

LAFCO MEETING AGENDA

**Wednesday, August 10, 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 JUNE 8, 2005 MEETING

4. LAFCO ANNUAL REPORT (Fiscal Year 2004-2005)

Possible Action: Accept the LAFCO Annual Report. (July 1, 2004 – June 30, 2005)

5. **UPDATE ON ISLAND ANNEXATION EFFORTS**
Possible Action: Accept Report.
6. **UPDATE ON LAFCO's SOUTH CENTRAL SUB-REGIONAL SERVICE REVIEW**
Possible Action: Accept Report.
7. **UPDATE ON SEPTIC SYSTEM FAILURES AND ANNEXATION ISSUES IN HOLIDAY LAKE ESTATES AREA**
Possible Action: Accept Report.
8. **EXECUTIVE OFFICER'S REPORT**
 - A. **Update on LAFCO Clerk Position**
Possible Action: Accept Verbal Report.
 - B. **Commissioner Nomination to CALAFCO Executive Board**
Possible Action: Ratify Commissioner Wilson's application for the CALAFCO public member position and authorize acceptance of position if elected.
9. **PENDING APPLICATIONS**
Information Only.
 - A. **San Jose 2005 Urban Service Area Amendment**
10. **WRITTEN CORRESPONDENCE**
 - A. **Discussion of PUC Resolution Approving Great Oaks Water Company's Proposed Service Extension to Coyote Valley Area and Consideration of Appropriate Actions**
 - B. **CALAFCO Business Meeting Agenda and Designation of Voting Delegate for CALAFCO Business Meeting**
11. **NEWSPAPER ARTICLES**
12. **ADJOURN**
Adjourn to the next regular meeting on Wednesday, October 12, 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, June 8, 2005

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes the 8th day of June 2005 at 1:21 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, Blanca Alvarado, and Terry A. Trumbull (alternate for Commissioner Susan Vicklund-Wilson).

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

The meeting is called to order by Chairperson Howe and the following proceedings are had, to wit:

2. PUBLIC PRESENTATIONS

There are none.

3. APPROVE MINUTES OF FEBRUARY 9, 2005, MEETING

On motion of Commissioner Gage, seconded by Commissioner Trumbull, it is unanimously ordered that the February 9, 2005 minutes be approved, as submitted.

4. APPROVE MINUTES OF APRIL 13, 2005 MEETING

On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the April 13, 2005 minutes be approved, as submitted.

5. APPROVE CONSENT CALENDAR

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

Chairperson Howe inquires whether there are any changes to the consent calendar, and there are none.

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

On motion of Commissioner Trumbull, seconded by Commissioner Gage, it is unanimously ordered that the request be approved to annex a 1.32-acre property (APN 532-26-099), located at 16330 Cypress Way in the Town of Los Gatos, to the West Valley Sanitation District and the protest proceedings be waived.

6. COUNTYWIDE WATER SERVICE REVIEW REPORT

This being the time and place regularly fixed for public hearing to consider the Countywide Water Service Review, the Chair declares the hearing open. Affidavit of Mailing and Proof of Publication on file with the LAFCO Executive Director establish that due notice has been given as required by law.

Ms Noel reminds commissioners that the Commission entered into an agreement with Dudek & Associates in April 2004 to conduct the review. A draft report has been prepared followed by a public hearing on the draft in April 2005. Comments on the draft report have been received from the Cities of San Jose, Gilroy, Sunnyvale, and Palo Alto, as well as from the League of Women Voters. Dudek & Associates has responded to the comments and made revisions to address the concerns.

Carolyn Schaffer, Project Manager for the Water Service Review, notes that the report includes government structure options for four of the special districts: Purissima Hills County Water District (PHCWD), San Martin County Water District (SMCWD), Guadalupe-Coyote Resource Conservation District (GCRCDD), and Loma Prieta Resource Conservation District (LPRCD).

Ms Schaffer explains that PHCWD serves two areas outside its boundaries and that its Sphere of Influence and boundary are currently coterminous. She states that maintaining the status quo would not address out-of-agency services provided, while annexation of these areas would clean up the boundaries.

Ms Schaffer explains that SMCWD provides service to nine parcels outside its boundaries and is working on a request from Cherry Ranch Mutual Water Company (CRMWC) to add 17 parcels, because CRMWC has been ordered to disconnect its water system due to high nitrate levels. She then presents the five potential government structure options:

1. Status quo – The advantage is continuity; the disadvantages are that the service issues and public health concerns are not addressed.
2. Dissolution of SMCWD – There are no benefits; this would necessitate water supply from a private source.
3. Annexation, which would clean up boundaries, does not address larger concerns and quality.
4. Annexation of the two water districts presently served by PHCWD would solve health issues; however, 15 small water districts could be impacted.
5. Expansion of boundaries – This would give a long-term advantage in economies of scale, efficiency, and local accountability. Studies are needed regarding demand, capacity, and how this could be a growth inducement. LAFCO could consider a phased expansion.

Ms Schaffer advises that the RCDs are authorized to provide a broad range of services primarily related to land management. In the Guadalupe-Coyote RCD, status quo would maintain continuity; however, there is some duplication of service with Santa Clara Valley Water District. (SCVWD). Dissolution of the RCD, with SCVWD as successor agency, would eliminate duplication. However, it would restrict service levels such as independent oversight by the RCD. Ms Schaffer notes that a member of GCRCB Board indicated at the April LAFCO public hearing that the GCRCB would be willing to work with SCVWD.

Ms Schaffer continues by noting that status quo for LPRCD would also maintain continuity, with the disadvantage of some duplication in services. Dissolution would lead to economy and eliminate duplication while narrowing the range of service. She further notes that cities have annexed some areas without detaching from the LPRCD. Ms Schaffer advises that several new members on the LPRCD Board of Directors have new ideas for the district. After adoption of the review, Ms Schaffer explains that LAFCO staff will update the Sphere of Influence for the water districts and the two RCDs.

Commissioner LeZotte expresses appreciation for the appropriateness of changes made to the document in response to communication from affected agencies. She notes she did not receive a copy of the original letter from Gilroy, to which consultants responded. Ms Schaffer explains that personnel in Gilroy and San Jose chose to provide edits to the report rather than writing comment letters.

Commissioner Alvarado inquires about the next steps. Ms Palacherla responds that there will be an analysis of Spheres of Influence, following meetings with agencies regarding the Spheres of Influence. Updates will begin now and must be completed by the end of 2006. Commissioner Howe thanks Ms Schaffer for her presentation and requests public comment.

Libby Lucas, Los Altos resident, addresses the Commission regarding the water supply for a proposed housing development and requests that a reference to 1.2 per cent per year growth be included. She states that she believes the RCDs should not be dissolved, because they are part of the State and Federal agencies associated with the Agriculture Department. She states that the LPRCD has low overhead and that RCDs are basic to good land use planning. She expresses concern about fisheries. In addition, she states that the two RCDs cover different drainage areas.

The Chairperson determines that there are no additional public comments and closes the public hearing.

On recommendation of LAFCO Executive Officer Ms Palacherla, as noted in memorandum dated May 31, 2005, and on motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the final report be accepted and, further, that the project is determined to be exempt from the California Environmental Quality Act (CEQA) under § 15306 Class 6 of the CEQA Guidelines.

