

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, APRIL 4, 2007**

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 4th day of April 2007 at 1:30 p.m. in the Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California, with the following members present: Chairperson Blanca Alvarado, Commissioners Pete Constant, Don Gage, John Howe and Susan Vicklund-Wilson. Alternate Commissioners Terry Trumbull and Roland Velasco are also present.

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 Chairperson Alvarado and the following proceedings are had, to wit:

2. PUBLIC PRESENTATIONS

Tom Davis, a resident of Cambrian Pocket No. 36, requests that this unincorporated island, which is currently within the sphere of influence (SOI) of San Jose, be annexed to Campbell. He then provides to the Commission a copy of the petition signed by 240 residents.

Chairperson Alvarado informs him that island annexation is a major undertaking of the Commission, however, it is the cities that initiate the annexation proceedings. Upon the request of the Chairperson, Ms. Palacherla advises that the City of San Jose, in a letter to Daniel Rich, Campbell City Manager, has indicated that it is unwilling to give up that territory. The Chairperson requests Mr. Davis to work with the City of San Jose to resolve this issue.

Michael Krisman, also a resident of Cambrian Pocket No. 36, informs that 98 percent of the residents desire to be annexed to Campbell because they believe Campbell is in a better position to serve them and because of their social and emotional ties with Campbell. He requests the Commission to be a catalyst in resolving this issue.

The Chairperson determines that there are no other members of the public who wish to speak on issues not in the agenda.

3. APPROVE MINUTES OF FEBRUARY, 2006 MEETING

On motion of Commissioner Gage, seconded by Commissioner Constant, it is unanimously ordered on a vote of 5-0 that the minutes of February 14, 2007 meeting be approved, as submitted.

4. AGRICULTURAL MITIGATION POLICIES (CONTINUED FROM FEBRUARY 14, 2007)

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

Ms. Palacherla reports that the Commission directed staff on February 14, 2007 to revise and release the draft agricultural mitigation policies for public review and comment. The revisions confirm that the policies are advisory and clarify the sections on timing and fulfillment of mitigation, and the plan for mitigation. At the Subcommittee meeting in Morgan Hill on March 13, 2007, the issue of LAFCO's authority was raised again. In response to this, Ms. Palacherla directs attention to page 4 of the staff report, stating that the LAFCO Counsel has confirmed that the Commission has the ability to deny a proposal if it does not result in orderly growth and development. She advises that the draft policies guide applicants on how agricultural mitigation will be provided, however, the Commission considers the impact to agricultural lands along with other existing LAFCO policies, such as infill opportunities, adequate water supply and logical boundaries among others. Existing policies discourage premature conversion of agricultural lands, guide development away from agricultural lands, and require the development of vacant lands within the city limits before agricultural lands are converted. The Commission considers and balances all these factors and, in some cases, one or more factors could have such great negative impact that even if mitigation is provided staff would still recommend denial of the proposal. She advises that other issues raised at the Subcommittee meeting are discussed and addressed in the staff report. She then recommends the adoption of the draft policies.

Ms. Palacherla requests Ms. Noel to provide a report on the CEQA analysis for the draft policies. Ms. Noel directs attention to Attachment B of the staff report and advises that LAFCO, as the lead agency, conducted an initial study to determine if the project has significant impact on the environment. The Initial Study finds that the project has "no impact" or "less than significant impact" for all environmental factors. The Notice of Intent to adopt the Negative Declaration was circulated for comment to all stakeholders, affected local agencies, State clearing house and the public. The public review period ended on March 31, 2007 and staff has received no substantive comments. Ms. Noel recommends the adoption of the Negative Declaration.

Chairperson Alvarado opens the public comment period for this item.

David Bischoff, City of Morgan Hill, expresses appreciation to the Commission for allowing the jurisdictions and stakeholders more time to consider the draft policies, for holding two workshops in the South County, and for making the draft policies advisory. He notes, however, that the 1:1 mitigation ratio may not be justifiable in all cases.

Annie Mudge, Coyote Housing Group, likewise expresses appreciation to the Commission for making the policies advisory and reiterates the suggestions she made in her letter dated March 27, 2007. She requests that the first sentence in the section, Purpose of the Policies, be revised to use the word "advice" instead of "guidance," and that the last sentence in that section be revised to read, "...involve conversion of agricultural lands" instead of "...involve or impact agricultural lands." Additionally, she suggests that the introductory statement in the section defining prime agricultural lands, Policy No. 6, mirror the language of CKH Act §56064. Further, she requests that mitigation be allowed anywhere in the County because requiring mitigation within a city's SOI is restrictive. Finally, she requests that the Commission allow the purchase of mitigation credits as another option for mitigation.

Chairperson Alvarado informs that staff has considered these comments.

Michelle Beasley, Greenbelt Alliance, commends the Commission for pursuing the agricultural mitigation policies because it falls directly within its mission, stating that Greenbelt Alliance supports the CKH Act definition of prime agricultural land and the minimum 1:1 mitigation ratio. She likewise expresses the need for cities to develop their

own mitigation policies. She advises that infill and transit-oriented development would create a sustainable lifestyle in the County.

Beverly Bryant, Homebuilders Association of Northern California (HBANC), expresses appreciation to the Commission and staff. She reiterates the request by Ms. Mudge to allow mitigation outside the SOIs of the cities and the option to purchase agricultural mitigation credits.

Melissa Hippard, Sierra Club, commends the Commission and staff for their work, stating that she personally saw how the draft policies evolved in response to comments by the stakeholders. She advises the Commission to adopt the policies today, with a 1:1 minimum mitigation ratio. She indicates that agricultural lands should be preserved to ensure food security, diversity of landscape, and percolation of storm water. She expresses hope that cities will also develop their own mitigation policies.

Brian Schmidt, Committee for Green Foothills, states that the only reason to delay the approval of draft policies is to increase the mitigation ratio or to include LAFCO as a party to the mitigation agreement. He also suggests that the statement in the staff report, "LAFCO's decision on the proposal will not be based solely on the issue of impact to agriculture or consistency to LAFCO agricultural mitigation policies" be revised to read, "LAFCO's decision on the proposal will consider all criteria not solely the impacts to agriculture or consistency with LAFCO's agricultural mitigation policies." At the request of the Chairperson, Ms. Palacherla expresses agreement stating that all factors would be taken into consideration and it is possible that the impact of one or more factors could be so great that it could result in denial.

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

Commissioner Constant recommends that LAFCO use the word-for-word definition contained in CKH Act referencing the missing first sentence of the definition in the proposed policies. Commissioner Gage comments that the mitigation land should be anywhere in the County and not necessarily within the SOI of a city, however, he notes that since the Commission has made a lot changes and a great deal of progress, even though these policies are not yet perfect, they could be adopted at this meeting to see how

it works and be amended in the future if necessary. He indicates that what is important is to preserve large chunks of agricultural lands in the South County.

Commissioner Gage moves to adopt the draft policies, with Policy No. 6 amended to mirror word-for-word the definition of prime agricultural land in CKH Act.

Commissioner Constant seconds the motion.

Chairperson Alvarado expresses agreement with the suggestion of Commissioner Gage, stating that it would make the policies consistent with CKH Act and essential in establishing a methodology to determine prime agricultural land. In response to the inquiry of the Chairperson, Ms. Kretchmer advises that the language in the draft policies is clearer because the CKH Act uses the term "agricultural use" which is not defined by that Act. In response to the inquiry of Commissioner Wilson, Ms. Kretchmer advises that for the purposes of reviewing a proposal, the draft policies consider "agricultural uses" as traditionally defined by LAFCO. Commissioner Wilson indicates that she would not support the motion, explaining that the draft policies, which are meant to be advisory, serve the public better when written as they are. Commissioner Constant states that the draft policies must be totally consistent with CKH Act. On the request of the Chairperson, Ms. Palacherla explains that the CKH Act does not define "agricultural use" and therefore the term is subject to interpretation. Commissioner Gage proposes to use the County's definition of "agricultural uses." On the request of the Chairperson, Ms. Kretchmer proposes that the draft policies be adopted with Policy No. 6 revised with the exact introductory language of CKH Act, and staff would provide the definition of agricultural uses at the May 30, 2007 meeting.

Commissioner Gage amends the motion to adopt the draft policies, with Policy No. 6 amended to use the exact language from CKH Act, and with direction to staff to bring back a clarification on "agricultural uses" at the May 30, 2007 meeting. Commissioner Constant is amenable to the amended motion.

Commissioner Wilson indicates support for the motion if the clarification to Policy No. 6 would come back as an amendment because Policy No. 10 already defines "agricultural uses" and staff would define something that is already in the policies. Commissioner Howe proposes to amend the motion to state that the clarification would

come back at the May 2007 meeting as an amendment and that the CEQA action for this be included in the motion. Commissioner Gage accepts the amendment to the motion and Commissioner Constant is amenable. Commissioner Howe expresses appreciation to Commissioners Gage and Wilson for their work on the Subcommittee, to other members of the Commission, and to Ms. Palacherla, stating that the Commission and staff worked out these excellent agricultural mitigation policies.

It is unanimously ordered on a vote of 5-0 that the agricultural mitigation policies be adopted, including the word-for-word CKH Act prime agricultural land definition, that the CEQA action be adopted, and that staff be directed to provide clarification on "agricultural uses" at the May 30, 2007.

Chairperson Alvarado states that this is a major milestone for LAFCO and recalls the discussion at the CALAFCO Conference in Monterey on the need to preserve what little agricultural land is left in the County. She notes that agriculture was a thriving industry in the Santa Clara decades ago, however, most agricultural lands have been lost to rapid urbanization for a variety of reasons. She expresses concern on how the Coyote Valley could be lost to urbanization. Chairperson Alvarado notes that while cities have to flourish, there is also a need to protect the finite land resources to ensure food security and quality of life to their residents, and provide habitat for endangered species. She adds that the Commission has the obligation to preserve agricultural lands for future generations. The policies adopted demonstrate the Commission's interest to work with property owners, homebuilders and other stakeholders to protect the limited agricultural lands and open space. Finally, Chairperson Alvarado expresses appreciation to Commissioners Gage and Wilson, other members of the Commission, staff and all the stakeholders.

5. MORGAN HILL URBAN SERVICE AREA AMENDMENT 2006 (CONTINUED FROM FEBRUARY 14, 2007)

This being the time and place set to consider Morgan Hill's application for urban service area (USA) expansion, Chairperson Alvarado declares the public hearing open and requests the staff report.

Ms. Palacherla reports that the City of Morgan Hill is requesting an expansion of its USA boundary to include an 18-acre parcel, currently zoned as agricultural medium-scale,

for eventual annexation and rezoning to residential estates or low-density residential for building 15 new homes. The parcel is located on the fringe of the City at the intersection of Santa Teresa Boulevard and Watsonville Road, adjacent to the City limits and USA on one side and unincorporated lands on three sides. The lands to the east of the subject property within the City are a residential subdivision, while lands to the west and southwest are rural residential, and to the south are hillsides. Ms. Palacherla continues her report by stating that inclusion of the area into the City's USA would contribute to urban sprawl and inefficient boundaries because the property is located on the southwestern fringe of the city surrounded by unincorporated lands on three sides. It is inconsistent with compact and concentric urban growth and would result in service inefficiencies. Further, she indicates that the proposal could have growth inducing impacts because roads, sewer and water services could put development pressures on adjacent rural residential lands. She adds that Morgan Hill's policy prohibits expansion of its USA if there is more than five years worth of undeveloped lands within its boundaries unless it is desirable infill. She reports that the City resolution requesting LAFCO approval considers this project as desirable infill. In terms of consistency with LAFCO policies, this project constitutes conversion of prime agricultural lands because it contains Class I soils. However, using the LESA Model, the City has found that the conversion requires no mitigation because impacts to agricultural land are less than significant. The City has nine years worth of vacant residential lands within the city limits, excluding the three years worth of lands allocated under Measure C. LAFCO policies require an explanation from the City as to why the expansion is necessary if it has more than five years worth of vacant lands. The City's explanation is that it meets its desirable infill policy. Ms. Palacherla recommends that the Commission deny the proposal because the City has more than five years supply of vacant residential lands, and because the project would result in premature conversion of agricultural lands, encourage urban sprawl, create inefficient boundaries, and put development pressures on adjacent rural residential lands.

On the request of Ms. Palacherla, Ms. Noel continues the staff report by discussing the CEQA action. She informs that LAFCO, as the responsible agency, had not been first notified of the City's Initial Study and Mitigated Negative Declaration (MND), and the

LESA was provided only as part of the application packet. Staff found out about the MND when the County's Planning Department provided LAFCO with a copy of its comments. Additionally, the MND adopted in April 2006 finds that the project has no significant impact on agricultural lands even if the LESA analysis itself was not completed until November 2006. Ms. Noel indicates that staff believes that the LESA analysis and determinations should have been completed at the time the City Council adopted the MND in April 2006. Finally, if the Commission decides to approve the USA expansion, she recommends that the MND be adopted, and the finding be made that the MND and Initial Study are complete and comply with CEQA and are adequate discussion of the environmental impacts of the project, and that the Commission has reviewed and considered all the effects of the project as shown in the Initial Study and the Mitigated Negative Declaration.

In response to the inquiry of Commissioner Gage, Ms. Palacherla advises that the City has indicated that adequate utilities, fire and police services can be provided.

Chairperson Alvarado opens the public comment period for this item.

David Bischoff, City of Morgan Hill, requests the Commission to include the area within the City's USA because it is surrounded by fully developed properties on three sides. He defends the use of the LESA Model because there are no mitigation policies in place. He states that there was an oversight on not having notified LAFCO of the MND and informs that the comment period had been extended as a result. Relating to the provision of service to the area, he indicates that the City can adequately provide fire and police services.

In response to an inquiry by Chairperson Alvarado, Mr. Bischoff informs that the first draft of Morgan Hill's agricultural mitigation policies would be available in the summer. In response to another inquiry by Chairperson Alvarado, Mr. Bischoff indicates there would be no mitigation for this project because the LESA analysis finds no need to mitigate. He explains that the LESA analysis is being used as the de facto model in the absence of mitigation policies. Commissioner Wilson questions how the project could be a desirable infill being located at the edge of the city. Mr. Bischoff has no response. In response to the inquiry of Commissioner Howe, Mr. Bischoff explains that the soil analysis

was conducted as a follow-up to MND. In response to a follow-up inquiry by Commissioner Howe, Mr. Bischoff indicates that the City Council did not take a second action on the MND when the LESA analysis was completed in November 2006, because it was assumed that additional environmental evaluation would be made prior to annexation. In response to an inquiry by Commissioner Constant, Ms. Palacherla informs that after staff had received a copy of the County's Planning Department letter, staff provided comments to Morgan Hill on March 26, 2007, which was five days after the deadline. She advises that the Commission is being informed about this because LAFCO should have been notified, being the responsible agency which would eventually decide on the USA amendment. Chairperson Alvarado calls on the other speakers.

Rocke Garcia, Blackrock, LLC, states an infill does not need to be completely surrounded by the city. He adds that the project has no growth inducing impact because the surrounding areas are fully developed. He also acknowledges that LAFCO had not been noticed for the MND and recalls that the action by the City had been delayed.

Chairperson Alvarado explains to Mr. Garcia that the role of LAFCO commissioners is very specific in preserving agricultural land, preventing urban sprawl and promoting orderly growth. In response to an inquiry by the Chairperson, Mr. Garcia expresses that, from the point of view of home builders, it is important for the cities to protect agricultural lands and to follow concentric growth. That is why home builders look for opportunities to develop lands that are no longer feasible to farm. Mr. Garcia expresses hope that Morgan Hill would promote agricultural preserves and open space within its southeast quadrant.

Michele Beasley, Greenbelt Alliance, enjoins the Commission to support the staff recommendation to deny the application because Morgan Hill has a large supply of vacant lands within its boundaries. Instead of converting agricultural lands, the downtown should be revitalized because orderly growth starts in the center of the cities and moves out. She notes that the annexation of this project is not infill being at the edge of the community. It is sprawl into agricultural and rural residential lands, and hillsides. Finally, she states that this project proves that the LESA model is inadequate.

Brian Schmidt, Committee for Green Foothills, expresses support of the staff recommendation to deny the application. He indicates that the inclusion of the area into Morgan Hill's USA is not necessary at this time because the City has nine years worth of residential lands in addition to three years allotted under Measure C. This proposal would create growth pressures on agricultural lands to the northwest, the hillsides on the southeast, and rural residential lands on the southwest. He notes that the CKH Act should be used because the LESA model finds that the conversion of Class I agricultural land has no significant impact.

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

Commissioner Wilson notes that it is premature to bring this area into the City at this time because it would create a domino effect on conversion of neighboring rural residential lands. She states that this application is not desirable infill given its location.

Commissioner Wilson moves to deny Morgan Hill's request for USA expansion. Chairperson Alvarado seconds the motion.

Commissioner Constant notes that inclusion of this area into Morgan Hill's USA will not result in sprawl if it is already surrounded by residential lands, and instead provides a logical transition between the residential subdivision and rural residential areas. Chairperson Alvarado notes that LAFCO policies discourage conversion of agricultural lands if there is sufficient land available within the city limits. She notes that there will be disorderly growth when small parcels are converted to urban uses. Chairperson Alvarado informs that LAFCO is required by State law to prevent urban sprawl and to mitigate the negative impacts of converting prime agricultural lands. Commissioner Constant notes that it is unfair to require the property owners of this project to mitigate because both Morgan Hill and LAFCO have no mitigation policies in place. Chairperson Alvarado explains that while the LAFCO mitigation policies have just been adopted, the CKH Act and existing LAFCO policies, which have been in effect for many years, require mitigation whenever agricultural lands are converted to other uses. Commissioner Constant expresses agreement with the Chairperson, however, he suggested that each proposal should be analyzed based on their specificity.

In response to an inquiry by Commissioner Howe, Ms. Palacherla advises that there are no other pending requests for USA expansions at this time.

The motion to deny the USA expansion fails on a vote of 2-3, Commissioners Constant, Gage and Howe opposed.

Commissioner Constant moves for the approval of Morgan Hill's USA expansion. Commissioner Gage seconds the motion. At the request of the Chairperson, Commissioners Constant and Gage clarify that the motion includes the finding that MND is complete and in compliance with CEQA.

It is ordered on a vote of 3-2, Chairperson Alvarado and Commissioner Wilson opposed, that Resolution No. 2006-01 be adopted, approving the expansion of the City of Morgan Hill's USA, and finding the MND to be complete and in compliance with CEQA.

In response to the inquiry of Commissioner Howe, Commissioner Constant clarifies that his motion does not require the property owners to mitigate. Commissioner Howe comments that this application should not be required to mitigate under the newly adopted agricultural mitigation policies, however, future applications should come with mitigation that is acceptable to LAFCO.

Alternate Commissioner Velasco leaves at 3:04 p.m.

6. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2008

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered that the proposed LAFCO budget for Fiscal Year 2007-08 be adopted, find that the proposed FY 2007-08 budget is expected to be adequate to allow the Commission to fulfill its statutory responsibilities, and that staff be authorized to transmit the draft budget adopted by the Commission, including the estimated agency costs, to each of the cities, the County and the Cities Association, and to provide notice for a public hearing on May 30, 2007 for the adoption of the final budget for Fiscal Year 2008.

7. PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN
7.1 CONSULTANT TO DEVELOP INCORPORATION POLICIES, CONDUCT WORKSHOPS AND ASSIST LAFCO STAFF WITH INCORPORATION RELATED TASKS

Chairperson Alvarado requests the staff report. Ms. Palacherla reports that staff received an application for the incorporation of the Town of San Martin. The Registrar of Voters has verified the petition signatures and found that the petition is sufficient. She advises that staff require the assistance of a consultant in order to develop incorporation policies. The Budget Subcommittee had directed staff to use funds in the current year's budget to select and hire a consultant, and to seek ratification of the service agreement at this meeting. Ms. Palacherla reports that staff has selected and has started working with Roseanne Chamberlain. Ms. Chamberlain has over 22 years of experience in LAFCO, having served as executive officer of El Dorado LAFCO where she managed the proposed incorporation of El Dorado Hills. She is currently the Executive Officer of Amador LAFCO. Staff is requesting the Commission to ratify the services agreement between LAFCO and Roseanne Chamberlain in the amount not to exceed \$20,000 for preparing the incorporation policies and procedures, conducting incorporation workshops and providing assistance and advice to LAFCO staff for a period from May 21, 2007 to December 30, 2007. Staff is requesting for delegation of authority to execute any necessary amendments, including the increase of maximum compensation in an amount not to exceed \$30,000, subject to LAFCO Counsel's review and approval.

On motion of Commissioner Gage, seconded by Commission Howe, it is unanimously ordered on a vote of 5-0 that the service agreement between LAFCO and Ms. Chamberlain be ratified in an amount not to exceed \$20,000, and delegation of authority to the LAFCO Executive Officer be approved to execute any necessary amendments to the agreement, including increasing the maximum compensation in the amount not to exceed \$30,000, subject to LAFCO Counsel's review and approval.

7.2 OVERVIEW OF PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN

Chairperson Alvarado requests the staff report. Ms. Noel provides an overview of the incorporation process and timeline. She advises that staff will provide information on the process to the Commission, the proponents, residents in the community, affected agencies and other stakeholders. Staff plans to hold two informational workshops, one in the San Martin community and the other at the next LAFCO meeting. The Commission must adopt policies and procedures for processing the incorporation, as well as establish the fees and cost estimates. The cost of processing the incorporation, including staff time and consultant fees, will be borne by the proponents, except for development of the policies and the two informational workshops which will be funded by LAFCO.

Directing attention to Attachment C of the staff report, Ms. Noel proposes that the Commission establish a timeline for the process, taking into account the need to hold the election by November 2008 and for the incorporation to become effective by June 30, 2009. She then outlines milestone dates, indicating that LAFCO hearings need to take place between April and June 2008, and for the Board of Supervisors to call for the election no later than the first week of August 2008. She indicates that special Commission meetings may need to be scheduled to meet these deadlines. Ms. Noel advises that RFPs need to be issued for the fiscal and CEQA analyses. Other tasks include developing the incorporation boundaries, service plans, municipal service review, and SOI boundaries. Staff would then review and augment all consultant studies, reports and materials. The Executive Officer's report will synthesize and analyze the output of various consultants and provide the required findings, determinations, terms and conditions, and recommendations. If the Commission approves the incorporation, the Board of Supervisors would be requested to call for an election. A successful election requires majority of votes from registered voters within the incorporation boundaries.

Commissioner Gage informs that the June 30, 2009 deadline is a significant date because the Vehicle License Fees bill will expire at that time. If this deadline is not met, San Martin would not be incorporated.

Ms. Noel continues her report by stating that a \$9,968 deposit was received from the proponents. Based on information from a CALAFCO workshop, the incorporation costs would include the \$3,900 to verify the petition, \$90,000 for the comprehensive fiscal analysis, \$100,000 for LAFCO staff costs, \$25,000 for the initial study and negative declaration, \$100,000 to \$150,000 for the EIR, and \$3,000 for miscellaneous expenses, such as mapping and notices. She advises that staff is working with the proponents to establish a payment scheme with the understanding that work on the project would be suspended if the payment is delayed. Staff is working on indemnification language to hold the Commission and staff harmless in the event of litigation.

In response to the inquiry by Commissioner Howe, Ms. Noel explains that there will be one informational workshop in San Martin on May 17, 2007 and one for the Commission before the May 30, 2007 meeting. In response to the inquiry of Commissioner Wilson, Ms. Palacherla advises that staff will manage the consultant for the comprehensive fiscal analysis but will not be responsible for the cost. Commissioner Gage notes that this arrangement is very common.

On motion of Commissioner Gage, seconded by Commissioner Constant, it is unanimously ordered on a vote of 5-0 that the report be accepted.

7.3 RFP FOR CONSULTANT TO PREPARE THE COMPREHENSIVE FISCAL ANALYSIS FOR THE PROPOSED INCORPORATION

Chairperson Alvarado requests the staff report. Ms. Palacherla reports the comprehensive fiscal analysis (CFA), which has to conform to the requirements of the CKH Act and the incorporation guidelines issued by the State Office of Planning and Research, is critical in evaluating the incorporation proposal. She requests the Commission to authorize the issuance of the RFP, inform staff if the Commission desires to designate a representative to the consultant selection committee, and authorize staff to enter into contract with the most qualified consultant in the amount not to exceed \$100,000 and to execute the necessary amendments, subject to LAFCO Counsel's review and approval.

Commissioner Howe advises staff to ensure that the Commission will not be made liable for the consultant fees when the proponents fail to pay.

On motion of Commissioner Howe, seconded by Commissioner Wilson, it is unanimously ordered on a vote of 5-0 that staff be authorized to issue an RFP for the preparation of CFA, and that delegation of authority to the LAFCO Executive Officer be approved to enter into an agreement with the most qualified consultant in an amount not to exceed \$100,000 and to execute any necessary amendments, subject to LAFCO Counsel's review and approval.

**8. CONSULTANT TO PREPARE SPHERE OF INFLUENCE
RECOMMENDATIONS FOR SPECIAL DISTRICTS INCLUDED IN LAFCO'S
COUNTYWIDE WATER SERVICE REVIEW**

Chairperson Alvarado requests the staff report. Ms. Palacherla advises that the CKH Act requires LAFCO to complete the service reviews and SOI updates by January 1, 2008. The assistance of a consultant is needed due to high staff workload this year. Staff recommends that unused funds allocated for consultants within the current budget be used for this purpose.

On motion of Chairperson Alvarado, seconded by Commissioner Howe, it is unanimously ordered on a vote of 5-0 that delegation of authority to the LAFCO Executive Officer be approved to execute contract with Dudek and Associates in the amount not to exceed \$10,280 to prepare the SOI updates for special districts included in the Countywide Water Service Review.

9. APPOINTMENT OF PUBLIC MEMBER AND ALTERNATE PUBLIC MEMBER

On motion of Commissioner Gage, seconded by Commissioner Constant, it is unanimously ordered on a vote of 4-0-1, Commissioner Wilson abstaining, that Commissioner Wilson be reappointed as Public Member and Commissioner Terry Trumbull be reappointed as Alternate Public Member to new four-year terms, for the period from May 2007 to May 2011.

**10. UPDATE ON NORTH COUNTY AND WEST VALLEY AREA SERVICE
REVIEW AND SPHERE OF INFLUENCE STUDY (HELD FROM FEBRUARY 14,
2007)**

Chairperson Alvarado requests the staff report. Ms. Noel reports that the North and West Valley Area Service Review Technical Advisory Committee (TAC) met in April 2007

to assess the status of the project, review data collected, and consider draft determinations for cities and special districts. Agency-specific determinations will be made available in May 2007 for technical review by the agencies. Ms. Noel adds that staff met on March 22, 2007 with representatives from Campbell, Cupertino, Los Altos, Los Altos Hills, Palo Alto, Saratoga and Sunnyvale to discuss potential SOI issues, such as those on Cambrian No. 36 and Altamont Circle. Cambrian No. 36 is an area within San Jose's SOI but residents desire to be annexed to Campbell. Altamont Circle is within Palo Alto's SOI but requires sewer service from Los Altos Hills. Staff and consultant will propose SOI boundaries for each of the cities and special districts. In terms of timeline, draft SOI determinations will be available for public review in late June 2007, a LAFCO public hearing on the draft service review report and SOI determinations will be held on August 1, 2007, and a public hearing on the final adoption of the service review document will be on October 3, 2007. Ms. Noel informs that the Commission will be provided with periodic status reports on this project.

On motion of Wilson, seconded by Commissioner Howe, it is unanimously ordered on a vote of 5-0 that the report be accepted.

11. EXECUTIVE OFFICER'S REPORT

11.1 REVISED 2007 FILING DEADLINES

Chairperson Alvarado requests the staff report. Ms. Palacherla recommends the approval of the corrected 2007 filing deadline schedule. Commissioner Howe proposes to move the meeting time back to 1:15 p.m.; however, Commissioner Gage suggests that meetings start at 1:00 p.m.

On motion of Commissioner Howe, seconded by Commissioner Gage, it is unanimously ordered on a vote of 5-0 that the revised filing deadlines be approved and the Commission meeting time be changed to 1:00 p.m.

11.2 CALAFCO ANNUAL CONFERENCE ON AUGUST 28-31, 2007 IN SACRAMENTO, CALIFORNIA (HELD FROM FEBRUARY 14, 2007)

Ms. Palacherla advises that the annual conference of the California Association of LAFCOs (CALAFCO) will be held on August 28-31, 2007 in Sacramento. Staff will provide additional information as it becomes available. Commissioners Howe and Gage express interest in attending the conference.

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

11.3 REPORT ON CALAFCO WORKSHOP ON GOVERNMENT CODE §56133: SERVICE EXTENSIONS OUTSIDE JURISDICTIONAL BOUNDARIES (HELD FROM FEBRUARY 14, 2007)

Ms. Palacherla reports that CALAFCO held a workshop on Government Code §56133 which requires LAFCO approval before cities and special districts can extend services outside their jurisdictional boundaries. The workshop discussed how each LAFCO implements this law based on local context. She adds that staff attended the workshop to share information with other LAFCOs and to present a case study on how Santa Clara LAFCO implements §56133.

11.4 UPDATE ON CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) AND PRIVATE WATER COMPANIES (HELD FROM FEBRUARY 14, 2007)

Ms. Palacherla reports that CALAFCO officials, including Commissioner Wilson as CALAFCO Board Member, and representatives from the different LAFCOs attended a CPUC meeting in San Francisco to discuss how private water companies, which are not under LAFCO regulation, would coordinate with LAFCO. It was agreed that the LAFCOs would include the private water companies in the service reviews, and CPUC would adopt a resolution requiring private water companies to provide information to LAFCOs.

12. COMMISSIONERS' REPORTS

There are no reports by Commissioners.

13. WRITTEN CORRESPONDENCE

Ms. Palacherla informs that The Sphere, a CALAFCO publication, has been provided to the Commissioners.

14. NEWSPAPER ARTICLES

There are no newspaper articles.

15. PENDING APPLICATIONS/UPCOMING PROJECTS

Ms. Palacherla informs that staff has received an application from Cupertino Sanitary District to annex a parcel, and another application from the City of Milpitas to extend water service outside its boundary.

17. ADJOURN

On the order of Chairperson Alvarado, there being no objection, the meeting is adjourned at 3:31 p.m.

The next regular LAFCO meeting is scheduled to be held on Wednesday, May 30, 2007 at 1:00 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Blanca Alvarado, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk