

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, DECEMBER 13, 2006**

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 13th day of December 2006 at 1:23 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 and Susan Vicklund-Wilson. Alternate Commissioners Terry Trumbull and Roland Velasco are also present. Commissioner LeZotte arrives at 1:24 p.m. Alternate Commissioner McHugh, representing Commissioner Blanca Alvarado, arrives at 1:25 p.m.

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 OCTOBER 11, 2006 MEETING

On motion of Commissioner Howe, seconded by Commissioner Wilson, it is ordered on a 4-0 vote, with Alternate Commissioner McHugh abstaining, that the minutes of October 11, 2006 meeting be approved, as submitted.

4. REVISED DRAFT AGRICULTURAL MITIGATION POLICIES

This being the time and place set to consider LAFCO's Revised Draft Agricultural Mitigation Policies, Chairperson Gage declares the public hearing open and requests the staff report.

Ms. Palacherla directs attention to her staff report, dated December 13, 2006, and states that the purpose of the draft policies is to protect and preserve agricultural lands

by ensuring that the impact of the loss of agricultural land is reduced through mitigation, to provide the applicants and cities advance information on LAFCO's expectations and requirements for agricultural mitigation, and to serve as a guide to LAFCO in evaluating LAFCO proposals and other environmental documents.

LAFCO's current policies discourage the premature conversion of agricultural lands. State law and LAFCO policies require the Commission to guide development away from agricultural lands and ensure that vacant lands within the city boundaries are first developed before agricultural lands are converted. If conversion of agricultural lands is necessary, LAFCO's current policies require an explanation as to why these lands should be included and how the loss of these agricultural lands will be mitigated. The current policies provide examples of mitigation but do not provide details on how mitigation must take place. This is the gap that the proposed policies would fill in. The proposed policies will be triggered when an application to LAFCO, such as a USA amendment proposal, involves the conversion of agricultural lands or adversely impacts adjacent agricultural lands.

Explaining how the proposed policies relate to existing agricultural mitigation policies of the cities, Ms. Palacherla indicates that all LAFCO proposals converting agricultural lands would have to comply with LAFCO's policies. She indicates that since the proposed LAFCO policies are so broad, the cities are free to establish their own standards and criteria within this framework based on local circumstances and preferences. She indicates that LAFCO policies encourage cities with potential LAFCO applications involving agricultural lands to adopt mitigation policies consistent with LAFCO policies. She notes that Gilroy has agricultural mitigation policies that are for the most part substantially similar to the proposed policies and advises that the staff report includes a comparison of the two policies.

Ms. Palacherla states that in response to the questions about LAFCO's authority, Ms. Kretchmer, LAFCO Counsel, has issued a written opinion confirming that LAFCO has the legal authority to adopt agricultural mitigation policies. Ms. Kretchmer states that her memorandum concludes that Cortese-Knox-Hertzberg (CKH) Local Government Reorganization Act of 2000 empowers LAFCO to adopt policies

establishing minimum criteria for agricultural mitigation. The State legislature, through the CKH Act, provides LAFCO the exclusive authority on local government reorganizations and states that changes in organizations must be considered with the goal of preserving open space and agricultural lands. The preservation of prime agricultural lands is among the statutory purposes of LAFCO. She adds that arguments and concerns have been raised that the draft policies might be regulation of land use. Ms. Kretchmer notes that LAFCO does not have the authority to regulate land use but that LAFCO actions, by their very nature, impact land use. CKH Act even directs that land area and land use are factors to be considered in the review of a proposal. She notes that direct regulation of land use and impact on land use are two different things. She advises that these policies do not require that the land use of any property be changed, they only require the mitigation of agricultural land converted away from agriculture. The draft policies do not specify which land is to be preserved, nor do they require a change in land use designation. In this regard, she concludes, there is no direct regulation of land use. She indicates that LAFCO's authority under CEQA goes beyond providing comments. CEQA guidelines direct the responsible agency not to approve a project if that agency finds that any feasible mitigation measures that are within its powers exist that would lessen the impact on the environment. Thus, LAFCO may consider or impose mitigation consistent with its own policies. In conclusion, she advises that the State's interest in preserving and protecting agricultural lands is of compelling importance and is one of LAFCO's primary purposes, such that, existing LAFCO policies and the State law authorize the Commission to provide standards for agricultural mitigation. Ms. Palacherla adds that Yolo LAFCO has had an agricultural mitigation policy since the 1990s, very similar to the policies being proposed, that have not been legally challenged and have been strengthened over the years.

Ms. Palacherla continues her report by stating that staff is proposing to conduct further evaluation of the potential environmental impacts of the proposed policies in response to concerns by some stakeholders. She then outlines the timeline and process involved in the development of the proposed policies.

Ms. Noel then outlines the key revisions to the draft policies. Staff is proposing revisions in response to comments and letters received from various stakeholders to the October 26th version. An introductory paragraph has been added to describe LAFCO's mission as established by state law and to describe how LAFCO's draft policies relate to existing LAFCO policies about preserving agricultural lands. On Policy No. 5, the original draft policy requires cities to establish programs to improve community understanding of agriculture in the County. The revision provides for LAFCO to take this role. Policy No. 6 has been revised to allow LAFCO to review and revise the policies as necessary in order to address issues that may arise with the implementation of these policies. Policy No. 10 has been revised to clarify the requirements for location of mitigation lands and states that these lands be located within the city's sphere of influence to promote the definition of a permanent urban/agricultural edge. Policy No. 11 has been revised to encourage cities to adopt mitigation measures as necessary to reduce impacts to adjacent agricultural lands and provide examples of such measures. Policy No. 15 has been revised to increase time period of mitigation from two years to three years, following LAFCO's conditional approval. Policy No. 17 has been revised to provide a one-year extension following the three years allowed to complete mitigation. Policy No. 19 has been revised to discourage new proposals involving agricultural lands when mitigation is pending for prior proposals; the original draft disallows such submission. Ms. Noel continues her report by stating that further consultations have led to further revisions to the draft policies. She advises that Policy No. 2 has been revised to allow flexibility for the Commission to consider variations from the criteria on a case-by-case basis. Policy No. 7 has been revised to restate the definition of prime agricultural lands provided by the CKH Act, and delete the reference to agricultural lands identified on the State Department of Conservation's Important Farmlands Map.

Ms. Palacherla advises that despite these revisions there are still some concerns relating to the timing and fulfillment of mitigation. In this regard, she recommends that the Commission accept public testimony and continue the public hearing to February 14, 2007, establish a sub-committee composed of two Commissioners to submit recommendations to Commission relating to the two sections of timing and fulfillment

of mitigation, and plan for mitigation, and to direct staff to prepare an initial study to further evaluate the potential impact of adopting these draft policies.

Chairperson Gage opens the public comment period for this item.

Al Pinheiro, Mayor, City of Gilroy, proposes that the Commission expand the membership of the subcommittee to include the mayors of Gilroy and Morgan Hill.

Wendie Rooney, Community Development Director, City of Gilroy, requests the Commission to approve the staff recommendation to form a subcommittee because the City is concerned about the timing of mitigation. She expresses the City's desire to participate.

William Faus, Planning Manager, City of Gilroy, concurs with the staff recommendations and requests that LAFCO's draft policies recognize Gilroy's agricultural mitigation policy because the latter is a product of over two years of consultation. He expresses supports to staff recommendation to defer final action on the item and proposes that additional meetings be held in South County. In response to an inquiry by Commissioner Howe, Mr. Faus advises that final adoption of the draft policies on February 14, 2007 may not allow sufficient time to address all issues. He recommends advance notice of meetings be made to allow more stakeholders to participate.

Susan Orth, Sierra Club member, passed photographs showing an orchard which had been removed in March 2006 to give way to development. She urges that the policies protect agricultural lands that have been left fallow and recommends the adoption of an open space policy, stating that quality of life will erode if the County continues to lose agricultural lands.

Bob Power, Executive Director, Santa Clara Valley Audubon Society, urges the Commission to adopt the draft policies today and not to wait for a new set of commissioners. He recommends that the two-year timeline to fulfill mitigation should not be increased, mitigation ratio should be increased to 2:1 and that mitigation should be required for the conversion of open space lands.

Janet Espinosa, a resident in an unincorporated area near Gilroy, states that while recent revisions have weakened the draft policies, it is still a sound document and

adds that policies sections 2, 4, 11 and 19 are very important. She urges the Commission to protect her agricultural community and lifestyle because she cannot vote in Gilroy. She advises that excessive growth will destroy the rich agricultural land, deprive consumers of fresh agricultural products, and increase the risks for flooding because agricultural lands provide drainage for and natural absorption of flood water.

Chairperson Gage requests that speakers indicate their organizational affiliations.

Lee Wieder, land use consultant, advises the Commission to come up with a mitigation program that would work and one that can stand up against legal challenge. He proposes that the mayors of San Jose, Gilroy and Morgan Hill, cities with the most agricultural lands, be included on the subcommittee. He likewise requests that the subcommittee also take up other issues in addition to the two issues identified.

Carolyn Tognetti, Save Open Space-Gilroy, requests the subcommittee to work with staff to strengthen Policy No. 13 to build safeguards to ensure that the in-lieu mitigation fees are used in a timely manner to actually preserve agricultural lands.

Ted Fox, Saint Louise Regional Hospital, requests that the subcommittee take up additional issues, provide additional time, and allow stakeholders in the South County to participate. He cites a December 10, 2006 article in San Jose Mercury News entitled, "Droves say goodbye to the Golden State," relating to the housing price spiral and its impact. He advises the Commission to promote infill because the increasing housing costs are disastrous to low and middle income families. He informs that the Daughters of Charity is also conscious about the environment.

Daniel Ehrler, President and CEO, Morgan Hill Chamber of Commerce, directs attention to his November 28, 2006 letter, expresses appreciation for the revisions made and the extension of time provided. He recommends that representatives from Gilroy, Morgan Hill and San Jose be included on the subcommittee, that the discussion of the draft policies be extended beyond February 14, 2007, and to open up the items for discussion beyond the two issues indicated.

Larry Cope, Executive Director, Gilroy Economic Development Organization, requests the Commission to expand the membership of the subcommittee, extend time

to consider the policies beyond February 14, 2007, open up discussions on other issues, and solicit greater input from stakeholders, especially those who would be affected the most.

Craige Edgerton, Executive Director, Silicon Valley Land Conservancy, proposes that the subcommittee likewise address Policy No. 8c, particularly with regard to a provision which would address a possible scenario of insufficient in-lieu fees.

Connie Rogers, Save Open Space-Gilroy, talks about the conversion of a 181-acre USA project east of US Highway 101 and north of Pacheco Pass in 1993, conditioned on the completion of the South County Agricultural Preserve study. The area was annexed by Gilroy in 1994 and the study was completed in 1995. In 1996, a document, "Strategies to Balance Planned Growth and Agricultural Viability," was approved by the City, the Board of Supervisors and LAFCO reaffirming Gilroy's 20-year growth boundary east of US Highway 101 and requiring LAFCO endorsement if Gilroy revises the 1996 boundary. In 2002, however, Gilroy revised its General Plan and moved the 20-year boundary out to include 660 acres of prime agricultural land east of the Gilroy outlets. Through its General Plan process, the City developed its agricultural mitigation policy. But even with the mitigation policy in place, no mitigation has occurred for two very large projects because LESA model was used. She requests the Commission to develop strong policies stating that Gilroy's policy does not mitigate the loss of agricultural lands. She likewise requests that the Commission move forward with the draft policies because of speculations to covert 120 acres east of the outlets and another 90 acres in the Rincon Plaza lands.

Kathy Molloy-Previsich, Community Development Director, City of Morgan Hill, expresses support to delay action on the draft policies, stating that the subject includes significant and complex land use issues. She proposes the expansion of the subcommittee and extension of time to allow the development of a workable set of policies. She advises that the City of Morgan Hill is developing its own agricultural mitigation and open space preservation policies as part of its urban limit line greenbelt project. She expresses desire to work with LAFCO and other stakeholders to accommodate urban growth demands in a sustainable fashion while preserving

important open space and agricultural lands within the City's SOI. She indicates that Morgan Hill has a successful record of preventing premature conversion of open space and prime agricultural lands. She expresses support to develop a consensus to refine LAFCO's mitigation policies.

In response to an inquiry by Commissioner Howe, Ms. Previsich advises against adopting the draft policies on February 14, 2007 because more time is required.

Jenny Nusbaum, Senior Planner, City of San Jose, advises that the San Jose Mayor has sent a hand-delivered letter to the Commission stating that the draft policies would induce sprawl outside of SOIs and city boundaries and the environmental analysis provided does not adequately address the negative impact of the draft policies. She also proposes that the policies conflict with San Jose's land use authority and its growth management strategies. She recommends to continue the dialogue and extend time to allow for more outreach activities.

Ken Bone, property owner in an unincorporated area outside Gilroy, expresses support for the staff recommendation and requests finalization of the policies as soon as possible. He directs attention to his letter to the Commission, requesting the mitigation for conversion of habitat lands, fallow lands, unseeded lands, lands valued for open space, and lands with the potential to be productive.

Alan Waltner, Bingham McCutchen, representing Shapell Homes with a potential project on Thomas Road requiring annexation in the future, requests the Commission to determine whether Gilroy's agricultural mitigation policies are adequate and to indicate whether the Commission would intrude in the CEQA responsibilities of the cities. He notes that Gilroy policy differs from the draft policies particularly on its use of LESA model, exemption of public facilities from mitigation, and payment of mitigation fee only when the final map is approved or when the grading or building permit is issued.

Melissa Hippard, Director, Sierra Club-Loma Prieta Chapter, urges the Commission to approve the draft policies which are reasonable and advises against extending the process because of the amount of outreach already made. She recommends that the mitigation ratio be increased to 2:1 because there is little prime

agricultural land left. She indicates that LAFCO has a unique regional role to protect agricultural lands for future generations and the obligation to fulfill that role. She advises that urban development should not come at the cost of less sustainable environment. Finally, she proposes that agricultural mitigation policies of cities should complement, and not be an alternative to, LAFCO's policies.

Susan Valenta, President and CEO, Gilroy Chamber of Commerce, expresses appreciation to the Commission for continuing the hearing to February 14, 2007, allowing other stakeholders to look at the two sections. She calls on the Commission to adopt policies that would meet the needs of the County.

Annie Mudge, Morrison and Forester, counsel to Coyote Housing Group and the Home Builders Association (HBA) of Northern California, requests that the subcommittee look at the policy as a whole. She opines that there is an authority issue involved on the draft policies because the CKH Act does not authorize LAFCO to impose mitigation measures, it limits how LAFCO could condition boundary changes, and prohibits regulating land use. She advises that the permanent restriction on the use of agricultural lands within a city's SOI is a direct form of land use or super-zoning and notes that the city of San Jose, HBA and Ventura LAFCO's counsel believe that the Commission lacks the authority to impose these policies because mitigation is a CEQA function.

John Beall, resident of Sunnyvale, states that preservation of agricultural land is the statutory responsibility of LAFCO and expresses support for a 1:1 mitigation ratio. He notes that San Jose has a unique responsibility to support these policies because of the agricultural lands brought into that city. On Policy No. 5, he talks about the importance of training new farmers and informs that the University of California-Santa Cruz has an internship program for farmers.

Michele Beasley, Greenbelt Alliance, encourages the immediate adoption of the draft policies, stating that LAFCO has the right to condition the approval of annexations involving agricultural land conversions on mitigation. She advises that this is a statewide concern and the draft policies attempt to provide a regional approach to this issue. She expresses agreement with the 1:1 mitigation ratio and the current definition

of agricultural land, and adds that cities should first use lands within their boundaries more efficiently before converting agricultural lands.