7. FINAL LAFCO BUDGET FOR FISCAL YEAR 2005-2006

This being the time and place regularly fixed for public hearing to consider the Final LAFCO Budget for Fiscal Year 2005-2006, the Chair declares the hearing open. Affidavit of Mailing and Proof of Publication on file with the LAFCO Executive Officer establish that due notice has been given as required by law.

Ms Palacherla reminds commissioners that a preliminary budget was adopted in April and forwarded to cities and the County for comment. The proposed final budget includes a few minor changes from the draft as indicated in the staff report. Revenue is anticipated to be higher than previously estimated. Ms Palacherla explains that the net LAFCO operating expenses, as budgeted, would be \$503,240.00, of which one-half (\$251,621) comes from the County, one-fourth (\$125,810) from the City of San Jose, and the remaining one-fourth split among the other 14 cities in the County. In response to an inquiry from Commissioner Gage, Ms Palacherla responds that there have been no comments from the cities.

Chairperson Howe requests public comment. The Chair determines that there are no members of the public who wish to address the Commission and orders the public comment portion of the meeting closed. He further determines that there are no comments from commissioners or staff. Chairperson Howe closes the public hearing.

On recommendation of LAFCO Executive Officer Ms. Palacherla, as noted in memorandum dated June 1, 2005, and on motion of Commissioner Alvarado, seconded by Commissioner Gage, it is unanimously ordered that the Final LAFCO budget for 2005-2006 be adopted.

8. UPDATE ON ISLAND ANNEXATION EFFORTS

Ms Noel informs the commissioners that the Board of Supervisors voted on June 7, 2005 to provide incentives for cities wishing to annex unincorporated areas. She states that LAFCO staff will notify the cities about the County's offer to assist cities, State Board of Equalization's relaxed filing requirements for island annexations, and LAFCO's offer to assist cities with island annexations. In addition, staff will provide revised maps of the unincorporated islands in CD-ROM format. She continues that the Morgan Hill City Council will consider the matter on June 15, 2005 and will consider 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 Urban Service Area. Ms Noel informs the Commission that LAFCO staff will continue to work with

the City of Morgan Hill and other cities and will keep the Commission updated on the issue.

Commissioner LeZotte inquires whether the County assistance with mapping and review costs is one-time and whether road improvement assistance will be provided in the form of a matching grant. Commissioner Gage explains that the expense will come from the County General Fund. Commissioner LeZotte reports that there is concern in Los Gatos regarding assistance with road improvement. Commissioner Alvarado notes that there is still concern about the lack of progress relative to annexation in other cities.

Commissioner Alvarado expresses support for standardization of the development standards. She additionally reminds the Commission that the Board of Supervisors will hold a land-use workshop in August and that several cities have suggested that County adoption of a Resolution of Intent by the Board of Supervisors to make County standards consistent with cities' standards as an incentive for the cities to proceed with annexations.

Ms Palacherla reports that there have been some preliminary conversations with West Valley cities including Cupertino. She notes that informational flyers will be distributed to cities next week. Commissioner Alvarado suggests that it might be helpful, after the Board of Supervisors' July recess, to poll the cities as to their intent, and Ms Palacherla agrees to do so. Commissioner Gage recommends setting up a timeline to give an idea of the average time required for annexation in order to avoid a last-minute rush. Ms Palacherla notes that LAFCO has a flow chart that shows the steps. She will apprise the cities of the time limit regarding the streamlined annexation law and the assistance offers made by the County and by LAFCO.

Commissioner LeZotte inquires about cost and what is covered, noting that smaller cities need a rough estimate of time and costs. Commissioner Trumbull asks whether Holiday Lake Estates in Morgan Hill would be eligible for subsidies and whether the islands created after the law is passed will qualify for assistance. Kathy

Kretchmer, LAFCO Legal Counsel, advises that she does not believe the date of creation would be an issue and that she will research the applicable laws.

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

Ms Noel states that based on the LAFCO Consultant Selection Committee's recommendation, LSA Associates was retained for the Sub-regional Service Reviews and Sphere of Influence studies. She announces that Renee Sendeki, Project Manager for LSA, has been collecting information from participating agencies, and that LAFCO staff and consultants met with the South Central County Technical Advisory Committee (TAC) on June 6, 2005, to review the process. Ms Noel notes that LAFCO staff anticipates that LSA will collect data through August, in order to prepare a draft profile of each agency for review by staff and agencies. LAFCO staff will continue to update the Commission with status reports.

10. EXECUTIVE OFFICER'S REPORT

A. Update on LAFCO Clerk Position

Ms Palacherla reports that LAFCO staff continues to work with County Employee Services Agency on the classification study for the LAFCO Clerk position and it will probably not be final until the next fiscal year.

B. 2005 CALAFCO Annual Conference September 7-9, 2005

Ms Palacherla notes that Commissioner Wilson is the Program Chair for the Conference, and that she and Commissioner Wilson are on the planning committee. Santa Clara County LAFCO is co-hosting the Conference along with Monterey and Santa Cruz LAFCO. She advises that she will provide commissioners with a draft copy of the program, and she requests that the Commission authorize staff and Commissioners to attend the conference and authorize travel expenses from the LAFCO budget. Commissioner Gage requests that Rachel Gibson, Board Policy Aide, be authorized to attend the conference.

On motion of Commissioner Alvarado, seconded by Commissioner Gage, it is unanimously ordered that staff, Commissioners, and Ms Gibson be authorized to attend

the CALAFCO Annual Conference and that travel expense be authorized from the LAFCO budget.

(See further discussion on this item later in the meeting.)

11. PENDING APPLICATIONS

Ms Palacherla reports that there is one pending application, the San Jose Urban Service Area Expansion for 2005. The application is not yet complete, and staff anticipates that it will be completed in time for consideration at the August meeting.

12. WRITTEN CORRESPONDENCE

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

There is no discussion.

13. NEWSPAPER ARTICLES

Commissioner Alvarado recommends that staff draft a letter for signature by the LAFCO chairperson regarding inaccurate information in a June 1, 2005 article in the Gilroy Dispatch entitled, "LAFCO Holds Hammer Over City" to clarify the legal mandate and role of LAFCO. Commissioner Gage states that some residents of Gilroy believe that LAFCO is impeding the City's progress regarding land use issues, and he notes that the Mayor of the City of Gilroy plans to meet with LAFCO staff. He further comments on the need for journalists to research information for their articles.

In response to an inquiry by Chairperson Howe regarding preparation of a written response to the article, Ms Kretchmer explains that the Commission cannot take action on this date, because the matter is not on the agenda as an action item. Ms Palacherla states that LAFCO staff routinely prepares a response to newspaper articles when there are inaccuracies and will provide a response to this article.

10. B. 2005 CALAFCO Annual Conference September 7-9, 2005

The Commission considers further from earlier in the meeting the CALAFCO Conference. Ms Palacherla advises the Commission that the term of Commissioner Wilson on the CALAFCO Executive Board expires in September 2005 and that

Commissioner Wilson has expressed interest in serving for another term on the Board. Ms Palacherla states that nomination papers for the position were received after the agenda was distributed for this meeting and that staff intends to place this matter on the August 10, 2005 LAFCO agenda. In addition, she states that staff would like to forward a nomination to the CALAFCO nominating committee.

