) Local Accountability and Governance

The Aldercroft Heights County Water District has a process for ensuring local accountability and governance. Directors are elected or appointed by the County Board of Supervisors. The Board meets regularly and agendas are posted in two locations.

PURISSIMA HILLS COUNTY WATER DISTRICT

- DETERMINATIONS -

1) Population and Growth

The Purissima Hills County Water District currently serves a population of 6,600 and is projecting a population of 6,731 in 2033. Increases in water demand are tied to both residential growth and concurrent increases in landscaping needs of new estate homes.

The population within the service area is not expected to increase significantly over time. Growth will occur primarily through the division of existing estate lots and new home construction.

2) Infrastructure Needs and Deficiencies

The Purissima Hills County Water District relies entirely on imported water from SFPUC for its supply. It only has one permanent intertie with Cal Water and one temporary intertie with Palo Alto that could serve the District in the event of an extreme water shortage. This is a potential infrastructure deficiency.

The District maintains eleven water storage reservoirs with capacity for 2.5 days at maximum day demand. The storage tanks also compensate for daily peaking and emergencies.

The District's infrastructure is reaching its design life expectancy and the District has been following a gradual program of evaluation and replacement of aging pipelines. The District's Capital Improvement Plan includes the rehabilitation of two zones within the District and replacement of one water storage tank.

The District is currently preparing an updated Water Supply Master Plan to identify infrastructure needs and deficiencies.

3) *Financing Constraints and Opportunities*

The District has established a rate structure that is sufficient to cover operating costs and funding for CIP projects.

The District finances major infrastructure projects out of water revenues and reserves; it has no long-term debt.

The District will be required to contribute the majority of its property tax revenue for FY 2004-2005 and 2005-2006 to the Educational Revenue Augmentation Fund. District reserves are sufficient to cover this reduction in revenue.

4) *Cost Avoidance Opportunities*

The District is avoiding costs through planning and the use of technology such as a GIS database, hydraulic models, and a SCADA system.

Due to the economic profile of the District's service area, demand levels are high and water conservation is difficult to achieve; increased water rates do not necessarily curtail excessive water use.

5) *Management Efficiencies*

The District is in the process of updating its Water Supply Master Plan which will allow the District to manage its service more efficiently.

The District operates with a small staff and has received few complaints over the past 12 months.

6) *Shared Facilities*

The Purissima Hills County Water District shares emergency intertie facilities with Cal Water and Palo Alto. The District is a member of BAWSCA and uses the functions of that agency to represent its interests with the SFPUC.

7) *Rate Restructuring*

The District uses a multi-tiered rate structure in an attempt to promote water conservation.

The District completed a rate study in 2004 that recommended increases ranging from 3 to 12% for each of the tiers. Rates will be adjusted accordingly. A sixth-tier will be added for high water users.

8) *Government Structure Options*

The Purissima Hills County Water District serves both incorporated and unincorporated area in the County. Two government structure options were identified:

- **Maintain the status quo:** The District would continue to provide service within its current boundaries.

- *Advantage:* The District is providing adequate service, has the support of the community, and no significant problems were identified.
- *Disadvantage:* The option does not address the two parcels currently receiving service outside the District's boundary.
- **Annex the two parcels receiving service outside the District boundary:** The District's boundary would be expanded to include the two parcels currently receiving service.
 - *Advantage:* This allows for the District's boundary to be cleaned up to reflect the area being served.
 - *Disadvantage:* No disadvantages were noted; the District is currently serving the two parcels and has the infrastructure and supply to continue to serve them in the future.

9) Local Accountability and Governance

The Purissima Hills County Water District has a process for ensuring local accountability and governance. The elected board meets regularly and agendas are advertised in two local newspapers and posted.

SAN MARTIN COUNTY WATER DISTRICT

- DETERMINATIONS -

1) Population and Growth

The San Martin County Water District currently serves a portion of the San Martin Planning Area, east of Monterey Road and centered along San Martin Avenue.

Growth within San Martin is expected to occur at a much slower rate than the incorporated areas within the South County due to its rural designation and County policies.

The majority of the expected increase in demand for water services will be driven by water quality issues and failed private or mutual water systems rather than population growth.

2) Infrastructure Needs and Deficiencies

The San Martin County Water District relies on groundwater extracted from the Llagas Sub-basin for its source of water supply.

Groundwater quality is a concern. A majority of the San Martin area is impacted by nitrate levels that exceed allowable limits and by perchlorate contamination.

The District has a water treatment facility provided by the Olin Corporation to treat perchlorate contamination. The District's well does not have nitrate issues and treatment for nitrate levels is not required.

The District has nearly completed a major re-piping project, bringing pipeline sizes up to industry standards and establishing acceptable levels of service.

The District's water supply and treatment capacity are adequate to serve the demands of the District's current service area.

3) *Financing Constraints and Opportunities*

The San Martin County Water District has established a minimum reserve level of \$50,000. Operating revenue has been sufficient to increase reserves annually for the past several years.

There are two outstanding long-term debts associated with infrastructure acquisition and improvements for the formation of the District and purchase of the Ukested Water Supply as settlement for a lawsuit. The District now uses a "pay as you go" approach, financing the majority of infrastructure projects out of reserves and grant funding.

4) *Cost Avoidance Opportunities*

The District is avoiding costs through the use of independent contractors to manage and operate the system.

5) *Management Efficiencies*

The San Martin County Water District contracts for management services with a company that has significant expertise in operating local water distribution and treatment systems. This has resulted in measurable improvements in the District's operations, rate structures, and financial condition.

6) *Shared Facilities*

The San Martin County Water District has had limited opportunities to share facilities. Opportunities may increase through future collaboration of the public and private water providers in the South County.

7) *Rate Restructuring*

The District adopted a two-tiered rate structure in 2002 that includes an automatic rate adjustment based on any fees or rate increases imposed by the SCVWD.

8) *Government Structure Options*

Several government structure options were identified for the San Martin County Water District:

- **Maintain the status quo:** The District would continue to provide service within its current boundaries.
 - *Advantage:* This option allows for continuity of service; no other public agency was identified that could provide the same service levels as the District.
 - *Disadvantage:* The option does not address the water quality and public health issues in the San Martin area or the out-of-agency service that is currently being provided.
- **Dissolve the San Martin County Water District:** The District would be dissolved and its assets would be acquired by a successor entity such as an investor-owned water company or mutual water company

- *Advantage:* This option would provide minimal benefit other than to relieve the water purveyors and residents from the responsibility of LAFCo approvals for additional service areas.
- *Disadvantage:* There is no other public agency service provider in the area that could maintain the existing service levels; the San Martin area would have to be served by a privately owned water purveyor or mutual water company.
- **Annex the areas served by the current out-of-agency connections:** The nine parcels outside the District's boundaries that are currently receiving service would be annexed to the District.
 - *Advantage:* This option would clean up the District's service area boundaries.
 - *Disadvantage:* This option does not address the larger issue of water quality and public health in the San Martin area. It may only provide a short-term solution given the ongoing water quality issues and the State's movement towards consolidating smaller, privately operated systems with larger public water systems.
- **Annex the Cherry Ranch and Candy Ranch Mutual Water Companies:** The District's boundaries would be expanded to include the two water mutuals located near the intersection of Middle and Center Avenues, approximately one mile from an existing District pipeline.
 - *Advantages:* This option would resolve a serious public health issue and pending loss of water service for the Cherry Ranch Mutual Water Company. The Candy Ranch Mutual Water Company has similar water quality issues but has not been ordered to disconnect its system. This would also provide public safety benefits through the installation of fire hydrants along the pipeline reach in Center Avenue.
 - *Disadvantage:* This option does not address the broader issue of water quality and public health in the San Martin area. It provides a solution for the two water mutuals but not for the remainder of the San Martin area.
- **Expand the District's boundaries to include the entire San Martin Planning Area east of Monterey Road**
 - *Advantages:* This option could provide economies of scale, service efficiency, and greater local accountability to the residents of San Martin. There are no other public agencies in the area that could serve the San Martin area in a similar manner.
 - *Disadvantage:* There may be unintended impacts as current data is inadequate to determine whether this option is appropriate at this point in time. Further analysis would be needed to evaluate projected water demand, water system capacity and infrastructure needs; permits; growth inducement; and the impacts on existing land uses. All this would need to be considered within the context of the County's General Plan, the South County Area Joint Plan and the San Martin Planning Area policies, and LAFCo policies.

9) *Local Accountability and Governance*

The San Martin County Water District is governed by a locally elected Board of Directors. The Board currently has two vacancies; these positions can be filled by special election or appointment by the County Board of Supervisors.

GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT

– DETERMINATIONS –

10) Population and Growth

The Guadalupe-Coyote Resource Conservation District serves the northern portion of Santa Clara County. The area is generally projected to have moderate growth rates, with the exception of the Coyote Valley area where a higher rate of growth is projected.

Land use within the RCD's service area includes both rural and urban; demand for resource conservation services is expected to increase as land use intensifies.

11) Infrastructure Needs and Deficiencies

The Guadalupe-Coyote Resource Conservation District does not own or maintain any infrastructure nor provide any water supply.

12) Financing Constraints and Opportunities

The Guadalupe-Coyote Resource Conservation District is funded through its share of the 1% property tax, supplemented by interest on reserves and grant funding.

The RCD has been successful in pursuing grant funding to further expand its programs and projects.

The RCD has maintained reserves at a level that is higher than necessary based on the services provided in the past; however reserves may be needed to fully implement the FY 2004-2005 budget.

13) Cost Avoidance Opportunities

The RCD is avoiding costs through the use of one fulltime staff and volunteers. The RCD's Associate Directors regularly perform volunteer work.

14) Management Efficiencies

The Guadalupe-Coyote Resource Conservation District achieves management efficiencies through the use of its Long-Range Plan and associated goals, objectives and action items. The Annual Report allows the Board of Directors and the public to monitor progress on goals and objectives.