Jenny Derry, Santa Clara County Farm Bureau, proposes that the Commission expand the composition of the subcommittee to be similar to that of the Williamson Act committee. She advises that the soil type should not be the only basis in defining prime agricultural lands because many high value crops are grown in nurseries. She advises that farmers must continue farming into the future, those who want to sell lands should be fairly compensated for their investments, and mitigation policies should include a formula for the in-lieu fees because the purchase of agricultural lands and conservation easements are the only way to preserve agriculture in the County.

Eric Carruthers, former principal planner in the County of Santa Clara, notes that the adoption of USA boundaries had been a radical idea many years ago and the same is true today for the draft policies today. He advises that since LAFCO has the responsibility, obligation and the power to implement the draft policies, the only remaining issue should be how to make these policies work. He notes that the future of agriculture in the County will be small parcels on the edge of metropolitan areas.

Matt Baldzikowski, Midpeninsula Regional Open Space District, expresses support for the policies, recommends that the Commission increase the mitigation ratio to 2:1 and requests more details on the in-lieu fees. He requests that the draft policies include a provision to limit the implementation of mitigation to public conservation entities with public oversight to ensure permanent conservation.

Beverly Bryant, Executive Director, Home Builders Association of Northern California, Southern Division, requests that the composition of the subcommittee be broadened to include other stakeholders. She states that LAFCO does not have the authority to require agricultural mitigation because this is a CEQA function and adds that annexations must not be delayed because of mitigation requirements. She likewise advises that there will not be enough time if the draft policies are set for final adoption on February 14, 2007.

Jim Foran, Boardmember, Santa Clara County Open Space Authority, and President, Special Districts Association of Santa Clara County, states that the County's

economy has transitioned into a portable, knowledge-based industry, and preserving agriculture and the quality of life attract and retain that workforce. In addition, as food becomes scarcer, preserving prime agricultural land would retain an enduring, non-portable industry. He adds that if the subcommittee is ever expanded, the special districts should also be represented. Finally, he proposes that if mitigation policies would be studied for a long time, the Commission should place a moratorium to prevent agricultural land conversion in the meantime.

Martha Beattie, League of Women Voters, advises that mitigation policies must be put in place while there are still farmlands left. She adds that agricultural mitigation funds and programs should be administered only by public agricultural conservation entities.

Brian Schmidt, Committee for Green Foothills, states that his organization continues to stand by the comment letter he submitted. He advises that if the subcommittee is expanded and the consultation process further extended, there should be a moratorium on agricultural land conversion. Relating to the timing issue, he advises that the Commission should condition approval of USA amendments impacting agricultural lands until the required mitigation is completed.

Michael McDermott, a resident of Gilroy and a landowner, indicates that the Gilroy agricultural mitigation policy should be used as the benchmark for LAFCO's mitigation policies. He proposes that mitigation should only occur when the land is actually lost, and comments that the requirement that mitigation lands be located within the SOIs of the cities is like establishing an urban limit line.

Kerry Williams, Coyote Housing Group, expresses appreciation for the revisions made to Policy No. 2 which adds more flexibility to accommodate alternative proposals. She proposes that the subcommittee also look at the other items on the policies. She notes that Policy No. 15 creates a jurisdictional limbo that is problematic for cities and developers, stating that developers would only be able to raise money when the project has a final approval. In this regard, she proposes that the subcommittee consult developers and city planners who are more familiar with the common practices and the practical problems involved on this issue.

The Chairperson determines that there no other members of the public who wish to speak on the item and orders that the public hearing be closed.

The Chairperson expresses appreciation to staff for understanding the position of stakeholders and for revising the policies based on public input. He proposes that the subcommittee be composed of the Chairperson and the representative to be appointed by the City of San Jose. He likewise proposes to remove the word "permanent" under Policy No. 10 because cities need to grow. He proposes that the policies should be brought back on April 11, 2007 to allow sufficient time for all stakeholders to provide their input and to ensure that the policies reflect the Commission's mandate under CKH Act and the roles given by other State laws.