In response to an inquiry from Commission Gage, Ms Palacherla clarifies that the term of Commissioner Wilson on LAFCO expires in 2007. Brief discussion ensues among LAFCO members, and there is general consensus that this subject be placed on the August agenda. Commissioner Alvarado requests clarification regarding the deadline for submission of nominations. Ms Palacherla clarifies that the deadline is August 8, 2005, which is prior to LAFCO's next meeting. Ms Kretchmer clarifies that the matter is being discussed today for informational purposes only and that it will be included on the August 10, 2005 agenda. She further advises that, if concerns arise about the nomination during the August meeting, Commissioner Wilson can withdraw the nomination.

14. ADJOURNMENT

On motion of the Chairperson, there being no objection, the meeting is adjourned at 2:12 p.m. The next regular LAFCO meeting is scheduled to be held on Wednesday, August 10, 2005 at 1:15 p.m. in the Chambers 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



Date Prepared: August 2, 2005
 LAFCO Meeting: August 10, 2005

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: 2004-2005 LAFCO Annual Report
 Agenda Item # 4

RECOMMENDATION

Accept the 2004-2005 Annual Report. (July 1, 2004 to June 30, 2005)

ANNEXATION & REORGANIZATION ACTIVITY

LAFCO considered and denied one and approved two LAFCO-conducted reorganization proposals during this period. Last year, LAFCO approved four reorganization proposals.

The number of city-conducted annexations that LAFCO staff processed this year totaled 18 proposals in six jurisdictions, as compared to 27 proposals in five cities the year before. The acreage annexed was 16.9 acres in Cupertino, 66.8 acres in Gilroy, 6.97 acres in Los Gatos, 66.76 acres in Morgan Hill, 22.91 acres in San Jose and 2.85 acres in Sunnyvale.

OUT-OF-AGENCY CONTRACT FOR SERVICE REQUEST

LAFCO approved a request by the City of Morgan Hill to extend sewer service to a single-family residence located at 17360 Holiday Drive in the Holiday Lake Estates area outside Morgan Hill city limits.

COMMISSION AND STAFF CHANGES

There have been no changes in commission membership during this period.

The County Clerk of the Board's Office has informed LAFCO that they will be unable to continue to provide the LAFCO Clerk position. Therefore LAFCO staff is in the process of working with the County Employee Services Agency to create a unique position for LAFCO Clerk/Coordinator in the County Executive's Office. The LAFCO Clerk position has been vacant since April 2005. Staff has been receiving some assistance from the Clerk's Office on an as needed basis as well as 10 hours per week of extra help during this time.

There are no other LAFCO staffing changes. The Executive Officer position continues to be staffed at a part time level (0.6 position). The LAFCO Analyst position is staffed at full time level. Other staff include the LAFCO Surveyor staffed from the County Surveyor's Office and the LAFCO Counsel from the County Counsel's Office available on contract to work on LAFCO issues on an as needed basis.

OTHER PROJECTS / STUDIES

Countywide Water Service Review

LAFCO's second service review, a countywide water services review, was completed and approved by the Commission in June 2005. A Technical Advisory Committee (TAC) was formed to serve as a liaison between the group of agencies/organizations they represent and the LAFCO Service Review process. In addition to LAFCO Commissioner, Susan Wilson and LAFCO staff, the members of TAC for the water service review included:

Representing the City Managers' Association: Jay Baksa, City Administrator, City of Gilroy

Representing the 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, SCVWD
George Belhumeur, V.P. Operations, San Jose Water Company
Darryl Wong, Utility Engineer, City of Milpitas

The process of conducting the service review included several meetings with the individual water agencies as well as with other associations.

The final report provides an overview of the overall water service provision structure in the County along with profiles of all the agencies/ departments that provide water service. It identifies issues related to water service provision, proposes various options for addressing these issues and provides a brief analysis of the alternatives. The report does not make specific recommendations regarding the alternatives. Lastly, the report includes the required service review determinations for each of the four water special districts and the two resource conservation districts. A copy of this report will soon be available on the LAFCO web site at www.santaclara.lafco.ca.gov.

South and Central County Sub Regional Service Review

To conduct LAFCO's third service review, a comprehensive review of the south and central regions of the county, the Commission retained LSA Associates in May 2005.

A TAC has been formed to serve as a liaison between the group of agencies/organizations they represent and the LAFCO Service Review process. In addition to LAFCO Commissioner Don Gage and LAFCO staff, the members of TAC for the south and central county service review include representatives from the Santa Clara County/Cities Managers' Association, Santa Clara County Special Districts Association, Municipal Public Works Officials Association and the Santa Clara County Planning Officials Association. In June, an initial meeting with the TAC and a kick off meeting with representatives from affected agencies had been held by the consultants and LAFCO staff. In preparation for conducting the review and analysis, the consultants are currently in the process of gathering and compiling information from each of the agencies included in the study.

LAFCO's Island Annexation Program

Recent changes to state law provide a two-year window of opportunity for cities to annex urban unincorporated islands through a streamlined process that does not require protest proceedings or elections, provided the island meets specific criteria and is 150 acres or less. In February 2005, LAFCO adopted Island Annexation policies in order to encourage cities to take advantage of this opportunity in a proactive manner.

The policies require LAFCO to work collaboratively with the cities and the County and facilitate island annexations by identifying and minimizing impediments to island annexations. In order to kick start discussions of island annexations, LAFCO in collaboration with the County, developed maps of all the islands within each city. Copies of these maps have been distributed to the cities and are available on the LAFCO web site for downloading.

LAFCO's policies encouraging island annexations include a two-year LAFCO fee waiver for annexations that result in elimination of entire islands. LAFCO has allocated some funds in its FY-06 budget for staff resources to assist the cities in gathering technical information on the impacts of annexation, in developing community outreach programs and with their annexation process/project management. Since cities are the conducting authorities for island annexations in Santa Clara County, LAFCO held workshops for city staff and is providing information on the annexation process including flow charts, sample resolutions, public hearing notices and checklists.

Participation in CALAFCO Activities

CALAFCO Executive Board Member

Commissioner Susan Vicklund Wilson, public member, continues to serve on the CALAFCO Executive Board. Commissioner Wilson also participates on the CALAFCO's Legislative Committee.

CALAFCO Annual Conference (September 2004)

LAFCO staff as well as Commissioners Wilson, Howe and Policy Aides to Commissioners Alvarado and Gage attended the conference.

CALAFCO Staff Workshop (April 2005)

LAFCO staff attended the workshop. Kathy Kretchmer, LAFCO Counsel, headed a roundtable discussion for LAFCO attorneys.

Other Miscellaneous Projects

Coyote Valley Specific Plan

LAFCO staff has been attending the Coyote Valley Specific Plan community workshops and participating on the CVSP Technical Advisory Committee in order to stay informed about the development of the specific plan and to provide input where appropriate and in anticipation of the City's plans to apply to LAFCO for an Urban Service Area expansion and annexation of Central Coyote Valley. In addition, LAFCO staff has been reviewing and providing written comments to the City of San Jose, at various stages.

Boundary and SOI maps for Special Districts

As part of LAFCO's ongoing effort to update and maintain digital maps in Geographic Information Systems (GIS) for special districts, staff in collaboration with County ISD developed and LAFCO adopted boundary and SOI maps for Purissima Hills County Water District and the two resource conservation districts (RCDs) including Guadalupe Coyote Resource Conservation District and the Loma Prieta Resource Conservation District in December 2004.

Workshop for Cities on City Conducted Annexation Process

In September 2004, LAFCO staff conducted a workshop for cities to provide an overview of provisions in state law regarding annexation process, city conducted annexation requirements and island annexations criteria. The

workshop was attended by about 30 staff persons representing about 6 cities and the County and included city planners, managers, clerks and attorneys.

