

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, MAY 31, 2006**

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 31st day of May 2006 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California, with the following members present: Chairperson Donald F. Gage, Commissioners John Howe, Linda J. LeZotte and Susan Vicklund-Wilson.

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

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

2. PUBLIC PRESENTATIONS

There are no public presentations.

3. APPROVE MINUTES OF APRIL 12, 2006 MEETING

On motion of Commissioner Howe, seconded by Commissioner Wilson, it is unanimously ordered on 4-0 vote, with Commissioner Alvarado absent, that the minutes of April 12, 2006 be approved, as submitted.

4. CONSENT CALENDAR

**4.1 CUPERTINO SANITARY DISTRICT ANNEXATION –
WARDELL ROAD NO. 5**

Neelima Palacherla, LAFCO Executive Officer, proposes that approval be conditioned upon the receipt from the Cupertino Sanitation District (CSD) of corrected legal description and map.

On motion of Commissioner Howe, seconded by Commission LeZotte, it is unanimously ordered on 4-0 vote, with Commissioner Alvarado absent, that Resolution

No. 2006-03 be adopted, approving the annexation of five parcels with a total area of approximately 7.73 acres, located on Wardell Road in the City of Saratoga, to CSD, subject to terms and conditions provided for by the resolution's Attachment C, and conditioned upon the receipt of corrected legal description and map.

(Commissioner Alvarado arrives at 1:17 p.m.)

**4.2 WEST VALLEY SANITATION DISTRICT 2006-03 –
(SHANNON HEIGHTS ROAD)**

Ms. Palacherla advises that the approval of this application be conditioned upon the receipt of corrected legal description and map from the West Valley Sanitation District (WVSD).

On motion of Commissioner Howe, seconded by Commission LeZotte, it is unanimously ordered that Resolution No. 2006-04 be adopted, approving the annexation of four parcels with a total area of approximately 13.4 acres, located on Shannon Heights Road in the City of Saratoga, to WVSD, conditioned upon the receipt of corrected legal description and map.

PUBLIC HEARINGS

5. MILPITAS URBAN SERVICE AREA AMENDMENT 2006

Chairperson Gage indicates that the Commission has received two letters requesting that the item be continued to the August 9, 2006 meeting.

Pete McHugh, Santa Clara County Supervisor, District 3, requests the Commission to continue the hearing to August 9, 2006 to allow the City of Milpitas to meet with the affected property owners. Mr. McHugh notes that since the issue had been pending for seven or eight years, the continuance would not cause undue hardship.

On motion of Commissioner LeZotte, seconded by Commissioner Howe, it is unanimously ordered that hearing on City of Milpitas USA retraction be continued to August 9, 2006.

6. DRAFT REPORT FOR SOUTH AND CENTRAL SANTA CLARA COUNTY SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATES

This being the time and place set for public hearing to consider the draft report for the South and Central Santa Clara County service review and sphere of influence (SOI) updates, the Chairperson declares the public hearing open.

Dunia Noel, LAFCO Analyst, announces that Llyod Zola, Principal, LSA Associates, Inc., consultant for the service review project, will present the draft report to the Commission. She states that since the draft report was released to the public for review and comments in April 2006, staff has received only minor comments from the City of Morgan Hill.

Mr. Zola reports that the area under review includes the five cities of San Jose, Milpitas, Gilroy and Morgan Hill, and nine special districts including Burbank Sanitary District, County Sanitation District No. 2-3, Lion's Gate Community Services District, Santa Clara County Library Service Area, Santa Clara County Lighting Service Area, Santa Clara County Open Space Authority, Santa Clara County Vector Control District, South Santa Clara County Valley Memorial District, and Sunol Sanitary District.

He advises that state law requires LAFCO to update all SOIs by January 1, 2008, and to conduct a service review prior to, or in conjunction with, each SOI update. For the service review, the Commission is required to make nine service review determinations, namely, infrastructure needs and deficiencies; growth and population projections for the affected area; 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 reorganization of service providers; evaluation of management efficiencies; and, local accountability and governance. For the SOI updates, the Commission is required to make four determinations, namely, present and planned land uses in the area; present and probable need for public facilities and services in the area; present capacity of public facilities and adequacy of public services; and, existence of any social or economic communities of interest in the area. He continues his report by outlining the service review process and discuss the key service review determinations.