In response to the Chairperson's inquiry, Ms. Noel advises that the LESA model is an optional model, explaining that the draft policies are being approached through CKH Act and not CEQA. Furthermore, the LESA model, she notes, as mentioned in today's testimonies, tends to favor projects involving larger parcels located away from the urban areas. She advises that there are over 200 different LESA models being used throughout the nation designed to adapt to local conditions and objectives. The application of the state model does not address the local issues seen in Santa Clara County, which is an urban county.

The Chairperson moves to approve the staff recommendation, to designate the Chairperson and the incoming San Jose representative to be the two members of the subcommittee, and to direct staff to immediately establish subcommittee meetings dates and venues, and to send out information to stakeholders. The motion has no second. Commissioner Howe proposes that the two members of the subcommittee be named during this meeting and not to wait for the San Jose Mayor-elect to appoint that city's representative to LAFCO.

Commissioner Wilson states that LAFCO Commissioners must take off their County and city hats in considering the draft policies. She expresses willingness to sit on the subcommittee and indicates that the February 14, 2007 meeting allows enough time for the subcommittee report on the two sections of the draft policies and for their final adoption on April 11, 2007. She notes that there has been adequate time provided

for public and stakeholders consultations since the draft policies have been brought to continuing public review since August 2006.

Commissioner Wilson moves to approve the staff recommendation; name the two members of the subcommittee, expressing interest to serve on the subcommittee; direct the subcommittee to look at the timing and fulfillment of mitigation and the plan for mitigation, report back to the full Commission on February 14, 2007 and bring the policies for final adoption on April 11, 2007; and, to direct staff to look at the potential environmental impacts of the draft policies. Commissioner LeZotte seconds the motion.

Alternate Commissioner McHugh notes that the motion by Chairperson dies having no second and proposes to amend the current motion by designating Commissioner Gage to be a member of the subcommittee. The amendment has no second. Commissioner LeZotte offers to amend the motion by designating Commissioners Wilson and Howe as the two members of the subcommittee. Commissioner Wilson accepts the amendment.

Commissioner Howe expresses the need to allow the subcommittee to report to the Commission if there are other items in addition to the two issues identified, and comments that he may not be a good choice for the subcommittee, being a representative from the North County.

Alternate Commissioner McHugh proposes to add "and related issues" to the items that the subcommittee would discuss.

Commissioner LeZotte states that an open-ended number of items for subcommittee discussion will delay final action on the draft policies. She offers to amend the motion to state that if the subcommittee finds other issues, in addition to the Plan for Mitigation and Timing and Fulfillment of Mitigation, these be brought to the full Commission for further direction.

Chairperson Gage states that he represents a district composed of Gilroy, Morgan Hill, south San Jose, and unincorporated areas, in a supervisorial district covering about 800 square miles of the County, and that he has a good knowledge of agriculture. He adds that it is a good public policy to allow all stakeholders to address this issue.

Commissioner Wilson states that the Commission has already deferred consideration of the item and it is inherent in the authority of the Commission and the subcommittee to further extend discussions if more time and stakeholder input are needed.

On the request of the Chairperson, Commissioner Wilson restates the motion to approve items 1, 2 and 3 of the staff recommendation; hold a public hearing on February 14, 2007 and final action on April 15, 2007; and if the subcommittee finds issues in addition to Plan for Mitigation and Timing and Fulfillment of Mitigation, these be brought back to the Commission as part of the subcommittee report. Commissioner LeZotte seconds the motion.

The motion fails on roll call vote of 2-3, with Commissioners Wilson and LeZotte voting yes, and Commissioners Gage, Howe and McHugh voting no.

Commissioner Howe moves to approve items 1, 2 and 3 of the staff recommendation; direct the subcommittee to report on April 11, 2007 and also on February 14 if needed; and to limit subcommittee discussions to Plan for Mitigation and Timing and Fulfillment of Mitigation and bring to the Commission any additional issues. Commissioner McHugh seconds the motion.

Commissioner Wilson discusses the motion, stating that there is a problem on putting it on the April 2007 agenda because it must remain on the February 14 agenda in compliance with the noticing requirement. In response to Commissioner Wilson, Ms. Palacherla advises that as soon as the subcommittee issues its recommendations, staff will revise and circulate for discussion and comments those recommendations.