Attachment A: LAFCO Application Processing Activity

**LAFCO APPLICATIONS
JULY 1, 2004 THROUGH JUNE 30, 2005**

CITY CONDUCTED ANNEXATIONS

City	Proposal Name	Date of Recordation	Acreage Approved
Campbell	Campbell Annexation 2004-1	01/31/05	<u>16.9</u>
		City Total	16.9
Gilroy	Day Road Reorganization 00-01	01/27/05	<u>66.8</u>
		City Total	66.8
Los Gatos	Kennedy Road No.15	03/07/05	.285
	Oak Road No. 9	11/22/04	<u>6.68</u>
		City Total	6.965
Morgan Hill	Cochrane Road No.11	01/12/05	15.689
	Dewitt Avenue No. 2	09/27/04	2.11
	Hill Road No. 2	12/03/04	19.50
	Madrone No. 11	08/23/04	<u>29.46</u>
		City Total	66.759
San Jose	Cambrian No. 33	10/06/04	0.44
	Evergreen No. 187	04/20/05	0.522
	Franklin No. 52	12/21/04	3.37
	Franklin No. 53	05/06/05	1.23
	Hillview No. 72	10/25/04	0.187
	McKee No. 123	07/02/04	0.138
	McKee No. 124	12/15/04	0.767
	McKee No. 126	10/25/04	15.32
	Penitencia No. 71	07/02/04	<u>0.933</u>
	City Total	22.907	
Sunnyvale	DeAnza 04-01	09/01/04	<u>2.85</u>
		City Total	2.85
Total of All Cities			183.181

LAFCO-HEARD CHANGE OF ORGANIZATION

City	Proposal Name	Date of LAFCO Action/Recordation	Action
San Jose	Skyview Drive, Detachment from the City of San Jose	12/08/04	Denied
Total Acres:			1.00

SPECIAL DISTRICT ANNEXATIONS

Special District	Proposal Name	Date of LAFCO Action/Recordation	Acreage Approved
West Valley Sanitation District	WVSD 2004-02 (Forrester Road)	08/10/04	2.89
West Valley Sanitation District	WVSD 2005-01 (Cypress Way, Lands of Pratt/Amiri)	06/08/05 07/05/05	1.32
Total Acres			4.21

OUT-OF-AGENCY CONTRACT FOR SERVICES

City	Proposal Name	Date of LAFCO Action	Type of Action
Morgan Hill	OACS Extension of Sewer Service to 17360 Holiday Drive	02/09/05	Approved

August 3, 2005

TO: LAFCO

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

SUBJECT: Update on Island Annexations
Agenda Item # 5

Update on Island Annexations

For Information Only

County Agrees to Facilitate Island Annexations

In late June, the County of Santa Clara Board of Supervisors agreed to facilitate island annexations. In early July, the County Executive sent a memo to each City/Town Manager explaining the County's commitment. The memo also included the official mapping request form that was prepared by LAFCO staff. The form allows cities to indicate which island(s) the city council will be proceeding to annex and to request mapping and County Surveyor's reports. Please see the attached sample memo and form for further information on the County's commitment and the mapping request form.

Many City Councils' and City Staff Are Considering Island Annexations

Cupertino

Over the last few years, the City of Cupertino has annexed almost all of its largest islands, with the exception of the Creston neighborhood (51 acres). More recently City staff has expressed an interest in annexing several very small islands (less than 8 acres in size) over the next 18 months. City staff is considering this matter and has not set a date to bring this matter to the City Council. LAFCO staff will continue to update the Commission on the City's plans.

Los Altos

LAFCO staff continues to work with James Walgren, Planning Director for Los Altos, on the City's preliminary plans to annex some of their unincorporated islands. According to City staff, the two islands of most interest to the City are Blue Oak Lane and the Woodland Acres Area. LAFCO staff has provided the City with information on the tax and special assessment implications of annexation, benefits of annexing the unincorporated islands, and information on the streamlined island annexation process. The County Planning Office has provided the City with information on County development standards. In late August, City staff will seek City Council direction on whether to begin work on island annexations and how and when to begin that work.

Los Gatos

In July, LAFCO staff along with Deputy County Executive Jane Decker, met with Los Gatos staff to discuss the Town's interest in completing some island annexations in the next 18 months. The Town wanted to get a better understanding about the County's offer of assistance and how to seek that assistance. At this meeting, the Town's staff said that the County's offer of assistance would be very helpful. However, they would like the County to also address the difference between County and Town development standards. Town staff believe that the differences in development standards is one of the main reasons residents in islands do not support the annexation of their area. The County Board of Supervisors will be discussing this issue and many others at their Land Use Study Session that will be held in late August. The Town plans to bring this matter before the Town Council in early August and ask for direction on whether to begin work on island annexations and how and when to begin that work.

Monte Sereno

LAFCO staff continues to work closely with Brian Loventhal, City Manager for Monte Sereno, on the City's efforts to annex their remaining unincorporated islands. On July 19th, the City Council discussed the potential pre-zoning of their unincorporated urban islands. The City has not pre-zoned its islands yet and islands must be pre-zoned before they can be annexed. The Council directed staff to prepare and begin the public outreach process for pre-zoning of the islands in anticipation of holding a public hearing for pre-zoning on September 20th. City staff has also requested LAFCO staff's assistance in helping the city develop a strategy to successfully annex the islands. LAFCO staff will be working with the City over the next few months to develop a strategy.

Morgan Hill

In June, LAFCO staff met with Kathy Molloy Previsich, Community Development Director for Morgan Hill, to discuss the City's island annexation plans. City staff expressed an interest in annexing their unincorporated islands over the next 18 months either through the streamlined annexation process or the regular annexation process. Several of the City's unincorporated islands are already in the process of being annexed as part of private development proposals. City staff is reviewing this matter and has not set a date to bring this matter to the City Council for their consideration. LAFCO staff will continue to update the Commission on the City's plans.

Please see the staff report for Item # 7 for information about septic system failures and annexation issues in the Holiday Lake Estates Area.

San Jose

In July, LAFCO staff met with San Jose Planning staff to discuss the City's potential interest in completing some island annexations in the next 18 months. The City wanted to learn more about what sort of County assistance was available and how to seek that assistance. City staff has preliminarily identified a few potential islands for annexation, including the Buena Vista neighborhood and portions of the Sunol neighborhood. The City has not pre-zoned most of its islands yet and islands must be pre-zoned before they can be annexed. In late August, City staff will seek City Council direction on whether to begin work on island annexations and how and when to begin that work.

ATTACHMENT A: Memo from County Executive and Mapping Request Form

County of Santa Clara

Office of the County Executive

County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-5105



July 6, 2005

Daniel Rich, City Manager
70 North First Street
Campbell, CA 95008

Dear Mr. Rich:

The Board of Supervisors has agreed to facilitate the island annexations by subsidizing the cities' cost of Surveyor's Office mapping and also to pay the Board of Equalization filing fees due on submittal of the approved annexations. In addition, the Roads Department will provide street improvements in the areas annexed.

To support these activities, the County has allocated up to \$700,000. In return for our contribution to the annexation efforts, the County will need to see a commitment from each city before mapping begins. Attached is an official mapping request form prepared by LAFCO staff. The form allows the city to indicate the islands on which the council will be proceeding and request mapping and surveyors reports. The County is asking that a minimum of 30 days be allowed for the surveyor's work. The request will be signed by the Mayor and City Manager. The County will subsidize the Surveyor's cost for those islands that proceed to annexation.

With regard to road improvements, the intent is for the work to be done after annexation. City public works directors should work with the County Roads Department to determine how that will be accomplished. Please contact Michael Murdter, Director of Roads and Airports, at 573-2400.

While LAFCO staff will be the point of contact for the annexations, the County is available to work with cities to ensure this process goes well. Please contact Jane Decker, Deputy County Executive, at 299-5116 with questions.

Sincerely,



Pete Kutras
County Executive

Cc: Board of Supervisors

Jane Decker, Deputy County Executive

Michael Murdter, Director, Roads and Airports

Gwen Gee, County Surveyor

ISLAND ANNEXATION MAPPING REQUEST FORM

CITY: _____

The City Council at its meeting on _____, directed staff to prepare initiation of island annexations within the city under the provision of Government Code section 56375.3. This section allows for an island annexation without protest and election. To utilize this section, the annexation must be completed by January 1, 2007.

The City Council intends to initiate proceedings for the annexation of islands on _____. Please provide the necessary mapping and Surveyor's Reports for the following islands by _____. (Please note that the County Surveyor's Office will need a minimum of 30 days to provide appropriate maps and reports).

Title of Annexations:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____

Please attach maps showing general location of each of the islands listed above.

Please contact _____ at the City if the County Surveyor's Office is unable to complete the mapping by the requested date.

Map preparation and review costs are \$2,000 plus staff time at \$115/hr. City understands that County will waive these costs if the island annexation is completed, otherwise City will be billed for the cost.

Mayor: _____

City Manager: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

Return to: LAFCO of Santa Clara County
70 W. Hedding Street
11th Floor, East Wing
San Jose, CA 95110

August 3, 2005

TO: LAFCO

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

SUBJECT: Update on Sub-Regional Service Reviews
Agenda Item # 6

Update on Sub-Regional Service Reviews

For Information Only

Staff met with the South Central County Technical Advisory Committee (TAC) and consultants on June 6, 2005. The purpose of the first TAC meeting was 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 the information that the consultant 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 also held a Kick-Off meeting for the project on June 6, 2005. LAFCO staff 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 Kick-Off meeting was well attended by staff from affected agencies. The following topics were 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.

Since our last LAFCO meeting, LSA has completed collecting almost all of the information necessary for preparing a draft profile of each participating agency. There are a couple agencies that have not provided LSA with all of the requested information yet. LSA expects to have a draft profile of each agency completed in the next few weeks. LAFCO staff and the respective agency will review 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. The next South Central County TAC meeting will occur in early September.

August 3, 2005

TO: LAFCO

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

**SUBJECT: Update on Septic System Failures and Annexation Issues in the
Holiday Lake Estates Area**

Agenda Item # 7

Update on Holiday Lake Estates (HLE)

In February 2005, LAFCO indicated that it would not consider further Out-of-Agency requests in the Holiday Lake Estates area until the City of Morgan Hill sent a resolution to LAFCO requesting to include the Holiday Lake Estates area within its urban service area (USA), in anticipation of the future annexation of the area into the City. Since that time, LAFCO staff has been working with the City of Morgan Hill, Santa Clara Valley Water District (SCVWD), the County, and representatives from Holiday Lake Estates Maintenance Association on exploring options for addressing failing septic systems in the area and the future annexation of the area.

In December 2003, SCVWD and the County of Santa Clara Department of Environmental Health (DEH) surveyed unincorporated HLE residents about the condition of their septic systems, their interest in connecting to City sewer, and their interest in annexing into the City of Morgan Hill. Results of that survey indicate the following:

- Septic systems are failing in the area, particularly those of older homes,
- Residents support annexation,
- Residents desire to connect to city sewer, and
- Residents would like further information on these matters.

In June 2005, the local jurisdictions met to discuss options for providing property owners with further information on these matters. The group decided that a newsletter and meeting would be the most effective way to provide property

owners with additional information and to begin to discuss these issues with the HLE community.

On July 27, 2005, the Morgan Hill City Council approved a resolution allowing for the inclusion of the unincorporated portion of Holiday Lake Estates within the City's Urban Service Area (USA). The City also made a commitment to provide \$15,000 in funds in matching funds in order to assist Holiday Lake Estates' property owners with the costs associated with preparation of a preliminary engineering and assessment district formation study.

LAFCO staff and the County Planning staff have drafted a newsletter and community meeting announcement for review and consideration by local jurisdictions and representatives of HLE Maintenance Association. Once the newsletter/meeting announcement is finalized, the group expects to hold a community meeting in mid September to discuss these issues with the community, seek their support for addressing failing septic systems in the area, and their support for annexing the area into the City of Morgan Hill.

LAFCO believes that annexation is the most appropriate way to address the issue of failing septic systems in the area. However, most of unincorporated HLE lacks sewer infrastructure and therefore connecting to city sewer is not immediately feasible and City sewer infrastructure would have to be extended to the area. The extension of sewer infrastructure would have to be funded by property owners through an assessment district. If there is a strong desire within the community to form and fund an assessment district, then the first step in exploring this option would be for a "sewer engineering and assessment district formation study" to be completed. As mentioned earlier, Morgan Hill has committed to providing matching funds (up to \$15,000) to property owner funds towards the completion of the study, should the residents decide to move forward. The group is also interested in finding out whether other agencies, such as the County and/or SCVWD, would be willing to contribute matching funds as well.

LAFCO will continue to update the Commission on this matter as it progresses.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



July 26, 2005

Agenda ID #4810

Draft Resolution No. W-4553

TO: ALL INTERESTED PARTIES

Enclosed is a draft resolution of the Water Division. This will be on the agenda at the next regular Commission meeting held at least 30 days after the above date.

Parties to this matter may file comments on this draft resolution as provided in Article 19 of the Commission's "Rules of Practice and Procedures". These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. An original and 2 copies of the comments, with a certificate of service, should be submitted to:

Water Division, Third Floor
Attention: Mohsen Kazemzadeh
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Parties may submit comments on or before August 16, 2005. The date of submission is the date the comments are received by the Water Division. Parties must serve a copy of their comments on all persons on the service list attached to the draft resolution, on the same date that the comments are submitted to the Water Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft resolution, a table of authorities and appendix setting forth the proposed findings and ordering paragraphs.

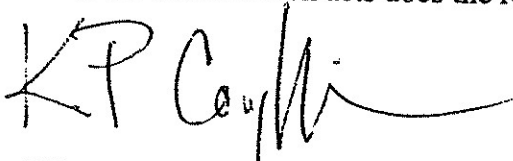
Comments shall focus on factual, legal, or technical errors in the draft resolution. Comments which merely reargue positions taken in the advice letter or protests will be accorded no weight and should not be submitted.

Late-submitted comments will ordinarily be rejected. However, in extraordinary circumstances, a request for leave to submit comments late may be filed together with the proposed comments. An accompanying declaration under penalty or perjury shall be submitted setting forth all the reasons for the late submission.

All Interested Parties
Agenda ID #4810
Draft Resolution W-4553
Page 2

Replies to comments may be submitted on or before August 22, 2005 and shall be limited to identifying misrepresentations of law, fact, or condition of the record contained in the comments of other parties. Replies shall not exceed three pages in length and shall be submitted and served in the same manner as comments.

When the Commission votes on a proposed resolution, it may adopt all or part of it as written, amend or modify it, or set aside and prepare a different resolution. Only when the Commission acts does the resolution become binding on the parties.

A handwritten signature in black ink, appearing to read "K P Coughlan", with a long horizontal flourish extending to the right.

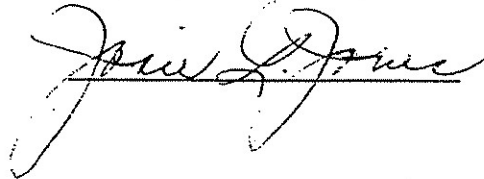
KEVIN P. COUGHLAN
Director
Water Division

Enclosures: Draft Resolution W-4553
Certificate of Service
Service List

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution W-4553 on all parties in this filing or their attorneys as shown on the attached list.

Dated July 26, 2005, at San Francisco, California.

A handwritten signature in cursive script, appearing to read "James L. Jones", written over a horizontal line.

NOTICE

Parties should notify the Water Division, Third Floor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on which your name appears.

SERVICE LIST
DRAFT RESOLUTION W-4553

Richard Doyle, City Attorney (for all City Services)
City of San Jose
151 West Mission Street
San Jose, CA 95110

Palle Jensen, Manager-Regulatory Affairs
San Jose Water Company
374 West Santa Clara Street
San Jose, CA 95196

Neelima Palacheria, Executive Director
Local Agency Formation Commission
County of Santa Clara
70 West Hedding Street, 11th Floor West Wing
San Jose, CA 95110

Espana Mutual Water Company, Inc.
c/o Chuck Miller
45 Paquita Espana
Morgan Hill, CA 95037

WATER/FLC/JPT/MXK/JMW:jlj

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION

RESOLUTION NO. W-4553

August 25, 2005

RESOLUTION

(RES. W-4553), GREAT OAKS WATER COMPANY. ORDER
AUTHORIZING AN EXPANSION OF SERVICE AREA.

SUMMARY

By Advice Letter (AL) No. 170, filed on April 29, 2005, Great Oaks Water Company (Great Oaks) requests revision of its service area map to include an area contiguous to its presently certificated service area in Santa Clara County.

Great Oaks has sent 45 will-serve letters to the potential customers in the proposed area. One agricultural customer in the proposed area has been receiving water from Great Oaks for free since AL No. 170 was filed. Great Oaks's shareholders should pay for the cost of water given for free to the agricultural customer.

Letters of protest were received from the City of San Jose (City), the County of Santa Clara Environmental Resources Agency Planning Office (County), and the Local Agency Formation Commission (LAFCO) of Santa Clara County. The Water Division (Staff) investigated the concerns in each protest and determined there was no basis for the Commission to deny Great Oaks's request.

This resolution accepts Great Oaks submission of its service area map.

BACKGROUND

Great Oaks serves approximately 20,166 customers in southeast San Jose, east of Snell Road, and south of Hellyer Park, Santa Clara County.

There have been numerous disputes between the City and Great Oaks regarding service territory.

Decision (D.) 91-02-039 dated February 21, 1991, resolved a dispute between the City and Great Oaks regarding an area adjacent to the Coyote Valley. Great Oaks filed AL No. 123 to extend its service territory to an adjacent undeveloped area bounded by

Piercy Road to the north, the Evergreen Hills to the east, Tennant Avenue to the south, and Coyote Creek to the west. The City protested the service area extension on the grounds that the area was within its own planned service area, and that it had already constructed facilities to serve a larger area east of Coyote Creek, including all of the proposed area.

D.91-02-039 concluded that, "neither the existence of an agency-declared service area or the existing of facilities built by the agency necessarily requires that a utility expansion into disputed territory must be rejected", and that although the City had existing facilities in the area, Great Oaks would be able to provide better service. Great Oaks was ordered to serve the area. Ordering Paragraph 3 states that "Great Oaks shall cooperate in good faith to obtain the right to purchase water and share storage capacity from, or to purchase, the City's facilities". The City took no subsequent action to sell its facilities to Great Oaks.

Resolution (Res.) W-4287 dated September 20, 2001, resolved Great Oaks's AL No. 151 and authorized Great Oaks to add an industrial customer to its service territory. Great Oaks had previously filed AL Nos. 149 and 150 to revise its service territory to include the same industrial customer. AL No. 149 was withdrawn, and AL No. 150 was rejected due to missing information and an illegible Questionnaire. Res. W-4287 states the following:

The Commission's record clearly shows that historically, Great Oaks, [the City], and the Municipal have competed for new service territory. Commission decisions, such as D.85-06-022...and D.91-02-039...show that the Commission previously has debated territorial issues, has expended significant resources and efforts to consider all sides of the issues, and has repeatedly defined the authorizing decision as supported by good public policy. Although this Commission has made it clear that it considered the public interest when making these decisions, the Commission has no jurisdiction over [the City]. We note that, in every previous case, the City and its Municipal have ignored this Commission's determinations. Staff has no reason to believe this resolution will be treated any differently."

Great Oaks filed AL No. 152 on December 5, 2001, to implement the changes in its tariffs authorized by Res. W-4287. AL No. 152 was protested by the City. In a letter to the City, dated February 22, 2002, Izetta Jackson, Interim Director of the Water Division states, "The issue of Great Oaks's right to serve, especially in areas protested by the [City of San Jose], has been addressed numerous times in the past by this Commission. The Commission has consistently ruled in Great Oaks's favor. It is not our position to reargue this issue again."

Staff sent a data request to Great Oaks requesting more information in order to further investigate each of the protests received. Great Oaks responded on June 15, 2005. The response stated that 45 will-serve letters have been sent to potential customers in the proposed area. Great Oaks also stated that there is one agricultural customer currently receiving water in the proposed area. This customer had received 53.4 acre feet of water by the end of May. All the potential customers in the proposed area will be metered. Great Oaks does not anticipate any water quality issues in the proposed area.

NOTICE AND PROTESTS

A copy of the advice letter was sent to the City, San Jose Water Company, LAFCO of Santa Clara County, and Espana Mutual Water Company in accordance with General Order 96-A. The City, LAFCO, and the County filed protests to the advice letter. The County and the City filed their protests on May 17 and 19, 2005. LAFCO filed its protest 5 days late, on May 24, 2005. The late filed protest is accepted for filing.

Great Oaks replied to the City's protest on May 24, 2005 via mail. Great Oaks responded to the County's protest on May 23, 2005 via email and mail. Great Oaks responded to LAFCO's protest on May 25, 2005 via email and mail.

The issues of the City, LAFCO, and the County are explained and resolved below in context of sections 1001 and 1505 of the PU Code.

City of San Jose:

The City's first concern is that "a portion of the area covered by Advice Letter No. 170 can be served by existing San Jose Municipal Water system facilities, and the entire area lies within the City's Coyote Valley service area." The City believes that the proposed expansion would permit the duplication of facilities in defiance of PU Code Section 1505. According to the City's protest, these facilities are "in Santa Teresa Boulevard to Bailey Avenue and in Bailey Avenue". These facilities are mostly along the northern border of the proposed area.

The City also claims that "the San Jose Municipal Water System Coyote Valley service area covers the entire area proposed for expansion by Great Oaks." In addition, the City claims that it has existing facilities such as water mains, a well field, and a 3.6-million gallon storage tank, within approximately 2 miles from the proposed service area extension. However, Great Oaks responds that the City does not have any existing facilities to serve the proposed extension area and Great Oaks has facilities, services installed, and customers. Great Oaks indicates that it began providing water the day after the AL was filed.

The protest by the City states that "Great Oaks has failed to demonstrate that it will be able to meet the projected water demands for this area."

The City's protest states:

"As a part of the development of the [Coyote Valley Specific Plan (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."

This statement is based on speculation that the area will be developed in the future, and does not affect the current situation. Furthermore, the City does not have these facilities in place and thus they are not justified in claiming that service duplication would occur where Great Oaks is allowed to serve the area. Staff sees no violation of PU Code Section 1505 with Great Oaks' proposed territory expansion.

Staff analyzed the Questionnaire submitted as part of AL No. 170. The Questionnaire shows that Great Oaks does have the ability to provide water to the customers in the area. The City also claims to be concerned that customers in the area will be confused if Great Oaks is allowed to serve the proposed area. The City did not explain how customers would be confused, and Staff does not believe this to be relevant to the proposed expansion of Great Oaks's service territory.

Finally, the City's protest discusses potential growth in the proposed area. They claim that 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." There is no specific time-frame given, and the City indicates that the timing of these plans has been uncertain for decades. Staff does not think that speculative plans for the proposed area constitute a justification for denying water service to current residents ready to be served in the area.

County of Santa Clara:

The County's protest claims that "extension of piped water to this area outside San Jose's urban service area, is 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. The urban service area is a tool to manage urban growth, contain urban sprawl and efficiently provide urban services."

Great Oaks responded by stating that they do not "see any complaint by the County about the presence of PG&E's electrical service and SBC's telephone service throughout the area, obviously keys to any future growth." Great Oaks also states that "The Agency does not explain how greater density and growth will occur from just the availability of water too." Great Oaks claims that the potential customers wish to have Great Oaks serve them because of increased costs related to Department of Health Services regulations for wells, and to provide additional fire flow to the proposed area.

Staff believes that water service should not be considered an urban type service as indicated by the County. The potential customers in the proposed area should not be denied water service because they are not within the city limits.

LAFCO:

LAFCO begins by saying that the Advice Letter "does not provide specific information on the types and locations of proposed connections." They also say that "it is not clear about the need for extending water to the area at this time" and that it would be premature to extend water service to the area.

The protest sent by LAFCO refers to the County's limits on "urban types and levels of services outside cities' urban service areas." The LAFCO protest also states that "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."

Staff believes that it is not premature to extend water service to an area with existing potential customers. Furthermore, it is not up to LAFCO to determine whether or not the information provided is adequate for Staff's analysis of the Questionnaire.

Staff believes that if a water company is willing to provide service to an area and has the capacity to do so without adversely affecting the rest of its customers it should be allowed to, no matter how few customers are in the area.

DISCUSSION

Great Oaks' request to provide service in a contiguous area is governed by PU Code Section 1001. While the first paragraph of that Section requires a regulated utility to get Commission certification to provide service to a new territory, the second paragraph states:

"This article shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within which it has theretofore lawfully commenced operation, or for an extension into territory either within or without a city or city and county contiguous to its street railroad, or line plant or system and not theretofore served by a public utility of like character."

Based upon this language, Great Oaks does not require Commission permission to extend its line, plant or system into contiguous territory, as Great Oaks is seeking to do here. Thus this resolution does not need to address the issue of approval of the extended service territory as the legislature has already addressed that issue and found the extension to be proper.

Although it does not need Commission approval to provide utility service in this new area, Great Oaks still has to follow Commission procedures in order to properly modify its tariff sheets. General Order 96-A requires the utility to file a service area map and Standard Practice U-14-W requires that at least 30 days prior to providing service the utility file a new service area map by advice letter and that the utility serve a copy of the advice letter on all entities on the service list, and all affected landowners in the territory being acquired, the affected county Local Agency Formation Commissions, the local fire protection agency and the local subdivision permitting agency. Great Oaks has done this. With that proviso, the Commission has no responsibilities other than to recognize the service area extension.

With respect to the agricultural customer that Great Oaks has been providing service to at no charge, we remind the utility that section 532 of the Code requires prior Commission approval before any regulated utility can provide service at other than Commission-approved rates or provide other than Commission-approved service.

And finally, we address the issue of long-term provision of service in the service territory. Although Great Oaks will be providing service in this area, the City of San

Jose still has the power, if it chooses to use it, of condemning the facilities of Great Oaks' at any time, and, if it prevails, providing service in this part of the Coyote Valley. Therefore, by this resolution we do not determine who will provide eventual service in this area, just that Great Oaks is capable of doing so now and that it is in the public interest that Great Oaks provide service as requested by this advice letter.

CONCLUSION

There are people in the proposed area that want water service, and Great Oaks is capable of serving them. It is reasonable to approve Advice Letter No. 170.

Since Great Oaks has not been charging the agricultural customer in the proposed area for the water received, and since the customer was receiving the water in advance of any decision by the Commission regarding the proposed service area, the cost of this water should not be a burden to the ratepayers. Any costs associated with the provision of this water should be borne by the shareholders.

COMMENTS

Code §311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Code §311(g)(2) provides that this 30-day period may be waived or reduced upon stipulation of all parties in the proceeding.

The 30-day comment period for the draft resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from the date of mailing of this resolution to the parties.

Comments were received from _____ on _____. Replies were received from _____ on _____.

FINDINGS

1. The service area extension as filed in AL No. 170 is reasonable and should be authorized.
2. Great Oaks is ready, willing and able to serve the areas included in the service area extension in AL No. 170.
3. Great Oaks is providing water service to an agricultural user in the proposed extension area without Commission authorization.

4. Great Oaks's shareholders should pay for the cost of the water provided to the agricultural user in the proposed service territory prior to authorization by the Commission.
5. Great Oaks properly, at least 30 days prior to providing service, filed an advice letter delineating the new service territory and served the advice letter on the service list, all affected landowners in the territory being acquired, the affected county Local Agency Formation Commission, the local fire protection agency and the local subdivision permitting agency

THEREFORE IT IS ORDERED THAT:

1. Great Oaks Water Company's Advice Letter No. 170 is approved.
2. Great Oaks Water Company shall in the future refrain from providing service to areas that are not included in its tariff sheets.
3. Great Oaks Water Company's shareholders shall pay for the cost of the water provided to the agricultural customer in the proposed service territory prior to authorization by the Commission.
4. Because it is serving a public need, the effective date of Great Oaks Water Company's revised service area map shall be today.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 25, 2005; the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director



CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS

Annual Business Meeting

Thursday, September 8, 2005

8:00 a.m. to 10:00 a.m.

The Portola Plaza Hotel
De Anza Ballroom
Monterey, California

AGENDA

1. Call to Order/Roll Call of the LAFCos Tim Campbell, Chair
2. Election of the Board of Directors
 - 2.1. Elections Committee report from Mel McLaughlin, Chair Elections Committee
 - 2.2. Nomination from the floor
 - 2.3. **Candidates Forum** — Mel McLaughlin, facilitator
 - 2.4. Initiate voting process
3. Approve Minutes from the September 9, 2004, CALAFCO Business Meeting at the Grand Californian Hotel, Anaheim, CA.
4. Report from Tim Campbell, Chair, Board of Directors, on significant Board activities in 2005, including an updated Strategic Plan
- 5: New Business
 - 5.1. Report from Peter Herzog, Treasurer, Board of Directors on a proposed amendment to the bylaws (§2.2 Membership Dues) to provide the Association the ability to adjust dues upon approval of a majority of the membership.
 - 5.2. Other new business
6. Adjourn to 2006 Business Meeting, September 6, 2006, Westin Horton Plaza Hotel, San Diego, CA

Task force criticizes plan

Wednesday, June 22, 2005

By Matt King

San Jose - A plan offered by Mayor Ron Gonzales to set aside some of the historical triggers for developing Coyote Valley in favor of "phasing of the willing" drew fire Monday night from the project's task force.