For the SOI updates, Mr. Zola indicates that the report recommends that the existing SOIs for the cities be reaffirmed because they are long-range planning tools to help LAFCO evaluate USA boundary changes and annexation requests; areas where the County and cities have shared interests in preserving non-urban land uses, and where the County and cities have significant interaction, and areas containing social or economic communities of interest to the cities. They are not necessarily areas that are designated for urban development. On the SOIs for the districts, he recommends that Zero SOIs for the three sanitation districts in San Jose be reaffirmed; that coterminous SOIs for Lion's Gate Community Services District, Santa Clara County Open Space Authority, Santa Clara County Vector Control District, and Santa Clara Valley Memorial District be reaffirmed; that the County Library SOI be modified to zero SOI because that district no performs a function, and should be dissolved; and that the County Lighting Service Area's SOI be modified from zero to coterminus to allow for potential future annexations.

Finally, Mr. Zola invites the Commission and the public to review the report, provide comments or ask questions. He proposes that the report be brought back to the Commission on August 9, 2006 for final hearing. He advises that service reviews are exempt under CEQA and states the reasons for the exemption.

In response to an inquiry by Commissioner LeZotte, Mr. Zola states Santa Clara Open Space Authority has requested that the statement "growth pressures on non-preserved open space lands make it difficult for Santa Clara County Open Space Authority to acquire more open space lands," be made part of the determinations. He adds that this statement relates to growth in general and not to any specific area. In response to another question by Commissioner LeZotte, Mr. Zola explains that the 2003-04 audit on Burbank Sanitary District is the most recent audit available and that the District is addressing the problem. He advises that he would gather more information on the issue if requested by the Commission. Commissioner LeZotte suggests that financial records of the District be straightened out before San Jose could fully annex the area.

In response to an inquiry by Commissioner Alvarado, Mr. Zola advises that the Santa Clara Valley Memorial District was established in 1954 to provide services to veterans, and that such districts are rare in California. Ms. Palacherla adds that the District provides no other services other than renting out and maintaining the facility. In response to a follow-up inquiry by Commissioner Alvarado, Ms. Palacherla states that the District revenues come from percentage of property taxes, earned interests, and fees for renting the facility.

Ms. Palacherla expresses appreciation to the Technical Advisory Committee (TAC) for their participation in the service review. She notes that TAC had many discussions especially relating to SOI for cities. She notes that Ed Tewes, City Manager for the City of Morgan Hill, participated on the TAC and is in the audience.

The Chairperson determines that there is no request from the public to speak and orders the public hearing closed.

On motion of Commissioner Howe, seconded by Commissioner Alvarado, it is unanimously ordered that the draft report for the South and Central Santa Clara County Service Review and SOI Updates be accepted, staff be directed to prepare the final report, and that a hearing be set for August 9, 2006.

7. MAPS FOR SANTA CLARA COUNTY LIGHTING SERVICE AREA, SANTA CLARA COUNTY OPEN SPACE AUTHORITY, AND MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

This being the time and place set for hearing to consider the adoption of maps for Santa Clara County Lighting Service Area (SCCLSA) and Midpeninsula Regional Open Space District (MROSD), the Chairperson declares the public hearing open.

Ms. Noel reports that the maps for SCCLSA and MROSD are current as of April 31, 2006. She notes, however, that MROSD is working with the offices of the County Assessor and County Controller to resolve potential discrepancies in tax rate area information. She indicates that staff will revise the map when this issue is resolved. Ms. Noel advises that if adopted, the SCCLSA and MROSD maps will be official LAFCO maps for the two districts and will be maintained and made current by staff with assistance from County ISD.

