

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, AUGUST 9, 2006**

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 9th day of August 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. Alternate Commissioners Terry Trumbull and Roland Velasco are also present. Commissioner Blanca Alvarado is absent.

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 AUGUST 9, 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 August 9, 2006 be approved, as submitted.

4. CONSENT CALENDAR

4.1 WEST VALLEY SANITATION DISTRICT 2006-01 (MIREVAL ROAD)

On motion of Commissioner Howe, seconded by Commission Wilson, it is unanimously ordered on 4-0 vote, with Commissioner Alvarado absent, that Resolution No. 06-07 be adopted, approving the annexation of one parcel with a total area of

approximately 15.4 acres, located on Mireval Road in the Town of Los Gatos, to West Valley Sanitation District (WVSD), and waiving further protest proceedings.

4.2 WEST VALLEY SANITATION DISTRICT 2006-02 (PASEO CARMELO)

On motion of Commissioner Howe, seconded by Commission Wilson, it is unanimously ordered on 4-0 vote, with Commissioner Alvarado absent, that Resolution No. 06-08 be adopted, approving the annexation of one parcel with a total area of approximately 1.36 acres, located on Paseo Carmelo in the Town of Los Gatos, to West Valley Sanitation District (WVSD), and waiving further protest proceedings.

PUBLIC HEARINGS

5. MILPITAS URBAN SERVICE AREA AMENDMENT 2006

This being the time and place set for hearing to consider the request by the City of Milpitas to retract its urban service area (USA) boundary to be coterminous with its urban growth boundary (UGB) in the east foothills, as required by Measure Z, the Chairperson declares the public hearing open.

Neelima Palacherla, LAFCO Executive Officer, reports that the City of Milpitas proposes to retract its USA in order to make it contiguous with its UGB as mandated by Measure Z. The proposal removes from the City's USA approximately 37 parcels with a combined acreage of about 1,937 acres. In 1998, Milpitas voters approved Measure Z to establish a UGB for the City and exclude hillside lands from the UGB. The UGB is a 20-year boundary effective until December 31, 2018. Measure Z also directed the City to apply to LAFCO to exclude from the City's USA, hillside parcels that are outside of the approved UGB, to resolve inconsistency between the UGB and USA, and to comply with the City's General Plan. She advises that this item has been continued from the May 31, 2006 LAFCO meeting.

Ms. Palacherla advises that the proposed USA retraction would result in a logical and orderly City boundary. Currently, lands within the 5-year USA are located outside of the 20-year UGB. The proposed USA retraction would ensure that the USA is coterminous with the UGB. In addition, removal of properties from the USA indicates that the City will not annex nor provide services to unincorporated areas. She adds that the County is proposing to apply Hillside (HS) General Plan zoning designation on

properties removed from the USA. Measure Z prohibits the City from extending urban services and infrastructure to developments outside the City's UGB, except those parcels currently receiving City services. Ms. Palacherla adds that the City will benefit from the proposed USA retraction because the City will not incur maintenance costs for hillside infrastructure, and at the same time, there will be no negative fiscal impact for the County or special districts because there is no jurisdictional change. In this regard, she recommends approval of the USA retraction.

Noorudin Billawala, Manager, Liberty Properties, LLC, states that the USA retraction will negatively impact the affected property owners. He then talks about the difficulties involved in subdividing a property in the area.

Laura Mello, affected property owner, speaks in favor of USA retraction, explaining that Measure Z had been approved by 55 percent of voters.

Cindy Maxwell, Senior Planner, City of Milpitas, observes that Measure Z was mandated by the voters and must be completed. She advises that the City held an informational meeting for property owners and other interested parties on June 21, 2006 and assures the Commission that the City will continue to educate the public on the USA retraction.

The Chairperson determines that there are no more speakers from the public and orders that the hearing be closed.

On motion of Commissioner Howe, seconded by Commission Wilson, it is unanimously ordered on 4-0 vote, with Commissioner Alvarado absent, that Resolution No. 06-09 be adopted, approving the retraction of Milpitas USA boundary to be coterminous with that City's UGB in the east foothills; and, that the Negative Declaration be adopted based on the findings that it was prepared in accordance with law and reflects the LAFCO of Santa Clara County's independent judgment and analysis; that the LAFCO of Santa Clara County has considered the Negative Declaration and all comments received during the comment period; that the Project will not have a significant impact on the environment; and, the LAFCO Executive Officer be designated as the location and custodian of documents and other materials that constitute the record of proceedings on which this decision is based.

6. FINAL REPORT FOR SOUTH AND CENTRAL SANTA CLARA COUNTY SERVICE REVIEW AND SPHERE OF INFLUENCE (SOI) UPDATES

This being the time and place set for public hearing to consider the final 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, presents a short background on the service review process. A draft report was released in mid-April 2006 for public review and comment. The draft report was revised to include comments from stakeholders and was presented to the Commission at the May 31, 2006 in public hearing. Staff has not received any additional comments since the public hearing, however, three sections of the report has been revised to reflect current available information, clarify existing information, and provide a more detailed analysis of various government structure options. Once the South and Central Santa Clara County service review and SOI update is completed, staff will start the service review on the north and western part of the County. Ms. Noel introduces Renee Sedecki, Project Manager, LSA Associates, to present the final report.

Ms. Sedecki directs attention to a map depicting the County and the service reviews sub-regions. The South Central County sub-region includes the cities of San Jose, Milpitas, Gilroy and Morgan Hill; and nine special districts, namely, 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. She continues by outlining the portions of the County served by each of the special districts, their mission, as well as the services they provide.

Ms. Sedecki continues by discussing the CKH Act mandate to complete SOI updates and service reviews by January 1, 2008. She adds that LAFCO is required to make nine service reviews determinations and four SOI determinations for each of the cities and special districts. The required nine service review determinations are 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. The four SOI determinations are 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. Finally, Ms. Sedecki summarizes the service review determinations and SOI recommendations for each of the cities and special districts.

The Chairperson determines that there are no speakers from the public and orders that the hearing be closed.

On motion of Commissioner Wilson, seconded by Commissioner LeZotte, it is unanimously ordered on 4-0 vote, with Commissioner Alvarado absent, that the Final Report on South and Central Santa Clara County Service Review and SOI Update be adopted with the necessary revisions; that Resolutions be adopted for service review determinations for each agency; that Resolutions be adopted for SOI and determinations for each of the cities and special districts; that CEQA determinations be adopted; and, that staff be directed to distribute the Final Report to all affected agencies.

7. RESPONSE TO THE 2005/2006 CIVIL GRAND JURY REPORT ENTITLED, "INDEPENDENT SPECIAL DISTRICTS – OVERSIGHT FAR SHORT"

Ms. Palacherla reports that on June 2, 2006, the Santa Clara County Civil Grand Jury released a report entitled, "Independent Special Districts – Oversight Falls Short." The report includes a study of four independent special districts, namely, Loma Prieta Resource Conservation District, Guadalupe Coyote Resource Conservation District, Saratoga Cemetery District, and South Santa Clara Valley Memorial District. She indicates that the report covers the current level of oversight provided to these districts, particularly whether that level of oversight is sufficient to promote the efficient operation and evolution of the special districts. The report contains two findings and one recommendation directed to LAFCO. Staff has prepared the proposed responses to these two findings and one recommendation. She advises that the County, one of the

independent special districts mentioned, and the Santa Clara County Special Districts Association will respond to the other parts of the Grand Jury Report. She informs that the Chair of the Special Districts Association concurs with the draft LAFCO response.

On Grand Jury report Finding No. 1, Ms. Palacherla recommends that the Commission partially agree with the finding, explaining that since special districts are separate government agencies governed by their principal acts, LAFCO does not have jurisdiction over their day-to-day operations and management. Special districts are autonomous and are directly responsible to their constituents for their financing, operations and governance. LAFCO's role is focused on aspects that have relevance to growth and development in the area, governance structure, boundary and service provision issues. However, she recommends agreement with Grand Jury finding that there is a need to increase public awareness of special districts within the County. She explains that some districts provide very specific type of service to a specific part of the community. She recommends that the response provide examples of how LAFCO is working to increase visibility of special districts, such as providing information on the LAFCO website and in initiating the service reviews.

On Grand Jury report Finding No. 2, she proposes to disagree with the finding, explaining that LAFCO, through the service reviews, is looking into special districts and is gathering more information. She adds that while service reviews do not include a management audit, they examine the pros and cons of alternate government structure options, the reason for continued existence of special districts, and determine whether there are alternate government structure options that could result in more efficient provision of service. For instance, through LAFCO's Countywide Fire Protection Service Review, several issues have been identified relating to the provision of fire services in the County, alternative solutions have been identified, and the pros and cons of alternative solutions have been determined. One alternative found was the dissolution of Saratoga Fire District. She likewise cited the Countywide Water Service Review report which contained an analysis and government structure options that consider dissolution of two resource conservation districts. LAFCO has to adopt the SOIs and take action in the future. She explains that LAFCO, members of the public or

any public agency may initiate action with LAFCO relating to government structure options identified in the service reviews.

Relating to Grand Jury report Recommendation No. 2, Ms. Palacherla advises that the Commission disagree with the recommendation, stating that it is not the role of LAFCO to conduct management or performance audits nor fiscal evaluations. She explains that LAFCO's role is to promote efficient provision of services, and logical and orderly growth and development. In addition, she proposes that the response inform the Grand Jury that LAFCO will continue with, and complete the service reviews and SOIs for cities and special district by January 1, 2008 as required by state law.

In response to an inquiry by Commissioner Howe, Ms. Kretchmer advises that she has reviewed the draft responses to the Grand Jury Report and states that if the proposed responses are adopted, the Commission would fully meet the requirements of the Grand Jury.

Commissioner Wilson comments that the response clearly sets forth the role of LAFCO. On the first sentence of the response to Recommendation No. 2, she proposes to add a period after the word "Disagree."

Libby Lucas, resident of Los Altos, proposes to remove all statements relating to dissolution of resource services districts, stating that these are state and federal agencies funded by the U.S. Department of Agriculture and are providing specialized services to farmers.

On motion of Commissioner Howe, seconded by Commission Wilson, it is unanimously ordered on 4-0 vote, with Commissioner Alvarado absent, that the response to the Santa Clara County Civil Grand Jury Report entitled, "Independent Special Districts – Oversight Falls Short" be approved, as amended; and, staff be directed to forward the response to the Presiding Judge of the Santa Clara County Superior Court and the Foreperson of the 2005/2006 Civil Grand Jury.

8. UPDATE ON CITIES' ISLAND ANNEXATION EFFORTS

Ms. Noel reports that island annexations have been completed in Los Altos and Morgan Hill, and are being pursued in Saratoga, Cupertino, Monte Sereno and

Mountain View. She adds that the County has provided maps and legal descriptions for 15 of the 24 islands identified by San Jose City Council for Phase I island annexations. She advises that the City has indicated that it would annex 15 islands in September 2006 and 9 islands in November 2006. Staff has received mapping request forms from Campbell for their three remaining islands. Milpitas is likewise expected to annex one of their remaining islands. Campbell and Milpitas plan to complete their annexations by the end of the year.

Ms. Noel also advises that Assembly Bill 2223 (Salinas), which extends the streamlined annexation sunset date to January 1, 2014, is currently with the State Senate Committee on Appropriations. The last day for the Governor to sign or veto bills passed by the legislature is September 30, 2006.

In response to an inquiry by Commissioner Wilson, Ms. Palacherla advises that Morgan Hill has completed an initial study on the proposed Holiday Lake Estate's sewer extension and found that a more extensive study is needed. The City has requested the County and Santa Clara Valley Water District for assistance to fund this study. Currently, one option is a formation of an assessment district; however, decisions have to be made on who would take the lead, the formation process to be taken, and the source of funds to do that.

On motion of Commissioner LeZotte, seconded by Commissioner Howe, it is unanimously ordered on 4-0 vote, with Commissioner Alvarado absent, that the report be accepted relating to island annexation efforts.

9. UPDATE ON DEVELOPMENT OF LAFCO'S AGRICULTURAL MITIGATION POLICIES

Ms. Noel advises that staff is developing draft agricultural mitigation policies for the Commission's consideration and approval. Staff expects to send a draft of proposed mitigation policies to cities, the County, special districts, and to interested parties and individuals for their review and comment. Staff plans to hold a workshop on the draft mitigation policies by the end of August 2006 to discuss it further and to take comments from affected agencies and interested parties. An additional period of time will be provided following the workshop to allow submittal of further written comments. Staff

will develop a revised set of policies for the Commission's consideration and potential approval at the noticed public hearing on October 11, 2006.

In response to an inquiry by Commissioner Howe, Ms. Palacherla advises that copies of the draft mitigation policies will be provided to the commissioners and alternate commissioners.

On motion of Commissioner Howe, seconded by Commissioner LeZotte, it is unanimously ordered on 4-0 vote, with Commissioner Alvarado absent, that report be accepted relating to proposed LAFCO's agricultural mitigation policies.

10. CALAFCO ANNUAL CONFERENCE

In response to an inquiry by Commissioner Howe, Commissioner Wilson states that she will attend the CALAFCO Annual Conference. In response to an inquiry by Commissioner Wilson, Ms. Kretchmer advises that there is nothing inappropriate in being both a member of the CALAFCO Board of Directors and a voting delegate of Santa Clara County LAFCO.

On motion of Commissioner Howe, seconded by Commissioner Gage, it is unanimously ordered on 3-0 vote, with Commissioner Alvarado absent and Commissioner Wilson abstaining, that Commissioner Wilson be designated as the voting-delegate to the 2006 CALAFCO Annual Conference.

11. COMMISSIONERS' REPORTS

In response to an inquiry by Commissioner Howe, Ms. Palacherla advises that staff will send out information on the North and West County Service Review by the end of August 2006.

12. WRITTEN CORRESPONDENCE

There is no written correspondence.

13. NEWSPAPER ARTICLES

There are no newspaper articles.

14. PENDING APPLICATIONS / UPCOMING PROJECTS

There is no report on pending applications or upcoming projects.

12. ADJOURN

Chairperson Gage welcomes Alternate Commissioners Trumbull and Velasco and invites them to continue to attend the meetings of the Commission.

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:01 p.m.

The next regular LAFCO meeting is scheduled to be held on Wednesday, October 11, 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