On the request of the Chairperson, Commissioner Howe restates his motion as approval of items 1, 2 and 3 of the staff recommendation; direction to the subcommittee to report to the Commission on February 14, 2007 and final adoption on April 11, 2007; and to limit subcommittee discussions to Plan for Mitigation and Timing and Fulfillment of Mitigation and bring back to the Commission any additional issues. Alternate Commissioner McHugh is amenable.

In response to Ms. Kretchmer, Commissioner Howe clarifies that his motion is for the subcommittee to only discuss the Plan for Mitigation and Timing of Mitigation

unless authorized by the Commission on its February 14, 2007 meeting. In response to inquiry by Commissioner Wilson, Commissioner Howe clarifies that his motion includes item 3 of the staff report. Alternate Commissioner McHugh is amenable. In response to an inquiry by Alternate Commissioner Velasco, Commissioner Howe states that the two commissioners on the subcommittee will be appointed after a vote on this motion.

On motion of Commissioner Howe, seconded by Commissioner McHugh, it is unanimously ordered on roll call vote of 5-0 that items 1, 2 and 3 of the staff report be approved; that final action on the draft policies be continued to April 11, 2007, and the subcommittee report be considered on February 14, 2007; that the subcommittee, composed of two LAFCO commissioners, will discuss Plan for Mitigation and Timing and Fulfillment of Mitigation, and the Commission could authorize the subcommittee to further discuss other issues; and, staff be directed to conduct further assessment of the potential environmental impacts associated with the adoption of the draft policies.

On motion of Commissioner Howe, seconded by Alternate Commissioner McHugh, it is unanimously ordered on roll call vote of 5-0 that Chairperson Gage and Commissioner Wilson be appointed as members of the subcommittee.

Chairperson Gage requests staff to organize the meetings and to invite all the stakeholders. The Chairperson calls for the next item on the agenda.

5. MAPS FOR EL CAMINO HOSPITAL DISTRICT, RANCHO RINCONADA RECREATION DISTRICT AND SARATOGA CEMETERY DISTRICT

This being the time and place set to consider adoption of boundaries and SOI maps of El Camino Hospital District, Rancho Rinconada Recreation and Saratoga Cemetery District, Chairperson Gage declares the public hearing open.

Commissioner Howe requests to defer from participating in consideration of this item on the agenda due to a possible conflict of interest. The Chairperson announces that Alternate Commissioner Velasco assumes representation.

Dunia Noel reports that the maps for El Camino Hospital District, Rancho Rinconada Recreation District and the Saratoga Cemetery District are current as of December 2006. These have been prepared based on research, information received

from the districts, and meetings and discussions with each of the districts, and each district has reviewed the maps. She advises that these will be the official maps for each of these districts which will be maintained by LAFCO with the assistance of the County's Information System Department (ISD) and included in the north and west valley service review and SOI update report.

Chairperson Gage determines that there are no members of the public who wish to speak on the item and declares the public hearing closed.

On motion of Chairperson Gage, seconded by Commissioner Wilson, it is unanimously ordered on 5-0 vote that maps be adopted depicting the boundaries and SOIs of El Camino Hospital District, Rancho Rinconada Recreation District and Saratoga Cemetery District.

Commissioner Howe resumes representation.

6. UPDATE ON CITIES' ISLAND ANNEXATION

Ms. Noel reports that the cities of Campbell, Cupertino, Los Altos, Milpitas, Morgan Hill, Mountain View, San Jose and Saratoga have completed have completed a total of 41 unincorporated island annexations with a combined area of approximately 765 acres. The City of San Jose plans to annex 49 additional unincorporated islands over the next four years. The City of Monte Sereno has started the process to annex its three remaining islands but was unable to receive City Council approval. Finally, she informs that the two-year LAFCO fee waiver for certain annexations that result in the elimination of an entire unincorporated island will expire on January 1, 2007.

Chairperson Gage, noting that this issue be reviewed on an annual basis, proposes that the LAFCO fee waiver extension be considered at the February 14, 2007 meeting.

On motion of Chairperson Gage, seconded by Commissioner Wilson, it is unanimously ordered that the report be accepted and that extension of the LAFCO fee waiver be considered at the February 14, 2007 meeting.

At this point Ms. Palacherla acknowledges the contributions of LAFCO staff to the successful island annexation program. She states that Dunia Noel put together a

report titled, "Making Your City Whole: Taking Advantage of the Current Opportunity to Annex Urban Unincorporated Pockets," which serves as an annexation guide for the cities. Ms. Noel provided excellent support to the cities in many aspects of their annexation process, including assisting them with community outreach, attending community meetings and providing information about the annexation process. Emmanuel Abello has coordinated with various County staff to finalize and record the annexations in time to meet the State Board of Equalization's (SBE) December deadline. Ginny Millar, County Surveyor's Office, has put in many long hours to gather information required by SBE to supplement the annexation maps. Ms. Palacherla informs the Commission that during the last two months, staff has processed about 25 annexations – the same number of annexations they process during a regular year. Chairperson Gage expresses appreciation to staff for the outstanding job, not only on island annexations but on other projects, such as the previous item.

7. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2007

Ms. Palacherla advises that in view of the rotation schedule, the Chairperson for 2007 will be the representative from the City of San Jose, and Commissioner Blanca Alvarado, County representative, will be the Vice-Chairperson. Commissioner Howe notes that it would be more prudent for Commissioner Alvarado to be the chairperson in 2007.

On motion of Commissioner Howe, seconded by Commissioner LeZotte, it is unanimously ordered that the rotation schedule for Commission chairperson be skipped for one year, that Commissioner Alvarado be designated as the Chairperson for 2007, and the incoming City of San Jose representative be designated as the Vice-Chairperson.

8. 2007 SCHEDULE OF LAFCO MEETINGS

Commissioner Wilson moves for the adoption of the 2007 schedule of meetings and filing deadlines, requesting that the June 6, 2007 meeting be moved to May 30, 2007.

On motion of Commissioner Wilson, seconded by Commissioner Gage, it is unanimously ordered on 5-0 vote that the 2007 schedule of LAFCO meetings and application filing deadlines be approved, as amended.

9. COMMISSIONERS' REPORTS

On motion of Commissioner Howe, seconded by Alternate Commissioner McHugh, it is unanimously ordered on a 5-0 vote that a resolution to honor Commissioner LeZotte for her service to LAFCO be included on the February 14, 2007 agenda.

Commissioner Wilson expresses appreciation to Commissioner LeZotte, stating that she had been a great asset to LAFCO and has truly taken off her City of San Jose hat on many Commission decisions. Commissioner Howe and Alternate Commissioner Trumbull likewise express appreciation to Commissioner LeZotte. In response, Commissioner LeZotte thanks the members of the Commission and the staff.

Chairperson Gage informs that it has been an honor and a pleasure to serve as Chairperson in 2007.

10. WRITTEN CORRESPONDENCE

Chairperson Gage acknowledges receipt of hand-delivered letter from the City of San Jose and turns it over to staff.

11. NEWSPAPER ARTICLES

There are no newspaper articles.

12. PENDING APPLICATIONS

12.1 SAN MARTIN INCORPORATION

Ms. Palacherla reports that the San Martin Neighborhood Association (SMNA) has submitted a Notice of Intent to Circulate a Petition for the incorporation of the Town of San Martin and staff has sent copies to all affected agencies. She adds that SMNA has six months to collect signatures, thereafter, staff would verify the signatures to determine if the petition is valid. If it is valid, the proponents would be allowed to submit an application to LAFCO. She advises that CALAFCO is organizing a staff workshop on incorporations in February 2007.

In response to an inquiry by Chairperson Gage, Ms. Palacherla advises that the boundary being proposed by SMNA currently includes the Cordevalle Golf Club area. She adds that LAFCO would determine the final boundaries.

13. ADJOURN

On order of the Chairperson, there being no objection, the meeting is adjourned at 3:42 p.m.

The next regular LAFCO meeting is scheduled to be held on Wednesday, February 14, 2007 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