In response to an inquiry by Commissioner Gage, Ms. Noel states that the GIS layers for these maps are available to the County Planning and Development Office and to other County departments through the County intranet. In response to an inquiry by Commissioner Howe, Ms. Noel advises that while MROSD extends to the San Mateo County, the MROSD map covers only the areas within Santa Clara County. Commissioner Howe comments that it would be important to have a map of the entire District. Ms. Palacherla proposes that a note will be added on the map indicating that the district extends to San Mateo and Santa Cruz counties. On a related inquiry by Commissioner Howe, Ms. Palacherla advises that Pacheco Pass Water District is another district whose boundaries extend to another county. In response to an inquiry by Supervisor Alvarado, Ms. Noel reports that Santa Clara and San Mateo LAFCOs have recently processed an MROSD annexation. Ms. Palacherla explains that Santa Clara LAFCO is the principal LAFCO for MROSD because of the higher assessed land values of MROSD are in Santa Clara County. She adds that there are discussions at the state level about the responsibilities of LAFCOs on districts that extend across two or more counties.

The Chairperson determines that there is no request from the public to speak and orders the public hearing closed.

On motion of Commissioner LeZotte, seconded by Commissioner Wilson, it is unanimously ordered that the maps depicting the district boundaries and SOIs of SCCLSA and MROSD be approved.

8. PROPOSED REVISION TO LAFCO FEE SCHEDULE

This being the time and place set for hearing to consider the adoption of resolution revising the LAFCO fee schedule, the Chairperson declares the public hearing open.

Ms. Palacherla reports that LAFCO fee schedule was last revised in June 2004 based on staffing and resource costs at that time. In March 2006, the Budget Subcommittee directed staff to review LAFCO fees and propose revisions to recover costs. She continues her report by explaining how each of the fees is calculated and

explains the reasons for the proposed revisions. She also outlines the expected revenues under the current rates, as well as under the proposed fee schedule. Ms. Palacherla proposes that the new fee schedule take effect on June 1, 2006.

The Chairperson determines that there is no request from the public to speak and orders the public hearing closed.

On motion of Commissioner Howe, seconded by Commissioner Alvarado, it is unanimously ordered that Resolution No. 2006-05 be adopted, revising LAFCO fees effective on June 1, 2006.

9. FINAL LAFCO BUDGET FOR FISCAL YEAR 2006-2007

This being the time and place set for a hearing to consider and adopt the final LAFCO budget for Fiscal Year (FY) 2006-2007, the Chairperson declares the public hearing open.

Ms. Palacherla recommends approval of the final LAFCO budget, stating that the Commission had adopted the preliminary budget on April 12, 2006. Since then, staff has been able to accurately estimate the yearend expenses and is proposing minor revisions based on that information. She reports that since higher revenues have been realized than earlier projected, staff is proposing further reduction to LAFCO's net operating expenses. As such, the County and the cities will pay even less than what was proposed in the draft budget.

The Chairperson determines that there is no request from the public to speak and orders the public hearing closed.

Commissioner Howe reports that in his meeting with the Santa Clara County Cities Association in April 2006, representatives from the cities have indicated that the LAFCO budget has been done very well.

On motion of Commissioner Howe, seconded by Commissioner Alvarado, it is unanimously ordered that the Final LAFCO Budget for FY 2006-2007 be adopted; find that Final FY-07 budget is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; staff be authorized to transmit the adopted final budget, including the estimated agency costs, to each of the cities, the County, and the Cities Association; and, the County Auditor-Controller be directed to apportion LAFCO costs

to cities and the County using the most recent edition of the Cities Annual Report published by the County Controller, and collect payments pursuant to Government Code Section 56381.

10. PROPOSED LAFCO POLICIES REVISION

10a. POLICY FOR TRAVEL AND EXPENSES REIMBURSEMENT

This being the time and place set for hearing to consider the adoption of policy relating to travel and expenses reimbursement, the Chairperson declares the public hearing open.

Ms. Palacherla recommends adoption of the Travel and Expense Reimbursement Policies. She advises that Assembly Bill (AB) 1234, which took effect on January 1, 2006, requires local agencies to adopt written policies on functions qualifying for reimbursement. She continues by discussing each item of the proposed policy, and adds that AB 1234 requires local agencies providing compensation or reimbursement to provide ethics training. She informs that Commissioner Wilson and Alternate Commissioner Terry Trumbull have both attended ethics training. She notes that the other members and alternate members of the Commission would attend ethics trainings administered for their respective legislative bodies. Ms. Palacherla continues to report by discussing the proposed travel and expense policy.

Chairperson Gage and Commissioner Alvarado express interest to attend the 2006 CALAFCO Conference.

The Chairperson determines that there is no request from the public to speak and orders the public hearing closed.

On motion of Commissioner Howe, seconded by Commissioner Alvarado, it is unanimously ordered that policy be adopted relating to travel and expense reimbursement, as proposed.

10b. PROPOSED POLICY ON ROLE OF ALTERNATE COMMISSIONERS

This being the time and place set for hearing to consider the adoption of policy on the role of Alternate Commissioners, the Chairperson declares the public hearing open.

Ms. Palacherla informs that the Budget Subcommittee discussed the attendance of alternate commissioners at the Commission meetings even if the regular members are present. At the April 12, 2006 meeting, the Commission directed staff to survey other LAFCOs and bring back a policy on this issue. In this regard, she recommends that the Commission adopt a policy that states that LAFCO expects alternate commissioners to attend and participate in the Commission meetings in order to be familiar with the issues when they take the place of regular commissioners.

The Chairperson determines that there is no request from the public to speak and orders the public hearing closed.

Commissioner LeZotte expresses concern on the policy's implementation date, stating that San Jose's Alternate Commissioner, Chuck Reed, would have commitments at this particular time of the year. Chairperson Gage notes that the Commission only desires more participation because of the nature and scope of LAFCO issues. He notes that the Valley Transportation Authority (VTA) Board of Directors encourages alternates members to attend regularly, and that they are excused if they are unable to attend. Ms. Palacherla proposes that alternate commissioners will be notified of this Commission action in a letter. In response to another inquiry by Commissioner LeZotte, Ms. Kretchmer advises that alternate commissioners would participate in the discussions but will not vote if the regular members are present. In response to Commissioner Howe, Ms. Palacherla discusses a seating arrangement that would allow alternate commissioners to engage in discussions. Finally, Commissioner Howe proposes to amend the first sentence on the last paragraph of the policy by adding the word "encouraged."

On motion of Commissioner Howe, seconded by Commissioner Wilson, it is unanimously ordered that policy be adopted relating to the role of alternate commissioners, as amended.

10c. PROPOSED PER DIEM FOR LAFCO COMMISSIONERS AND ALTERNATE COMMISSIONERS

This being the time and place set for hearing to consider the adoption of resolution establishing a per diem for attendance of LAFCO commissioners and alternate commissioners in LAFCO meetings, the Chairperson declares the public hearing open.

The Chairperson determines that there is no request from the public to speak and declares the public hearing closed.

On motion of Commissioner Alvarado, seconded by Commissioner Howe, it is unanimously ordered that Resolution No. 2006-06 be adopted, establishing a per diem and increasing it from \$50 to \$100 for both commissioners and alternate commissioners.

11. UPDATES ON CITIES' S ISLAND ANNEXATION

Ms. Noel briefly reports on the status of island annexations in Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose and Saratoga.

In response to an inquiry by Commissioner Gage, Ms. Noel advises that the Los Gatos Town Counsel has indicated that the Town would not pursue the island annexations initiated, but would support residents desiring to annex. In this regard, Commissioner Gage directs staff to send a letter to the cities indicating that the streamlined annexation law may not be extended. In response to the inquiry by Commissioner Alvarado, Ms. Kretchmer advises that island annexations initiated prior to December 31, 2006 would be processed under the streamlined annexation law.

On motion of Commissioner Howe, seconded by Commissioner Alvarado, it is unanimously ordered that the report be accepted, and staff be directed to write letters to the cities indicating that streamlined island annexations must be initiated before the end of the year.