"There needs to be a sense of order to this," said Steve Speno, of the development company Gibson & Speno. "Don't go with phasing of the willing. Start with the existing infrastructure."

As outlined in San Jose's general plan, Coyote Valley development is contingent on the city having a five-year forecast of balanced or surplus budgets, a stable economic relationship with the state and 5,000 new jobs in North Coyote. But Gonzales has proposed rewriting the triggers to allow "phasing of the willing," and one new residential unit for every two new jobs in Coyote Valley, in any increment.

The mayor's plan also allows for a wide range of densities after the first 30 percent of build out, an idea criticized Monday night by task force member Craig Edgerton, of the Open Space Authority, who said the mayor's plan creates competing interests.

"I understand the intent, but I don't think it's very well done," Edgerton said. "Why not keep densities through the whole build out?"

The specific plan calls for an average residential density of 18 units per acre, but after the initial phase, homebuilders would be able to build at any density. Steve Schott Jr., of Citation Homes, said it's important to allow builders to respond to customer demand.

"You need to stay flexible because of the marketplace," Schott said. "I don't know that you want to monitor it throughout because housing markets fluctuate over time depending on demand."

There appears to be consensus among developers on the task force that the project will only work economically - initial infrastructure costs have been tagged at \$1.5 billion - with major development at the outset.

Echoing comments he made last month when the mayor first unveiled his proposal, Dan Hancock, of Shappell Industries, said the plan requires a "relatively ambitious first phase."

"We need to think big and brave and figure out a way to get this off to an important start," Hancock said.

San Jose Budget Director Joe Guerra said that flexible development prevents developers who own land in Coyote that already receives sewer, water and other services from San Jose from having too much leverage over the city.

But Speno said a scattershot and incremental buildout gets away from the "smartgrowth" principles of the Coyote Valley specific plan, which envisions a transit- and pedestrian-friendly community of 25,000 homes, 50,000 jobs and 50,000 residents on the city's southern edge.

"There needs to be a rhyme and reason and rationale that does not abandon those principles," he said. [To start with the existing infrastructure] makes sense economically and in terms of sound land use principles."

The next Coyote Valley task force meeting will be held in August. In late summer or fall, the task force will vote on whether to send part or all of the mayor's proposal to the San Jose city council for adoption.



Matt King

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Support for Coyote proposal

Wednesday, June 22, 2005

By Matt King

San Jose - The latest proposal to drive development in Coyote Valley is getting support from an unlikely source.

Property owners in the greenbelt separating Coyote and Morgan Hill have been some of the sharpest critics of San Jose's plans for the area, but a new proposal by Mayor Ron Gonzales has those owners seeing a different kind of green. Gonzales has put forward a plan to change the economic prerequisites for building in Coyote, and it contains the first concrete plans to compensate greenbelt owners. Rather than pushing conservation and farming easements, the mayor has proposed that all residential builders who develop below a certain density purchase land in the greenbelt as an environmental mitigation.

To Richard DeSmet, one of the leaders of several dozen greenbelt property owners, that means the land will have a far better chance to fetch fair market value.

"If they want to acquire the greenbelt this is the best mechanism so far because it allows the buyer and the seller to determine a price," DeSmet said. "The American style is that you put the buyer and seller together and let them determine the value."

Precluding the 3,500 acres of the greenbelt from further residential and industrial development has always been a central tenet of the San Jose master plan that governs Coyote Valley planning, in part to meet state and federal environmental requirements. DeSmet and many other residents who own property there have complained that by limiting use of the land, city planners are undercutting its value.

While property owners in north Coyote expect to sell their land to homebuilders at a handsome price, greenbelt owners are worried they won't receive fair market value if they're forced to sell conservation and agricultural easements to the county Open Space Authority or some other environmental agency.

"We don't want to deal with some quasi-government agency," DeSmet said. "The Open Space Authority is supposed to protect open space, but this is a semi-urban area."

San Jose planner Joe Horwedel said at the latest Coyote Valley task force meeting Monday evening that he's not surprised some of the project's most vocal critics are starting to show support.

"I figured as people started talking about mitigation opportunities, people in the greenbelt would see that there are different buyers," Horwedel said.

But the actual mitigation plan is a long way off. The task force, which must approve the mayor's proposal before the San Jose city council can decide to adopt it as part of the Coyote Valley Specific Plan, is not in agreement about who should pay to protect the land.

Under the mayor's plan, only homebuilders that develop land at densities less than 40 residential units per acre will be required to purchase mitigation land. Eric Carruthers, a retired planner and member of the task force, suggested Monday that that burden should be shouldered in part by new industrial developers in north Coyote.

"I can see why we want to make it less burdensome [to develop]," Carruthers said. "I'm not sure I feel the same generosity toward industrial development. We don't want to kill the camel by loading on too much, but we do want to get a fair share of work out of the camel."

It will be several months before the project's environmental impact report is complete, and only then will planners have a firm grasp of what sort of mitigations are required and how much agricultural land and habitat will have to be replaced.

According to a report released this month by Sustainable Agriculture Education in Berkeley, there are 2,214 acres in the greenbelt suitable for mitigation, restoration and wetland habitat creation. But the report also says the greenbelt is afflicted with a "predominance of small parcels, a patchwork development pattern, presence of industrial land uses, and a lack of buffering from non-farm residences," and suggests the land's market value often far exceeds its agricultural value.

It's that semi-urban nature of the land that has greenbelt owners calling for development there and environmental advocates arguing for a mitigation process that looks beyond Coyote. Michele Beasley, the South Bay field representative for the Greenbelt Alliance believes that developers should be required to preserve land in Coyote, the eastern foothills, the Almaden area and parts of South County. Brian Schmidt, of the Committee for Green Foothills, said Monday that Coyote Valley mitigation should mirror Gilroy's requirement of preserving one acre for each acre developed.

"It should be at least a one-acre-for-one-acre mitigation for all agriculture land lost regardless of subsequent use," Schmidt said. "The 'polluter pays' concept should apply to losing landscapes to development. If someone wants to destroy farmlands for development, they should be obligated to preserve a similar amount of land, just like they do in Gilroy."

Horwedel said that mitigations will be based largely on the type of land that needs to be replaced.

"The important piece is what you have to mitigate for" he said. "If it's riparian land or agricultural land loss, you need to find land to mitigate it that has those characteristics. Our preference is the greenbelt as opposed to Gilroy."

It's a preference shared by DeSmet, who wants to ensure that greenbelt owners are the first in line to sell their land to developers.

"It's half of Coyote Valley," DeSmet said of the greenbelt. "It should be part of the plan."

Coyote meeting

What: Meeting to discuss the scope of the Coyote Valley Specific Plan environmental impact report

When: Tonight, 7pm

Where: Coyote Creek Golf Course, 1 Coyote Creek Drive, San Jose

Notice of preparation for the report can be viewed at www.sanjoseca.gov/coyotevalley/EIR.html



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