15) Shared Facilities

The Guadalupe-Coyote Resource Conservation District participates in and conducts programs with other agencies, including the SCVWD, the USDA/NRCS, the Santa Clara Basin Watershed Management Initiative and other watershed-related entities in the County.

16) Rate Restructuring

The Guadalupe-Coyote Resource Conservation District does not charge fees for its services, other than registration fees to cover the cost of technical education classes.

17) Government Structure Options

The Guadalupe-Coyote Resource Conservation District is providing programs and services for the benefit of the Guadalupe and Coyote and all other watersheds within the District.

Two government structure options were identified:

- **Maintain the status quo:** The RCD would continue to provide programs with no changes to its boundaries.
 - *Advantage:* This option allows for continuity of service; no other agency could provide all of the programs offered by the RCD.
 - *Disadvantage:* There could be some duplication of services in the area of watershed stewardship between what is provided by the RCD and the Watershed core business of the SCVWD.
- **Dissolve the Guadalupe-Coyote RCD and name the SCVWD as the successor agency:** As the successor agency, the SCVWD would be responsible for implementing resource conservation programs within the RCD's former boundaries to the extent it is authorized to do so.
 - *Advantages:* This option offers potential economies of scale, elimination of the potential for duplicate watershed services, a possibility of increased grant funding through the SCVWD's Watershed core business, and expanded public awareness of watershed issues through the SCVWD's existing public outreach programs.
 - *Disadvantages:* This option could result in a narrower range of services or programs than what is currently being offered. The SCVWD is not legally established as a Resource Conservation District, and cannot provide the broad range of services that resource conservation districts can provide. This could also limit potential funding from some programs such as the federal Small Watershed Act (Public Law 566) which requires that projects be in compliance with district conservation plans in order to be eligible. Also, because the SCVWD is a county-wide district, there is no requirement or guarantee that the property tax funds collected locally would be spent only on local conservation programs.

18) Local Accountability and Governance

The Guadalupe-Coyote Resource Conservation District has a process for ensuring local accountability and governance. Board members are appointed by the County Board of Supervisors. The Board meets regularly and public noticed is provided through posting.

LOMA PRIETA RESOURCE CONSERVATION DISTRICT

– DETERMINATIONS –

1) Population and Growth

The Loma Prieta Resource Conservation District currently serves the southern portion of the County. This area is projected to have modest growth in the future, which will be concentrated within the Urban Service Areas of the two cities.

Land use outside the Urban Service Areas is gradually changing from large agricultural operations to smaller farms, vineyards and small ranches. The need for landowner services will increase in order to maintain environmental quality and adequate soil/water conservation.

2) Infrastructure Needs and Deficiencies

The Loma Prieta Resource Conservation District does not own or maintain any infrastructure or provide any water supply.

3) Financing Constraints and Opportunities

The Loma Prieta Resource Conservation District is funded through its share of the 1% property tax, supplemented by interest on reserves.

The RCD has increased its reserves annually for each of the three years reported. In FY 2001-2002 the RCD only expended 58% of its operating revenue for the year.

The RCD has accumulated reserves that are higher than necessary for the current levels of service.

4) Cost Avoidance Opportunities

The RCD is avoiding costs through the use of part-time staff.

5) Management Efficiencies

The Loma Prieta Resource Conservation District has management tools available to assist in operations, such as the *Resource Conservation District Guidebook*.

The RCD has a five year Long-Range Plan that provides a framework and direction for RCD actions.

6) Shared Facilities

The Loma Prieta Resource Conservation District shares facilities with other agencies, including the SCVWD, the California Department of Conservation, and the USDA/NRCS.

7) Rate Restructuring

The Loma Prieta Resource Conservation District does not charge fees for its services, other than a registration fee for workshops.

8) Government Structure Options

The Loma Prieta Resource Conservation District is providing conservation-related programs in the southern portion of Santa Clara County. Three government structure options were identified:

- **Maintain the status quo:** The RCD would continue to provide programs with no changes to its boundaries.
 - *Advantage:* This option allows for continuity of service; no other agency could provide all of the services the RCD is authorized to provide.

- *Disadvantage:* There could be some duplication of services in the area of watershed stewardship between what is provided by the RCD and the Watershed core business of the SCVWD.
- **Dissolve the Loma Prieta Resource Conservation District and name the SCVWD as the successor agency:** As the successor agency, the SCVWD would be responsible for implementing resource conservation programs within the RCD's former boundaries to the extent it is authorized by its enabling act.
 - *Advantages:* This option offers potential economies of scale, elimination of duplicate services, a possibility of increased grant funding through the SCVWD's Watershed core business, and expanded public awareness of watershed issues through the SCVWD's existing public outreach programs.
 - *Disadvantages:* This option could result in a narrower range of services or programs than what is being offered. The SCVWD is not legally established as a Resource Conservation District, and cannot provide the broad services that resource conservation districts can provide. This could limit potential funding as the federal Small Watershed Act (Public Law 566) requires that projects be in compliance with district conservation plans in order to be eligible. Also, because the SCVWD is a county-wide district there is no requirement or guarantee that the property tax funds collected locally would be spent only on local conservation programs.
- **Detach annexed areas from the RCD:** The RCD's boundaries would be adjusted to exclude any areas annexed by the Cities of Gilroy and Morgan Hill.
 - *Advantages:* This option would potentially increase the public benefit derived from the 1% property tax collected from the annexed areas. The RCD was originally formed to serve rural areas and its core programs provide greater benefit to rural rather than more developed areas.
 - *Disadvantages:* This option could result in lower service levels and reduced conservation program funding for the annexed areas. It could potentially limit the scope and scale of future RCD programs as they would not be made available within the two cities. The RCD's operating revenue would be reduced by the amount of the RCD's share of the 1% property tax assessed within the detached areas.

9) Local Accountability and Governance

The Loma Prieta Resource Conservation District has a process for ensuring local accountability and governance. Board members are appointed by the County Board of Supervisors. The Board meets regularly and meeting notices are posted in a public location.

CITY OF GILROY

– DETERMINATIONS –

1) Population and Growth

Gilroy had an estimated population of 45,000 in 2003. The City projects its annual growth rate to be 2.8% to reach a population of 65,082 in 2020. ABAG estimated Gilroy's population at 53,500 in 2005 with an annual growth rate of 1% to reach 66,400 by 2030.

The City has planned for growth and development through its 2020 General Plan, 2004 Water Master Plan and 2000 Urban Water Management Plan.

2) Infrastructure Needs and Deficiencies

Gilroy relies on groundwater extracted from the Llagas Sub-basin through eight wells in the valley floor.

Groundwater quality is a concern as groundwater flows from the north in a south-southeasterly direction under the City. Perchlorate contamination has been identified at the northeastern edge of the City.

The City plans for infrastructure needs through its 2004 Water Master Plan and CIP program. For FY 2004-2005, the CIP has budgeted \$683,612 for water system projects and \$5.6 million for water development projects.

3) Financing Constraints and Opportunities

Gilroy operates its water utility as an enterprise activity such that revenues are expected to cover all costs related to water service.

The City maintains reserves for operations and depreciation; the operating reserves have been depleted due to cost increases that could not be covered through rate increases.

The City uses a 5-year rolling Financial Plan, which provides the benefits of long-term financial planning.

The City is facing increasing financial constraints due to cost increases and State budget impacts that may affect the water utility.

4) Cost Avoidance Opportunities

Gilroy actively pursues cost avoidance measures related to water service, such as lowering electricity costs related to water pumping by taking advantage of off-peak rates.

The City's 2004 Water Master Plan provides recommendations and benefit analysis to ensure the timely implementation of system improvements and appropriate cost allocations.

5) Management Efficiencies

Gilroy is achieving management efficiencies for its water utility through its service model and planning efforts. The 2004 Water Master Plan will provide significant benefits in terms of planning for future improvements and capitalizing on opportunities to maximize efficiency.

6) Shared Facilities

Gilroy shares facilities with other agencies where appropriate to benefit its water utility service, such as groundwater recharge and conservation programs provided by the SCVWD and recycled water produced at the SCRWA facility.

The City is an active participant in the Perchlorate Working Group whose focus is to restore groundwater quality in South County.

7) Rate Restructuring

Gilroy uses a tiered rate structure to promote water conservation. The rate structure includes incremental rate increases for customers in the hillside pressure zones to cover increased pumping costs.

The City adjusts its water utility rates annually based on budget projections.

The expected increase in the pump tax imposed by the SCVWD represents a significant challenge to the City in their ability to moderate future rate increases.

8) Government Structure Options

Gilroy's water utility is operated by the Community Services Department. Other departments within the City are used to accomplish such tasks as finance, planning, fire protection, and information technology for system operations. No other government structure options were noted.

9) Local Accountability and Governance

The City of Gilroy ensures that local accountability and governance standards are met through the oversight provided by the City Council. The water utility is addressed during City Council meetings and information is available to the public through the City's website and in printed form.

CITY OF MILPITAS

- DETERMINATIONS -

1) Population and Growth

Milpitas currently has a population of 64,000 and a historic annual growth rate of 3.8%; population in 2020 is projected to be 76,406 per current land use designations. ABAG estimated Milpitas' population at 65,500 in 2005 with an annual growth rate of 1.6% to reach 91,400 by 2030.

The City has two distinct geographic areas, and based on land availability, there is the potential for 974 additional residential units in the valley and 88 in the hillside area.

The City has planned for growth and development through its General Plan, Water Master Plan and Urban Water Management Plan.

2) Infrastructure Needs and Deficiencies

Milpitas relies primarily on treated surface water for its supply. Two groundwater wells provide as-needed peaking and emergency supply.

Recycled water is supplied by the San Jose/Santa Clara Water Pollution Control Plant through the South Bay Water Recycling program. Demand for recycled water is increasing.

The current CIP is primarily focused on system maintenance and replacement of aging facilities.

Existing water storage capacity is adequate by industry standards and the existing wells can provide for additional emergency supply in the event of a service interruption for treated surface water.

3) *Financing Constraints and Opportunities*

Milpitas operates its water utility as an enterprise activity and manages a balance between the costs associated with water purchases, CIP projects and operations. Improvements are made on a “pay as you go” basis with no outside financing or loans.

The City maintains relatively low reserve levels for the water utility which may have a negative impact in the event of an emergency construction need. A financial master plan identified phased rate increases to increase reserves.

4) *Cost Avoidance Opportunities*

Milpitas has adopted the use of technology to help inventory and manage their water facilities. A GIS database has been created and is being utilized by field crews on a regular basis to identify pipeline locations and features.

The majority of CIP projects over the next five years pertain to replacements, upgrades and modifications to improve existing facilities, effectively resulting in preventative maintenance and potential cost avoidance in the event of a failure.

5) *Management Efficiencies*

The City’s Public Works Department maintains a series of performance indicators with established goals and tracks them annually. Customer complaints are tracked monthly by complaint type. Outside consultants are used for technical and/or professional services as-needed to minimize full-time staff.

6) *Shared Facilities*

Milpitas is a member agency of BAWSCA and is a partner with the SCVWD for implementation of water conservation measures. The City jointly operates several water turnout facilities and is a stakeholder in the South Bay Water Recycling Program.

7) *Rate Restructuring*

Milpitas uses a two-tier residential rate structure and higher rates for irrigation use to promote water conservation.

The expected increase in the cost of treated water from both SFPUC and the SCVWD represents a significant challenge to the City in terms of its ability to moderate future rate increases.

Milpitas adjusts its water rates annually based on internal budget projections.

8) Government Structure Options

The water utility is a division of the City of Milpitas's Public Works Department. The water utility division utilizes other departments within the City to accomplish such tasks as finance, planning, fire protection, and information technology for operation of the utility. No other government structure options were noted.

9) Local Accountability and Governance

The City of Milpitas ensures local accountability and governance through the oversight and management provided by the City Council. The water utility is addressed during City Council meetings. The City provides a substantial amount of water conservation and recycling information to its residents.

CITY OF MORGAN HILL

- DETERMINATIONS -

1) Population and Growth

Morgan Hill had an estimated population of 35,000 in 2003. The City projects its annual growth rate to be 2.0% to reach a population of 48,000 in 2020. ABAG estimated Morgan Hill's population at 41,000 in 2005 with an annual growth rate of 0.9% to reach 50,000 by 2030.

The City has planned for growth and development through its 2001 General Plan, 2002 Water Master Plan and 2001 Urban Water Management Plan.

2) Infrastructure Needs and Deficiencies

Morgan Hill relies on groundwater extracted from the Llagas Sub-basin through 15 wells in the valley floor.

Groundwater quality is a concern; nitrates have affected water quality in two wells and perchlorate contamination has affected several wells, with two currently equipped with ion exchange treatment systems.

The City plans for infrastructure needs through its 2002 Water Master Plan and CIP program. For FY 2004-2005, the CIP has \$1.46 million budgeted for water system projects.

3) *Financing Constraints and Opportunities*

Morgan Hill is facing increasing financial constraints due to cost increases and State budget impacts that may affect the water utility.

The City has been using reserves at an unsustainable rate to maintain current levels of city services.

The City has adopted a Sustainable Budget Strategy, imposed permanent General Fund budget reductions, and is considering new revenue sources.

4) *Cost Avoidance Opportunities*

Morgan Hill actively pursues cost avoidance measures related to water service; it has identified those services that are considered "less critical" and may be reduced in light of funding constraints.

The City's 2002 Water Master Plan provides recommendations and benefit analysis to ensure the timely implementation of system improvements and appropriate cost allocations between current and future users.

5) *Management Efficiencies*

Morgan Hill is achieving management efficiencies for its water service through detailed planning and coordination with other city departments and annually evaluates performance against benchmark goals.

The City uses a Supervisory Control and Data Acquisition System (SCADA) to improve efficiency in the water delivery system.

6) *Shared Facilities*

Morgan Hill shares facilities with other agencies where appropriate to benefit its water utility service, such as groundwater recharge and conservation programs provided by the SCVWD.

The City is an active participant in the Perchlorate Working Group whose focus is to restore groundwater quality in South County.

7) *Rate Restructuring*

Morgan Hill uses a tiered rate structure to promote water conservation. The rate structure includes higher rates for accounts outside the city.

The City has planned incremental rate adjustments through 2007 to cover increased costs for operations, capital improvement needs, debt service and perchlorate treatment.

The expected increase in the pump tax imposed by SCVWD represents a significant challenge to the City in terms of moderating future rate increases.

8) Government Structure Options

Morgan Hill operates the water utility through its Public Works Department. The services of other City departments are used to accomplish such tasks as finance, planning, fire protection, and legal. No other government structure options were noted.

9) Local Accountability and Governance

The City of Morgan Hill ensures local accountability and governance through the oversight provided by the City Council. The water utility is addressed during City Council meetings and information is available to the public on line and in printed form.

CITY OF MOUNTAIN VIEW

- DETERMINATIONS -

1) Population and Growth

Mountain View is 97% developed with little redevelopment expected in the future.

The City currently has a population of 72,006 and a projected annual growth rate of 0.9%; ABAG is projecting the City's population to reach 89,600 by 2030.

2) Infrastructure Needs and Deficiencies

Mountain View relies on treated surface water supplied by the SFPUC and the SCVWD; groundwater is used for emergency supply purposes only.

The City is pursuing a project through the Water Reuse Program of the Regional Water Quality Control Plant in Palo Alto to provide recycled water in areas of Mountain View.

The City has adopted a CIP and a Water Master Plan and is implementing the recommendations and projects for infrastructure improvements. The City is in the process of updating its 1992 Water Master Plan.

Existing water storage capacity is below industry standards. The City is in the process of constructing a new reservoir and expanding the capacity of an existing reservoir in order to have storage capacity that will exceed average day demands.

3) Financing Constraints and Opportunities

Mountain View operates its water utility as an enterprise activity and manages a balance between the costs associated with water purchases, CIP projects and operations.

The City maintains adequate reserve levels to meet future operating and capital needs.

The City will be incurring a 25-year, long-term debt of \$10.5 million by issuing bonds to finance the Graham Reservoir project.

4) Cost Avoidance Opportunities

The City is avoiding land acquisition costs associated with a new reservoir by locating the reservoir on property belonging to the Mountain View School District.

The City is in the process of updating its 1992 Water Master Plan which will provide a plan for future improvements and rehabilitation in the system. This will provide significant cost avoidance measures.

5) Management Efficiencies

The Department of Public Works maintains a series of performance measures with established goals and tracks them quarterly.

6) Shared Facilities

Mountain View is one of the five agencies that own and operate the Regional Water Quality Control Plant, which provides a reliable source of recycled water.

7) Rate Restructuring

Mountain View uses a multi-tiered rate structure that effectively promotes water conservation.

The expected increase in the cost of imported water from both SFPUC and SCVWD represents a significant challenge to the City in terms of moderating future rate increases.

Mountain View adjusts its water rates annually based on internal budget projections.

8) Government Structure Options

The water utility is a division of the City of Mountain View's Public Works Department. No other government structure options were noted.

9) Local Accountability and Governance

The City of Mountain View has a process for ensuring that standards for local accountability and governance are met. The water utility is addressed during City Council meetings.

The City provides a substantial amount of water conservation and recycling information to its water utility customers.

CITY OF PALO ALTO
– DETERMINATIONS –

1) Population and Growth

The City of Palo Alto currently has an estimated 59,000 residents, excluding Stanford University. ABAG is projecting the City's population to reach 92,200 by 2030, including the City and its Sphere of Influence.

The City has planned for growth and development through its Comprehensive Plan, Water Master Plan and Urban Water Management Plan.

2) Infrastructure Needs and Deficiencies

Palo Alto is actively working to reduce the City's dependence on the SFPUC water supply by rehabilitating existing groundwater wells and making improvements to the supply system to maximize groundwater usage.

Water storage capacity is currently substandard, but the City is planning to increase capacity through construction of a 2.4 MG storage tank. The rehabilitation of groundwater wells will effectively supplement above-ground storage.

Recycled water is provided by the Palo Alto Regional Water Quality Control Plant; the City is a partner in the Water Reuse Program.

The City plans for infrastructure needs through its Water Master Plan and CIP program.

3) Financing Constraints and Opportunities

Palo Alto operates its water utility as an enterprise activity, charging all related expenses to the fund including rent. The rate structure ensures funding for operational and maintenance needs, capital projects, and adequate reserves.

The City maintains reserves for Emergency Plant Replacement, Rate Stabilization, and Debt Service.

Efforts to control rate increases in FY 2004-2005 resulted in a reduction of capital project expenditures of \$2.2 million.

4) Cost Avoidance Opportunities

The City is continuing to develop its GIS system to provide an efficient means of managing data system-wide.

Palo Alto uses a Supervisory Control and Data Acquisition (SCADA) system to manage the water delivery system.

As a City department, Palo Alto Utilities utilizes the functions of other departments within the City as needed to improve the cost efficiency of the water utility.

5) Management Efficiencies

The City has implemented a Utilities Strategic Performance Plan to evaluate the City's utilities service in four areas: Customer & Community, Financial, Environment and People (Staff). An update is prepared semiannually and reviewed by the Utilities Advisory Commission.

6) Shared Facilities

Palo Alto is a partner in the Water Reuse Program of the Regional Water Quality Control Plant.

Palo Alto is a member agency of BAWSCA and is a partner with the SCVWD for implementation of water conservation measures.

The City has a permanent water intertie with the City of Mountain View and a temporary intertie with the Purissima Hills County Water District that can provide water in emergencies.

7) Rate Restructuring

Palo Alto reviews its utility rates regularly. Water rates were adjusted three times in the past thirteen months: January 1, 2004, July 1, 2004 and January 1, 2005. Rates increased 35% in the past 2-years, and the City expects an additional 25% increase for the next two years. Water rates are established to cover operations and maintenance, capital project expenditures, debt service and maintain an adequate level of reserves.

The City uses a two-tiered rate structure for residential use to promote water conservation.

8) Government Structure Options

The water utility is operated by Palo Alto's Utilities Department. No other government structure options were noted.

9) Local Accountability and Governance

The City of Palo Alto has a process to ensure that local accountability and governance standards are met through the oversight and management provided by the City Council. The water utility is addressed during City Council meetings. The City provides a substantial amount of water conservation and recycling information to its residents.

The City has a five-member Utilities Advisory Commission. Commissioners are members of the public appointed by the City Council.

The Utilities Department maintains its own website with pertinent information related to water service.

SAN JOSE MUNICIPAL WATER SYSTEM

- DETERMINATIONS -

1) Population and Growth

The San Jose Municipal Water System serves approximately 12% of San Jose's incorporated area including 10% of the City's population. Population within the water service area is expected to reach 144,000 by 2020.

The SJMWS has four distinct service areas: North San Jose/Alviso, Evergreen, Edenvale and Coyote.

The City has planned for growth and development through its General Plan and Urban Water Management Plan and is integrating the projections into its upcoming Water Master Plan.

2) Infrastructure Needs and Deficiencies

The San Jose Municipal Water System uses treated surface, ground and recycled water for its supply. Treated surface water is purchased from SFPUC for the northern reach of the service area; treated surface water from the SCVWD is used in the Evergreen area. The Edenvale and Coyote service areas rely on groundwater.

Water supply capacity is below SJMWS standards in the Evergreen area; groundwater production capacity and storage does not equal the maximum day demand and the system must be closely monitored in warmer months to ensure adequate service levels.

Recycled water supply is obtained from the San Jose/Santa Clara Water Pollution Control Plant; demand is increasing.

The SJMWS is upgrading its water delivery system through rehabilitation and replacement of aging facilities.

3) Financing Constraints and Opportunities

The San Jose Municipal Water System operates as an enterprise activity. Per ordinance, the SJMWS is required to reimburse the General Fund for overhead costs as well as a Rate of Return. The annual cap on the Rate of Return is set at 8% of revenues.

The SJMWS maintains reserves for both operations and capital expenditures.

4) Cost Avoidance Opportunities

The San Jose Municipal Water System is in the process of automating a number of processes and is including the use of Geographic Information System technology. This is expected to provide greater efficiency and result in future cost savings.

The SJMWS has an ongoing program for water main replacement, which will reduce the risk of more costly repairs in the future.

5) Management Efficiencies

The San Jose Municipal Water Service uses performance measurements to monitor efficiency. The results are reported quarterly to the City Council.

The SJMWS uses a computerized maintenance management system to monitor and plan for system maintenance. This increases operational efficiency and allows for coordinated preventative maintenance.

6) Shared Facilities

The City of San Jose is a member agency of BAWSCA and is a partner with SCVWD for implementation of water conservation measures. The City jointly operates several water turnout facilities and manages the South Bay Water Recycling program.

7) Rate Restructuring

The San Jose Municipal Water System uses a multi-tiered rate structure to promote water conservation. The rate structure is based on delivery zones, allowing the underlying costs for water acquisition, treatment and delivery in a given area to be included.

The expected increase in the cost of imported water from both SFPUC and SCVWD represents a significant challenge to the City in terms of moderating future rate increases.

San Jose reviews and adjusts water rates annually based on internal budget projections.

8) Government Structure Options

The San Jose Municipal Water System is operated through the Environmental Services Department. The SJMWS utilizes other departments within the City to accomplish such tasks as finance, planning, fire protection, and information technology for operations. No other government structure options were noted.

9) Local Accountability and Governance

The City of San Jose ensures local accountability and governance standards are met through the oversight and management provided by the City Council. The San Jose Municipal Water System is addressed during City Council meetings. The City provides information on the water utility, water conservation and water recycling on its website and in printed form.

CITY OF SANTA CLARA

- DETERMINATIONS -

1) Population and Growth

The City of Santa Clara estimates that its population is currently 106,000; ABAG estimates that the City's population in 2005 is 108,700 and will reach 142,100 by 2030, with an annual growth rate of 1.2%.

The City has planned for growth and development through its General Plan, Water Master Plan and Urban Water Management Plan.

2) Infrastructure Needs and Deficiencies

Santa Clara relies primarily on groundwater obtained from 27 wells distributed throughout the City.

The City purchases treated water from SFPUC and SCVWD for its remaining supply. Recycled water is supplied from the San Jose/Santa Clara Water Pollution Control Plant.

The City's water storage capacity is adequate to meet current operational, emergency and fire flow storage needs.

The City's water system infrastructure is aging; the City is addressing the needs through its 2002 Water Master Plan and its CIP plan.

3) Financing Constraints and Opportunities

Santa Clara operates its water utility as an enterprise activity and it is intended to be self-supporting through user service charges.

Capital improvements are made on a "pay as you go" basis with no outside financing or loans.

The changes to local revenue allocation included in the State's budget act of 2004 may fiscally impact the City, including the water utility. 5% of gross revenues are transferred to the General Fund as part of the contribution in lieu of property taxes program.

4) Cost Avoidance Opportunities

Santa Clara is avoiding costs through a number of methods, including technology and equipment, staffing capabilities, and redundancy in water sources.

Some of the CIP projects pertain to replacements, upgrades and modifications to improve existing facilities, effectively resulting in preventative maintenance and potential cost avoidance in the event of a failure.

5) Management Efficiencies

The Water and Sewer Utilities manages the water utility in conjunction with the sewer utility, effectively utilizing staff.

Expected turnover in senior level staff is seen as a significant challenge by the Department in the near term.

6) Shared Facilities

Santa Clara is a member agency of BAWSCA and is a partner with SCVWD for implementation of water conservation measures. The City jointly operates several water intertie facilities and is a joint owner of the San Jose/Santa Clara Water Pollution Control Plant.

7) Rate Restructuring

The City of Santa Clara adjusts its water rates annually based on internal budget projections.

The expected increase in the cost of imported water from both SFPUC and SCVWD represents a significant challenge to the City in terms of moderating future rate increases.

8) Government Structure Options

The water utility is a division of the City of Santa Clara's Water and Sewer Utilities. The Division utilizes other departments within the City to accomplish such tasks as fleet management, finance, planning, and fire protection for operation of the utility. No other government structure options were noted.

9) Local Accountability and Governance

The City of Santa Clara ensures that local accountability and governance standards are met through the oversight and management provided by the City Council. The water utility is addressed during City Council meetings. The City provides a substantial amount of information related to water service, water conservation and water reuse to its water utility customers.

CITY OF SUNNYVALE

- DETERMINATIONS -

1) Population and Growth

Sunnyvale has a population of 131,760 per the 2000 U.S. Census. ABAG estimates the City's population at 133,000 in 2005, reaching 159,100 in 2030 with an annual growth rate of 0.8%.

The City is primarily built out; future growth will occur through infill, redevelopment, and intensification of existing land use in designated areas

The City has planned for growth and development through its General Plan, Water Master Plan and Urban Water Management Plan.

2) Infrastructure Needs and Deficiencies

Sunnyvale relies primarily on imported water obtained from SFPUC and SCVWD for its supply. Nine groundwater wells provide a supplementary source.

Recycled water is produced at the Sunnyvale Water Pollution Control Plant; the water is available to customers in the northern portion of the City.

The City plans for infrastructure needs through its Water Master Plan and CIP program. As of December 2004, the CIP has \$2.7 million budgeted for active water projects.

Water storage capacity is adequate per industry standards; however, the storage facilities are over 30 years old and maintenance and repairs will be a priority.

3) Financing Constraints and Opportunities

Sunnyvale finances its water utility through user fees; the rate structure ensures funding for capital improvements, operational and maintenance needs, and the development of an adequate reserve.

The City has designated reserves for debt service, contingencies, rate stabilization and a 20-year resource allocation plan.

The City uses a 20-year timeframe for budgeting, which provides the benefits of long-term financial planning.

The City is currently facing a budget crisis that may impact the water utility.

4) Cost Avoidance Opportunities

Sunnyvale avoids costs related to water supply and distribution through the use of technology (SCADA system and GIS).

The City actively pursues cost avoidance measures including demand management and the use of long-term financial planning.

5) Management Efficiencies

Sunnyvale uses a Performance Budget which correlates to the elements of the General Plan. The evaluation measures that are included provide a means for the City to achieve management efficiencies both in cost and service levels.

6) Shared Facilities

Sunnyvale is a member agency of BAWSCA and is a partner with SCVWD for implementation of water conservation measures.

The Water Service and Distribution utility delivers recycled water produced at the Sunnyvale Water Pollution Control Plant.

The City has several water interties with surrounding agencies that can provide water in emergencies.

7) Rate Restructuring

Sunnyvale uses an inverted rate structure to promote water conservation.

The expected increase in the cost of imported water from both SFPUC and SCVWD represents a significant challenge to the City in terms of moderating future rate increases.

Sunnyvale adjusts rates annually based on internal budget projections.

8) Government Structure Options

The water utility is operated by Sunnyvale's Public Works Department. The water utility utilizes other departments within the City to accomplish such tasks as finance, planning, fire protection, and information technology for operation of the utility. No other government structure options were noted.

9) Local Accountability and Governance

The City of Sunnyvale ensures that local accountability and governance standards are met through the oversight and management provided by the City Council. The water utility is addressed during City Council meetings. The City provides a substantial amount of water conservation and recycling information to its residents.

RESOLUTION NO. _____

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE
COUNTY OF SANTA CLARA ADOPTING DETERMINATIONS
OF THE COUNTYWIDE WATER SERVICE REVIEW**

RESOLVED by the Local Agency Formation Commission of the County of Santa Clara,
State of California that

WHEREAS, Government Code Section 56430 requires the Commission to conduct service
reviews in order to prepare and update spheres of influence in accordance with Government
Code Section 56425; and

WHEREAS, the Commission previously authorized the Countywide Water Service Review
to be prepared; and

WHEREAS, the Executive Office set April 13, 2005 and June 8, 2005 as public hearing
dates on the Countywide Water Service Review and recommended Service Review
Determinations; and

WHEREAS, this Commission considered the comments received in writing and the
comments presented at both the April 13, 2005 and June 8, 2005 public hearings; and

WHEREAS, the Countywide Water Service Review and the Service Review Determinations
are Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to
Section 15306 Class 6 of the CEQA Guidelines;

NOW THEREFORE, the Local Agency Formation Commission of the County of Santa
Clara does hereby resolve, determine, and order as follows:

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SECTION 1:

The Countywide Water Service Review Determinations attached hereto as Exhibit A and incorporated herein by reference are hereby adopted.

PASSED AND ADOPTED by the Local Agency Formation Commission of the County of Santa Clara, State of California, on June 8, 2005 by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

CHAIRPERSON
Local Agency Formation Commission

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

LAFCO Clerk

KATHY KRETCHMER
LAFCO Counsel

Date Prepared: June 1, 2005
LAFCO Meeting: June 8, 2005

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer *up*

SUBJECT: **Proposed Final Budget FY 2005-2006**
Agenda Item # 7

STAFF RECOMMENDATION

1. Adopt the Final LAFCO Budget for fiscal year 2005-2006. (Attachment A)
2. Find that the Final FY-06 Budget is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the final budget adopted by the Commission including the estimated agency costs to each of the cities, the County and the Cities Association.
4. Direct the County Auditor-Controller to apportion LAFCO costs to cities and the County and collect payments pursuant to Government Code Section 56381.

BACKGROUND

LAFCO Budget and Adoption Process

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) which became effective on January 1, 2001, requires LAFCO to annually adopt a draft budget by May 1 and a final budget by June 15 at noticed public hearings. Both the draft and the final budgets are required to be transmitted to the cities and the County. The CKH Act establishes that at a minimum, the budget must be equal to that of the previous year unless the Commission finds that reduced staffing or program costs will nevertheless allow it to fulfill its statutory responsibilities. Any unspent funds at the end of the year may be rolled into next fiscal year budget. After the adoption of the final budget, the County Auditor is required to apportion the net operating expenses of the Commission to the agencies represented on LAFCO.

CHANGES TO THE DRAFT / PRELIMINARY BUDGET

The Commission on April 13, 2005, adopted the preliminary budget for Fiscal Year 2005-2006. The preliminary budget was prepared using the best information available at that time. Since then, new information has become available and staff is proposing revisions to the draft budget items based on this information. Also, LAFCO has received slightly higher revenues in the current year than was estimated in the preliminary budget.

Taking all these changes into consideration, the total LAFCO budget decreases by about \$1,100 from the preliminary budget, bringing it to total of \$643,669. However, **the actual operating expenses are reduced to \$503,240, which represents a slight reduction in LAFCO's net operating costs from the draft preliminary budget.** Presented below are the proposed revisions to items:

**Object 1. SALARIES AND BENEFITS
(Decrease from \$324,036 to \$321,329)**

Executive Officer and Analyst (Decrease from \$196,861 to \$194,154)

This slight reduction is based on changes in benefit rates for County employees. The projected salary and benefits for the LAFCO Executive Officer position (.6 FTE) is \$73,409 and for the LAFCO Analyst position, the projected salary and benefits is \$120,745.

LAFCO Clerk / Coordinator (Remain at \$127,175)

It is likely that the LAFCO Clerk salary and benefits amount would be lower than the budgeted amount of \$127,175. The actual salary and benefits amount for the new LAFCO Clerk/Coordinator position has not yet been determined and therefore no change is being proposed for budgeting purposes at this time.

Object 2. SERVICES AND SUPPLIES

**5285300 PRIVATE AUTOMOBILE MILEAGE
(Increase from \$600 to \$1,200)**

This item is being increased from \$600 to \$1,200. This increase is based on expenses incurred against this item in the current year budget. This amount provides for travel to conduct site visits, attend meetings, training sessions etc.

**5285200 TRANSPORTATION AND TRAVEL (for use of County car)
(Increase from \$500 to \$1,500)**

This item is being increased to reflect the current year's expenses. This item would allow for the use of a County vehicle for travel to conferences, workshops and meetings.

**4103400 LAFCO APPLICATION FEES (end of year projection for FY 2005)
(Increase from \$40,000 to \$46,200)**

LAFCO collected about \$6,200 more than what was anticipated in the year end projections, which was estimated at \$40,000. Depending on application activity prior to close of this fiscal year, it is possible that additional revenues may be collected.

**4301100 INTEREST (end of year projection for FY 2005)
(Increase from \$5,000 to \$5,400)**

It is estimated that LAFCO will receive a small increase in interest of about \$400 more than that was projected for the current year.

**NET LAFCO OPERATING EXPENSES
(Decrease from \$509,227 to \$503,240)**

As a result of the above listed estimated changes in costs and revenues, the net operating expenses of LAFCO for FY 2006 are reduced from \$509,227 in the Draft Budget to \$503,240 in the Final Budget. This would correspondingly reduce the costs to the agencies.

COST APPORTIONMENT TO CITIES AND COUNTY

The CKH Act requires LAFCO costs to be split in proportion to the percentage of an agency's representation (excluding the public member) on the Commission. Since the City of San Jose has a permanent membership on Santa Clara LAFCO, the law requires costs to be split between the County, the City of San Jose and the remaining cities. Hence the County pays half the LAFCO cost, the City of San Jose a quarter and the remaining cities the other quarter. The cities' share (other than San Jose's) is apportioned in proportion to each city's total revenue as reported in the most recent edition (2002-2003) of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county.

The CKH Act requires the County Auditor to apportion the costs to the various agencies and request payment from the cities and the County no later than July 1 of each year for the amount each agency owes based on the net operating

expenses of the Commission and the actual administrative costs incurred by the Auditor in apportioning costs and requesting payment.

Provided below is the draft apportionment to the agencies based on LAFCO's net operating expenses for FY-06 (\$503,240). Cost to individual cities is detailed in Attachment B.

Costs to Agencies

	FY 04-05 Costs	FY 05-06 Costs
County of Santa Clara	\$182,595	\$251,620
City of San Jose	\$91,297	\$125,810
Remaining 14 cities in the County	\$91,297	\$125,810

ATTACHMENTS

Attachment A: Final Budget for FY 2005-2006

Attachment B: 2005-2006 LAFCO Cost Apportionments to Cities and the County

**FINAL LAFCO BUDGET
FISCAL YEAR 2005 - 2006**

**ITEM NO. 7
ATTACHMENT A**

ITEM #	TITLE	APPROVED FY 04-05 BUDGET	END OF YEAR PROJECTIONS	FINAL FY 05-06 BUDGET
EXPENDITURES				
Object 1:	Salary and Benefits	\$180,552	\$180,552	\$321,329
Object 2:	Services and Supplies			
5258200	Intra-County Professional	\$200,618	\$180,000	\$107,320
5255500	Consultant Services	\$100,000	\$100,000	\$100,000
5210100	Food	\$750	\$300	\$750
5220200	Insurance	\$84	\$84	\$96
5250100	Office Expenses	\$2,000	\$1,500	\$2,000
5255650	Data Processing Services	\$11,897	\$4,000	\$12,193
5225500	Commissioners' Fee	\$1,500	\$1,250	\$1,500
5260100	Publications and Legal Notices	\$1,000	\$750	\$1,000
5245100	Membership Dues	\$2,113	\$2,113	\$2,161
5250750	Printing and Reproduction	\$1,500	\$200	\$1,500
5285800	Business Travel	\$8,000	\$8,000	\$9,000
5285300	Private Automobile Mileage	\$500	\$1,100	\$1,200
5285200	Transportation&Travel (County Car Usage)	\$500	\$1,620	\$1,500
5281600	Overhead	\$28,165	\$28,165	\$14,120
5275200	Computer Hardware	\$2,000	\$1,000	\$2,000
5250800	Computer Software	\$2,000	\$1,000	\$2,000
5250250	Postage	\$2,000	\$1,500	\$2,000
5252100	Staff Training Programs	\$1,500	\$1,500	\$2,000
5701000	Reserves	\$60,000	\$0	\$60,000
TOTAL EXPENDITURES		\$606,679	\$514,634	\$643,669
REVENUES				
4103400	Application Fees	\$75,000	\$46,200	\$35,000
4301100	Interest: Deposits and Investments	\$2,000	\$5,400	\$5,000
	Total Interest / Application Fee Revenue	\$77,000	\$51,600	\$40,000
4600100	Cities (Revenue from other Agencies)	\$182,595	\$182,595	
5440200	County	\$182,595	\$182,595	
	Savings/Fund Balance from previous FY	\$164,490	\$198,274	\$100,429
TOTAL REVENUE		\$606,680	\$615,064	
NET LAFCO OPERATING EXPENSES		\$365,189		\$503,240
COSTS TO AGENCIES				
	County	\$182,595		\$251,620
	City of San Jose	\$91,297		\$125,810
	Other Cities	\$91,297		\$125,810

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2005/2006 LAFCO COST APPORTIONMENT
Estimated Costs to Agencies Based on the FINAL Budget

LAFCO Net Operating Expenses for 2005/2006 \$503,240

Jurisdictions	Revenue per 2002/2003 Report	Percentage of Total Revenue	Allocation Percentages	Allocated Costs
County	N/A	N/A	50.0000000%	\$251,620.00
San Jose	N/A	N/A	25.0000000%	\$125,810.00
Campbell	\$32,891,311	2.3481246%	0.5870311%	\$2,954.18
Cupertino	\$54,314,503	3.8775353%	0.9693838%	\$4,878.33
Gilroy	\$64,950,590	4.6368500%	1.1592125%	\$5,833.62
Los Altos	\$24,185,913	1.7266425%	0.4316606%	\$2,172.29
Los Altos Hills	\$6,976,235	0.4980364%	0.1245091%	\$626.58
Los Gatos	\$26,221,022	1.8719298%	0.4679825%	\$2,355.07
Milpitas	\$72,963,039	5.2088621%	1.3022155%	\$6,553.27
Monte Sereno	\$1,694,050	0.1209389%	0.0302347%	\$152.15
Morgan Hill	\$36,342,726	2.5945225%	0.6486306%	\$3,264.17
Mountain View	\$131,435,450	9.3832322%	2.3458081%	\$11,805.04
Palo Alto	\$305,150,000	21.7847872%	5.4461968%	\$27,407.44
Santa Clara	\$414,752,756	29.6093741%	7.4023435%	\$37,251.55
Saratoga	\$18,118,864	1.2935133%	0.3233783%	\$1,627.37
Sunnyvale	\$210,751,676	15.0456510%	3.7614128%	\$18,928.93
Total	\$1,400,748,135	100.0000000%	100.0000000%	\$503,239.99
Total Cities				\$125,811.99

May 31, 2005

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer *up*
Dunia Noel, Analyst

SUBJECT: Update on Island Annexations
Agenda Item # 8

Update on Island Annexations

For Information Only

The County of Santa Clara Board of Supervisors is scheduled to consider whether to provide assistance or incentives to cities to annex unincorporated islands at its June 7, 2005 Meeting. LAFCO staff will update the Commission and the cities on this once the County makes its decision and finalizes its plans. LAFCO staff will also send out a flyer to the cities offering LAFCO assistance with their annexation programs and encouraging the cities to contact LAFCO as soon as they are ready to start an annexation program. The flyer will also provide them with information on:

- The State Board of Equalization's (SBE's) relaxed filing requirements for island annexations, and
- LAFCO assistance.

Along with the flyer, a CD-ROM of the revised maps of unincorporated islands in Santa Clara County will also be sent to each city.

Kathleen Molloy Previsich, Community Development Director for the City of Morgan Hill, has contacted LAFCO staff concerning Morgan Hill's consideration of annexing the remaining unincorporated island within the city's Urban Service Area (USA). According to Miss Previsich, City staff plan to place this matter before the full City Council on June 15, 2005. The City is also considering how to address LAFCO's request that the City submit a resolution to LAFCO requesting that the Holiday Lake Estates Area be included in the City's USA. The City states that once the Holiday Lake Estates Area is inside the City's USA, it would likely

qualify for the streamlined annexation process. LAFCO staff will continue to work with the City and to update the Commission on Morgan Hill's island annexation plans.

May 31, 2005

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer *mp*
Dunia Noel, Analyst

SUBJECT: Update on Sub-Regional Service Reviews
Agenda Item # 9

Update on Sub-Regional Service Reviews

For Information Only

Based on LAFCO's Consultant Selection Committee's recommendation, LAFCO has retained LSA Associates to prepare LAFCO's Sub-Regional Service Reviews and Sphere of Influence Recommendations Project. LSA has signed LAFCO's service agreement and begun working on South Central Santa Clara County Service Review Project. Lloyd Zola is the Principal in Charge for the Project and Renee Sendecki is the Project Manager for the Project. LSA has already begun to collect necessary information on the participating agencies by using existing resources, such as agency plans, reports, and websites. Renee will be contacting the participating agencies over the next 2 months to request and collect further information as necessary.

Staff will meet with the South Central County Technical Advisory Committee (TAC) and consultants on June 6, 2005 from 9 to 10 A.M. at the County Government Center in the 11th Floor Conference Rooms. The purpose of this first TAC meeting is to introduce the TAC to the Consultants, finalize the issues that will be addressed in the service review, quickly review the service review process, have the consultants present an outline of information that they will be collecting and determine the level of detail that will be needed, discuss what the next steps are in the process, review the project time-line and consider dates for future TAC meetings.

LAFCO Staff and the Consultants will also hold a Kick-Off meeting for the Project on June 6, 2005 from 10:15 to 11:45 A.M. at the County Government Center in the 11th Floor Conference Rooms. LAFCO staff has sent invitation flyers to LAFCO Commissioners, participating agencies (City/County Planning Directors, City Managers,

City Public Works Directors, Special District Managers, and the County Executive), and other interested parties. The following topics will be discussed at the Kick-Off meeting:

- The Purpose and Statutory Requirement for Service Reviews,
- Scope of the South Central County Service Review,
- Information Needs and Methods of Collecting Necessary Information,
- Pending Applications and Sphere of Influence Changes Contemplated by Agencies, and
- Project Timeline.

Renee Sendeki has personally contacted each agency in order to invite them to attend the Kick-Off meeting and to learn which staff within each agency will be the main contact or contacts for the South Central County Service Review. LAFCO staff anticipates that LSA will spend June through early August collecting necessary information to prepare a draft profile of each participating agency. LAFCO staff and the respective agency will have reviewed the draft profiles, prior to the profiles being finalized. The consultant will use these profiles to conduct the service review and to develop sphere of influence (SOI) recommendations for each participating agency. LAFCO staff will continue to provide the Commission with status reports as the project progresses.

Date Prepared: June 1, 2005
LAFCO Meeting: June 8, 2005

TO: LAFCO
FROM: Neelima Palacherla, Executive Officer *up*
SUBJECT: **Executive Officer's Report**
Agenda Item # 10

A. Update on LAFCO Clerk Position

For Information Only

LAFCO staff is working with the County Employee Services Agency on developing a new classification for the LAFCO Clerk / Coordinator Position. At the earliest, the position will be available for hiring into at the start of the new fiscal year.

B. CALAFCO Annual Conference (September 7- 9) in Monterey

Recommendation

Authorize staff and commissioners to attend the conference and authorize travel expenses funded by LAFCO budget.

The CALAFCO Annual Conference is scheduled for September 7-9 at Portola Plaza Hotel in Monterey. The conference is being co-hosted by the Commissions of Monterey, Santa Cruz and Santa Clara. Commissioner Wilson and Executive Officer are participating on the Conference Program Planning Committee. A flyer with draft program and registration information will be sent to the commissioners in the next few days.

May 20, 2005

Fred Curry, Chief
Water Utilities Branch
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Re: Great Oaks Water Company Advice Letter No. 170, Extension of Water Service to Coyote Valley

Dear Mr. Curry:

Thank you for the opportunity to comment on the above mentioned application.

The Great Oaks Water Company is requesting to extend water service to the Coyote Valley area that is outside San Jose's city limits and urban service area. The Advice Letter does not provide specific information on the types and locations of proposed connections. It is also not clear about the need for extending water to the area at this time. Based on the information provided in the Advice Letter, allowing extension of piped water to this area outside San Jose's urban service area, is premature and in direct contradiction of fundamental County, cities and LAFCO policy prohibiting urban types and levels of services outside cities' urban service areas.

Urban service areas are areas designated for urban growth and to which urban level of services would be provided, upon annexation by the city. In Santa Clara County, the urban service area is a tool to manage urban growth, contain urban sprawl and efficiently provide urban services. LAFCO, the County and the 15 cities in this county have long standing policies to not allow urban development or urban level of services (such as water and sewer) in areas outside urban service areas.

Furthermore, with the extension of water service to the area, there is potential for development of a type and density that is greater than which can be accommodated by current individual wells. In addition to the potential growth inducing impacts, the water extension could result in increased water usage, eventually impacting the ground water basin.

Since Great Oaks water Company is a private entity, it is not subject to LAFCO authority. Regardless, the potential impacts of allowing water extensions to

unincorporated areas by private water companies should be evaluated. All the above-mentioned issues should be considered and further analysis and environmental assessments conducted, prior to approval of this water service extension.

Please do not hesitate to call me at 408-299-5127 or e-mail me at neelima.palacherla@ceo.sccgov.org, if you would like to discuss any of this. Thank you.

Sincerely,



Neelima Palacherla, Executive Officer

Cc:

LAFCO Members

Alan J. Gardner, Chief Operating Officer, Great Oaks Water Company

Stephen Haase, Director of Planning, Building & Code Enforcement, City of San Jose

Bill Shoe, Principal Planner, County of Santa Clara

Mohsen Kazemzadeh, Sr. Utilities Engineer, CPUC



GREAT OAKS WATER COMPANY

Filed by Email, Hardcopy mailed

May 25, 2005

Fred Curry, Chief
Jocelyn Walker, Analyst
Water Utilities Branch
CPUC
505 Van Ness Ave.
San Francisco, CA 94102

P. O. Box 23490
San Jose, California 95153
(408) 227-9540

Re: GOWC AL 170—RESPONSE TO PROTEST of
LAFCO-County of Santa Clara

Dear Mr. Curry:

Despite our timely service on LAFCO, LAFCO filed its Protest 5 days late. There is NO legitimate excuse for being late, particularly since the substance of the Protest is substantially the same as prior LAFCO Protests or Comments on GOWC's filings, and LAFCO *admits* it has NO jurisdiction over GOWC. The Protest should be disregarded.

GOWC has the following comments on the content of the Protest:

1. Virtually, all of the properties included in the new service area requested water service from GOWC and the mains and services are installed. There are 15 residential potable services, 2 business potable services and 14 agricultural services. We are currently providing service at several locations. The few exceptions that did not request service are included because there are facilities present to serve them and/or they are otherwise surrounded by the requested properties. They did not object to being included. GOWC notes this is consistent with the Commission's policy to avoid creating isolated parcels.
2. Residential customers gave two public safety reasons for requesting service: (a) the concern for increasing DHS regulation of their own drinking water wells and the desire and comfort of having GOWC responsible for potable water; and (b) additional water for fire flow to back up existing on site provisions.
3. Business customers either wanted agricultural service to expand crop production or potable water for existing structures.

4. In response to LAFCO's comments that providing water service could cause greater density than would otherwise occur, GOWC disagrees.

First, we do not see any complaint by LAFCO about the presence of PGE's electrical service and SBC's telephone service throughout the area, obviously keys to any future growth. None of the existing residences or businesses could exist without both. LAFCO does not explain how greater density and growth will occur from just the availability of water too, especially when there are no known sanitary sewers in the County portion of the new service area.

Second, since the County sets the zoning and building rules for the area in the County and grants the building permits, it thereby has complete and total control over any new residential or business growth and density through existing local procedures. It *has to* permit buildings that meet the existing rules. If it does not want any more buildings it can change the rules, and this is where LAFCO's input is appropriate.

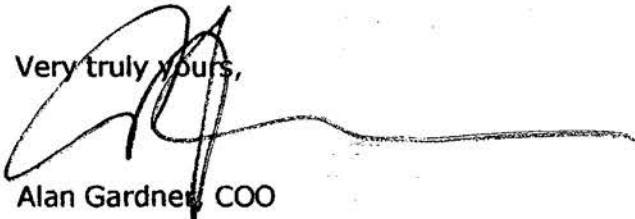
Third, it is inappropriate and contrary to the constitutional and statutory mandates of this Commission for a local agency to try to use the Commission to deny water, telephone or electrical service to a physical location that the owner or resident has a legal right under local and state law to construct or occupy.

Fourth, the test to grant an expanded service area under PU Code Section 1001 is whether GOWC is ready, willing and able to serve. By already having extended facilities and committing to serve, GOWC has committed itself to be statutorily obligated to do what is necessary to ensure water is available for whatever level of service is required and growth authorized by the County and/or LAFCO.

Finally, we would note that the County granted all the permits necessary to install the pipelines and services for all of the facilities involved, which are in fact in place and operational.

I trust this fully responds to LAFCO's Protest. I would be pleased to answer any other questions the Commission might have.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alan Gardner', with a long horizontal flourish extending to the right.

Alan Gardner, COO

cc Service List



Office of the City Attorney
RICHARD DOYLE, CITY ATTORNEY

May 18, 2005
Via Federal Express and email (water_division @cpuc.ca.gov)

California Public Utilities Commission
Water Division
505 Van Ness Avenue
San Francisco, CA 94102-3298

Re: Advice Letter No. 170
Great Oaks Water Company

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA:

The City of San José hereby protests the above-referenced Advice Letter filing. Specifically, San José protests the expansion of Great Oaks Water Company service into the "mid-Coyote Valley" area of the City of San José, as identified on Proposed Revised Tariff Sheets 468A, 469W, 470W, 471W, 472W, and 473W attached to Advice Letter No. 170.

FACTS ON WHICH PROTEST IS BASED

The area covered by this protest is known as the "mid-Coyote Valley" area of Santa Clara County. This entire proposed expansion area has been within the City of San José Municipal Water Company's declared service area since 1986, as provided for in Section 15.08 of the City of San José Municipal Code (and shown on the appended reference map). A map of the City's Coyote Valley service area is attached to this letter. The City has existing facilities to serve the protested area adjacent to Bailey Avenue. (Revised Sheet 469W), as more fully described below. Finally, Great Oaks has failed to demonstrate that it will be able to meet the projected water demands for this area.

EFFECT OF ADVICE LETTER FILING ON CITY OF SAN JOSE

This Advice Letter filing will create confusion for customers in the City's existing Coyote Valley service area, and will impede the City's ability to plan for development of the mid-Coyote Valley Area. In addition, service to areas which can be served by existing City facilities would violate Public Utilities Code Section 1505 (Service Duplication Law).

REASONS WHY ADVICE LETTER FILING IS UNJUSTIFIED

Advice Letter No. 170 is unjustified under General Order 96A which authorizes a utility to file tariff service area maps for "extensions into territory contiguous to its line, plant or system and not theretofore served by a public utility of like character." As more fully described below, a portion of the area covered by Advice Letter No. 170 can be served by existing San José Municipal Water System facilities, and the entire area lies within the City's Coyote Valley service area.

Advice Letter No. 170 is also unjustified under General Order 103. Great Oaks has not provided the City with a Water Supply Questionnaire (WSQ) demonstrating how it can meet the minimum standards for design and construction outlined in General Order 103 for the protested area. In order to explain our concern with the lack of water supply information, we would like to provide some background land use information on Coyote Valley and the Specific Plan that is being prepared for it.

The proposed expansion area is located within the area designated by the San José 2020 General Plan as the North Coyote Campus Industrial Area and Coyote Valley Urban Reserve. The North Coyote Campus Industrial Area is within the City's Urban Service Area (USA) where urban services are either available or planned for. The USA boundary is located between Bailey Avenue and Laguna (see Proposed Revised Tariff Sheet 469W.). A portion of the proposed expansion area within the Urban Reserve is outside the City's USA, but within the City's Urban Growth Boundary (UGB). Palm Avenue forms the UGB (see Proposed Revised Tariff Sheet 471W.) The USA would need to be expanded to cover the Urban Reserve if and when the Coyote Valley Specific Plan is ever adopted. However, that action has not yet occurred and currently remains in the preliminary planning phase.

These two areas have been planned for urban development for several decades, and in August 2002 the City Council authorized the preparation of the Coyote Valley Specific Plan (CVSP). The Council Vision for Coyote Valley envisions a pedestrian and transit-oriented community for a minimum of 25,000 new residential units and 50,000 new jobs.

As a part of the development of the CVSP, the City has worked closely with the Santa Clara Valley Water District to determine the water supply needs for the specific plan area. The total projected demand for the CVSP area (including the existing and proposed new development) is estimated to be 16,000 to 20,000 AF/YR or 14.2 to 17.8 mgd, which is based on average daily demands. A combination of water supply program components, including new groundwater recharge opportunities, use of recycled water and appropriately treated recycled water, local transfers between groundwater basins, water conservation and some direct import, is expected to be used to provide the needed water. The CVSP would also identify the need for new wells, pump stations and a water distribution network to serve the Coyote Valley.

Advice Letter No. 170 indicates that Great Oaks has received requests from almost all of the property owners in the subject area, however there is no supporting information provided to substantiate this. If Great Oaks has received requests for only for irrigation service, we question whether the potential customers would be requesting this service if they knew that it could impair their ability to develop their properties in the future, if Great Oaks is unable or unwilling to meet projected water demand for the area.

Although Great Oaks references a working paper to Advice Letter No. 167, which purportedly provides additional information concerning expected demand, this document was not provided to the City of San José. Also, the documents provided by Great Oaks for our review do not include delineations of the two Great Oaks existing service areas and facilities alluded to in Advice Letter No. 170. These omissions prevent the analysis of the degree to which this proposal may contribute to the creation of service islands, or areas in which services are deficient for planned development.

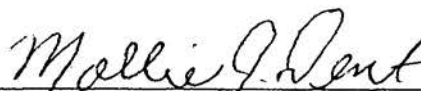
Finally, the San José Municipal Water System Coyote Valley service area covers the entire area proposed for expansion by Great Oaks, and therefore authorizing Great Oaks to provide service in this area appears to be unnecessary and would permit the duplication of facilities in violation of Public Utilities Code Section 1505. The City has existing facilities in place to serve the protested area adjacent to Bailey Avenue (Proposed Revised Sheet 469W). Specifically, the City has had water mains in Santa Teresa Boulevard to Bailey Avenue and in Bailey Avenue since 1986. The City's Coyote well field (installed in 1987) is located just north of Bailey Avenue near the southern Pacific Railroad tracks which are shown on Proposed Revised Sheet 469W. In 2004, at a cost of approximately \$8.1 million, the City completed an upgrade to the Coyote well field, and installed a 3.6 million gallon storage tank.

CONCLUSION

We request that the Commission reject the filing of Advice Letter No. 170. Please advise us if you need any further information from the City in order to consider this protest.

Very truly yours,

RICHARD DOYLE, City Attorney

By: 
MOLLIE J. DENT
Sr. Deputy City Attorney

Encl.
MJD:md



GREAT OAKS WATER COMPANY

P. O. Box 23490
San Jose, California 95153
(408) 227-9540

May 24, 2005

Fred Curry, Chief
Jocelyn Walker, Analyst
Water Utilities Branch
CPUC
505 Van Ness Ave.
San Francisco, CA 94102

Re: GOWC AL 170—RESPONSE TO PROTEST BY CITY OF SAN JOSE

Dear Mr. Curry:

GOWC has read the Protest and believes it can characterize it as follows:

1. **FACTS ON WHICH PROTEST IS BASED.** The City claims the mid-Coyote Valley new service area is within its' municipal water service area, that it has facilities to serve and that GOWC has not demonstrated it can serve.
2. **EFFECT OF THE ADVICE LETTER ON THE CITY OF SAN JOSE.** The City claims customers will be confused, the City's plans for development for the new service area may be impeded and the service duplication law is violated.
3. **REASONS WHY THE ADVICE LETTER IS UNJUSTIFIED.** The City claims GOWC's new service area is within the Municipal Water service area, is within a potential development and questions whether GOWC could meet the future development's needs.

GOWC responds to each allegation as follows:

1. **FACTS ON WHICH PROTEST IS BASED.** The City claims the mid-Coyote Valley new service area is within its' municipal water service area, that it has facilities to serve and that GOWC has not demonstrated it can serve.

A. The City of San Jose is only authorized to provide service within the City. As can be seen from the attached map of GOWC's new service area, almost 90% of the new service area (the shaded portion) is in the County, where the City is not authorized to serve.

B. The City has also declared it will never serve about one-half of the Valley south-east of Palm Avenue in what is called the Greenbelt. Palm Avenue is the south-east border of our existing territory and new territory. There are existing residents in the Greenbelt. The consequence of the City's declaration is that current residents would never have the opportunity to be served by any water utility unless GOWC serves.

The City does not have any existing facilities south of Bailey Avenue and GOWC does. The City's facilities are on Bailey and Santa Teresa north-west of Bailey. The rectangular finger of new service area claimed north-west of Bailey has a GOWC main passing it and a service installed.

Only GOWC has facilities, services installed and customers south-east of Bailey. Further, we began providing water the day after the Advice Letter was filed.

C. Finally, the City does not explain why it gave GOWC all of the necessary permits to install all of GOWC's facilities and service connections within the City limits from which the City is now protesting provision of service by GOWC.

2. EFFECT OF THE ADVICE LETTER ON THE CITY OF SAN JOSE. The City claims customers will be confused, the City's plans for development for the new service area may be impeded and the service duplication law is violated.

A. The City has not explained how customers will be confused. Every person or business that signed a request for service knew it was from GOWC and they were signing a GOWC letterhead form. Every one knew they were not requesting service from the City.

B. The City has not demonstrated how granting a service area expansion to a regulated water utility will "...impede the city's ability to plan for development". In its Protest (page 2, paragraph 4), the City says it has planned for urban development in this area for several decades, implying at least 20 years to consider and develop. Yet, the City has only had San Jose Public Works and a PacBell, now SBC, small switching building as customers during that time, both of which were in our certified serving territory. The City claims no other customers and no requests for service—except one that it unhooked from GOWC, both of which criteria would be expected in support of an argument against possible service duplication. The fact that the City chose to build facilities that have been a stranded investment for 20 years

should not justify denial of a straightforward PU Code Section 1001 service territory expansion.

C. The City has not provided any basis or facts to allege a violation of service duplication under PUC section 1505. The only potential for duplication of facilities is if the City in the future extends south-east of Bailey where GOWC has facilities in place and is providing service. The bare allegation of duplication has nothing to do with the test for certification under PUC section 1001, particularly where GOWC is the one with the pipe and services in the ground, not the City.

3. REASONS WHY THE ADVICE LETTER IS UNJUSTIFIED. The City claims GOWC's new service area is within the Municipal Water service area, is within a potential development and questions whether GOWC could meet the future development's needs. (We note in passing the inconsistency of the City desiring an increase in density development and the Protest by the County expressing concern about any increased development).

A. The test under PU Section 1001 is whether GOWC is ready, willing and able to serve. By extending facilities and committing to serve, GOWC has committed itself to be statutorily obligated to do what is necessary to ensure water is available for whatever level of service is required. Based on our statutory duty and demonstrated existing capacity NO customer should have any concern about our willingness or ability to serve.

The new service area contains 15 existing residences and 2 businesses with several buildings, all of whom requested potable service. The remaining part of the new service area is covered by requests for agricultural service. Our *existing* mid-Coyote service area near Scheller Avenue and Palm Avenue contains most of the homes currently constructed in the mid-Valley.

We provided a water supply questionnaire with AL 170. The City did not request a copy from us before filing its Protest. Since Ms. Dent has represented the City on almost every territorial protest for about 20 years and has on each occasion asked for the water questionnaire, she certainly knew she could have done that before filing the Protest, so that her Protest could be accurate.

B. The City has wasted money by installing unnecessary facilities. To the extent the City may wind up with some over investment in north Coyote beyond what it intentionally stranded 20 years ago, it knew GOWC had a major pipeline the length of the north and mid-Coyote that could serve large areas the City's then facilities could not serve; and the City acted in bad faith after it lost the service area dispute W-4287, and GOWC had offered to fully install facilities at our (lower) expense and no cost to the City. That dispute is now in litigation with the City and is not relevant to granting additional

service area where GOWC has extended itself to serve in response to requests to serve

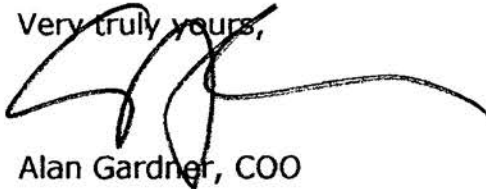
Great Oaks Conclusion

The City has demonstrated a history of trying to prevent GOWC from expanding its right to operate as a public utility. Just three years ago, the director of the CPUC's Water Division took the unusual step of placing City Attorney Dent on notice that the CPUC was aware of that particular pattern of conduct (Please see attached letter dated February 22, 2002 to Mollie Dent, Senior Deputy City Attorney, from Izetta C. R. Jackson, Interim Director, Water Division, Public Utilities Commission).

The Company has spent the money, installed the facilities and services with City permits, for all of the facilities within the City limits, and only asked in AL 170 to include in its territory the properties it can and is reaching with facilities and water.

The Protest is without merit and should be denied.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alan Gardner', with a long horizontal flourish extending to the right.

Alan Gardner, COO

cc Service List

LAFCO holds hammer over city

ITEM NO. 13

Wednesday, June 01, 2005

By Matt King

Gilroy - Gilroy has grown so quickly over the last few years that it can be hard to believe that any growth proposals have been rejected. But retail explosions and mushrooming housing developments aside, Gilroy's recent history is one of roads not widened, houses not built and development plans thwarted by the mysterious and powerful Local Agency Formation Commission, a body that has braked Gilroy development and incurred the wrath of local leaders.

"There are some problems with LAFCO's land use recognition in Gilroy," Councilman Bob Dillon said Tuesday. "It looks to me, that having paved the entire half of the county north of Bernal Road, they want every open space in the county to be in South County. They approved a road to nowhere for Coyote Valley and meanwhile we've been trying to get a highway exit north of the outlets for 10 years."

Dillon was referring to the new Bailey Avenue interchange and Gilroy's frustrated efforts to build an off ramp from Highway 101 to Buena Vista Road, a project that would also provide greater access to Saint Louise Regional Hospital, and one of several Gilroy projects that LAFCO has rejected in the last decade. Since the mid 1990's, LAFCO has torpedoed a plan to build a new municipal golf course and housing developments in Uvas Valley, tried to prevent the city from incorporating 660 acres east of the outlets into the city's general pan, complicated the development of the city's new sports park and stopped a widening project of another road leading to the hospital.

"To say the least it's been a bumpy road," Santa Clara Supervisor Don Gage said Tuesday. Gage, a former Gilroy mayor, is currently a member of LAFCO's board. He said LAFCO wields more power in South County because so much of the land is unincorporated, and that North County commissioners don't understand the needs of rural areas.

"The biggest problem I have is that the other commissioners don't understand [my] district," Gage said. "There are some square pegs that won't fit into round holes."

There is a LAFCO in every California county except San Francisco. The commission derives its authority from a 1963 state law that was amended in 2000 to make it independent of the county, though it is funded by the county and its 15 cities, based on population.

Its purpose is to prevent urban sprawl by forcing cities to grow contiguously and avoid development islands or hopscotch growth patterns. Like other cities, Gilroy has a 20-year master plan that includes plans for growth beyond its current borders. To annex unincorporated land, the city must first extend public safety, sewer and water services to the area and then include the land in its so-called urban services area, which must extend as far as the city plans to expand over the next five years.

But LAFCO has the authority to deny annexation requests, as it did when a developer wanted to build houses and a golf course on the Lucky Hereford Ranch, west of Coyote Estates. And as it did last year, when the city wanted to annex an island of land to construct a new sports park near the intersection of Monterey Road and Luchessa Avenue.

"I think it has too much authority," Gage said of LAFCO. "Cities should have some authority to do what they need to do within their sphere of influence."

Gage said the golf course was rejected because the LAFCO commission believed that land to be prime farm land that shouldn't be developed. The sports park annexation was turned down because, under rules developed by LAFCO, the city already has too much land available for commercial and industrial development.

Bill Faus, the city's planning division manager, said those rules often work against Gilroy because they don't allow developments that are congruous with the intent of the rules.

"There's an argument on both sides," Faus said. "If that rule is played to the letter I think it works against the city in terms of accomplishing its long-term goals. LAFCO, I think, more often than not, will apply a very strict letter of the law approach. They tend to work with short-term goals."

LAFCO isn't all-powerful. Because Gilroy owns the land where it wants to build the sports park, it still can, though it must deal with annoyances such as paying property taxes to the county. And in 2002, the city included the 660 acres of land east of the outlets in defiance of LAFCO's wishes.

Dillon said the commission's lingering pique over that action was the real reason it turned down the city's bid to annex the sports park land.

"I thought shooting down the sports park was a kind of spanking for us daring to cross them," Dillon said. "We get turned down but they're

behind Coyote Valley, which is going to dump 60,000 people in the middle of one of the largest undeveloped areas in the county. That's going to make an island."

Realizing they need LAFCO to further their development goals, local officials are willing to reach out and improve the relationship. Mayor Al Pinheiro said Tuesday he hopes to soon host LAFCO for a South County meeting that will help the city and the agency work together.

"There has been some tension and things have gotten convoluted with different issues," Pinheiro said. "But I sincerely believe that at the end of the day we all want the same thing. We just need a better understanding between the city and LAFCO so we can all work together."

And Lee Weider, a consultant with Access Land Development, who worked on bringing the 660 acres into the city's general plan, said there are signs that LAFCO is willing to rule South County benevolently. Recently, he said, the commission rejected a proposal to freeze all annexations until cities had fully developed every bare patch of land within their borders.

"That would have been a bit heavy-handed," he said. "LAFCO's power is still to be tested. I think it needs to be tested what its relationship with Gilroy will be. LAFCO should manage the process, but give cities the flexibility to do what they need to do. Cities are the ones who know what they need to do to have orderly growth."

What is LAFCO?

LAFCO is authorized by the state to set municipal borders and allow cities to annex land.

LAFCO members are not directly elected. Of the five members, two represent the county board of supervisors, one represents San Jose and one is a city council member from another city. The fifth member is a public representative appointed by the other members.

Current LAFCO Commissioners:

- Supervisor Blanca Alvarado
- Supervisor Don Gage
- Sunnyvale Councilman John Howe
- San Jose Councilwoman Linda J. LeZotte
- Morgan Hill public rep. Susan Vicklund-Wilson



Matt King

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