12. LEGISLATIVE REPORT

Ms. Palacherla recommends that the Commission support Assembly Bill (AB) 2223 (Salinas), relating to extension of sunset date for island annexation law. On motion of Commissioner Alvarado, seconded by Commissioner Howe, it is unanimously ordered that staff be authorized to send a letter of support for AB 2223.

Ms. Palacherla likewise recommends that the Commission support AB 1602 (Laird), relating the restoration of vehicle license fees (VLF) to newly incorporated cities and cities that annex uninhabited areas. She indicates that the San Martin incorporation effort is awaiting the enactment of this bill. On motion of Commissioner Howe, seconded by Commissioner Alvarado, it is unanimously ordered that staff be authorized to send a letter of support for AB 1602.

In addition, Ms. Palacherla recommends that the Commission support AB 2158 (Evans), relating to requirement that the Association of Bay Area Governments (ABAG) consider spheres of influence (SOIs) and LAFCO policies in determining regional housing needs assessment. In response to an inquiry of Commissioner Howe, Ms. Palacherla states that the case of Moffet Field, with one part in the SOI of Mountain View while the other part in Sunnyvale, must be resolved between LAFCO and the cities. On motion of Commissioner Alvarado, seconded by Commissioner Howe, it is unanimously ordered that staff be authorized to send a letter of support for AB 2158, noting the need for better coordination between LAFCO and ABAG in determining the regional housing needs assessment, particularly in the case of Moffett Field.

Finally, Ms. Palacherla recommends that the Commission support AB 2259 (Salinas), relating to extending beyond January 1, 2007, LAFCO's authority to review and approve proposals for services in unserved, unincorporated territory. On motion of Commissioner Alvarado, seconded by Commissioner Howe, it is unanimously ordered that staff be authorized to send a letter of support for AB 2259, and that the legislative report be accepted.

13. EXECUTIVE OFFICER'S REPORT

13a. REPORT ON CALAFCO STAFF REPORT

Ms. Noel reports on the 2006 Staff Workshop in South Lake Tahoe on April 26-28, 2006. She indicates that the workshop included sessions for LAFCO clerks, discussions on leadership, regional planning, successful LAFCO partnerships, water issues, and managing public agencies. She adds that Ms. Kretchmer facilitated the Attorneys' Roundtable Session on AB 1234. She reports that the Workshop provided a

venue for in depth discussions by staff on the agricultural preservation and mitigation policies of other LAFCOs.

On motion of Commissioner Howe, seconded by Commissioner Alvarado, it is unanimously ordered that the staff report be accepted.

13b. CALAFCO ANNUAL CONFERENCE IN SAN DIEGO ON SEPTEMBER

Ms. Noel advises that the CALAFCO Annual Conference is scheduled on September 5 -7, 2006 at the Westin Horton Plaza Hotel in San Diego.

On motion of Commissioner Alvarado, seconded by Commissioner Howe, it is unanimously ordered that the commissioners and staff be authorized to attend the conference, and travel expenses be funded by LAFCO budget.

13c. NOMINATIONS TO THE CALAFCO EXECUTIVE BOARD

Ms. Noel informs the Commission that nominations will be accepted to open positions on the CALAFCO Board of Directors until August 6, 2006. Elections will be held during the CALAFCO Annual Conference in September 2006. In response to an inquiry of Commissioner Howe, Commissioner Wilson indicates that she is currently serving her second term in the CALAFCO Board and which will expire in 2007.

14. COMMISSIONERS' REPORTS

There is no report from the Commissioners.

15. WRITTEN CORRESPONDENCE

There is no written correspondence.

16. NEWSPAPER ARTICLES

The Chairperson takes note of a May 10, 2006 San Jose Mercury News article entitled, "South county ranch to be preserved in deal."

17. PENDING APPLICATIONS

Ms. Palacherla advises the Commission that West Valley Sanitation District has two applications for the August 9, 2006 meeting.

18. **ADJOURN**

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:29 p.m.

The next regular LAFCO meeting is scheduled to be held on Wednesday, August 9, 2006 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Donald F. Gage, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk