

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, AUGUST 1, 2007**

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 1st day of August 2007 at 1:03 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: Vice-Chairperson Pete Constant, Commissioners Don Gage and John Howe, and Alternate Commissioner Terry Trumbull, attending in place of Commissioner Susan Vicklund-Wilson. Alternate Commissioner Roland Velasco is present and Chairperson Blanca Alvarado is absent.

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

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

2. PUBLIC PRESENTATIONS

There are no public presentations.

3. APPROVE MINUTES OF MAY 30, 2007 MEETING

On motion of Commissioner Howe, seconded by Commissioner Gage, it is unanimously ordered on a vote of 3-0, with Chairperson Alvarado absent and Acting-Chairperson Constant abstaining, that the minutes of May 30, 2007 meeting be approved, as submitted.

4. DRAFT REPORT FOR NORTHWEST SANTA CLARA COUNTY SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATES

This being the time and place set to consider the Draft Report for the Northwest Santa Clara County Service Reviews and Sphere of Influence (SOI) Updates, Acting-Chairperson Constant declares the public hearing open.

Commissioner Howe states for the record that his wife is employed by the El Camino Hospital District; however, his participation on the Technical Advisory Group did

not favor El Camino Hospital District in any way because he did not participate on discussions relating to that special district.

Acting-Chairperson Constant requests the staff report. Dunia Noel reports that a technical draft report was released for review and comment by participating agencies in June and staff received comments and minor corrections to the data. In early July, the draft report was released for public review and staff received minor comments from the cities of Campbell, Los Altos and Mountain View, and from Rancho Rinconada Recreation and Park District. These comments have either been addressed or will be addressed in the final report. Ms. Noel recommends that the Commission direct staff to prepare the final report and set a hearing date for its adoption. She then requests Mr. Lloyd Zola, consultant for the service review, to present the project and the draft report.

Mr. Zola advises that the Cortese-Knox-Hertzberg (CKH) Act requires LAFCO to update all SOIs in the County by January 1, 2008 and to review the services provided by each of the cities and special districts. The Commission has reviewed water and fire protection services throughout the County, as well as the various services in the south and central portions of the County. This review of services in the northwest portion of the County is the last service review. It covers the cities of Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Saratoga and Sunnyvale. It also covers Cupertino Sanitary District, West Bay Sanitary District, West Valley Sanitation District, Lake Canyon Community Services District, El Camino Hospital District, Midpeninsula Regional Open Space District, Rancho Rinconada Recreational and Park District, Santa Clara Valley Transportation Authority, and Saratoga Cemetery District.

Mr. Zola continues his report by providing an overview of services provided by each special district. Cupertino Sanitary District provides sewer services; West Valley Sanitation District handles sewage collection in and around Saratoga, Campbell, Monte Sereno and Los Gatos; Lake Canyon Community Services District maintains a community leach field in the unincorporated area; El Camino Hospital District provides hospital and health care services to Mountain View, Sunnyvale, Los Altos and Los Altos Hills; and, the

Midpeninsula Regional Open Space District protects regional open space resources in most of the area covered by this service review. The majority of the West Bay Sanitary District lies in San Mateo County and San Mateo LAFCO, as the principal LAFCO, will update its SOI. The Rancho Rinconada Recreational and Park District, which is entirely within the City of Cupertino, provides swimming pool, recreational facilities and programs. The Saratoga Cemetery District provides cemetery and funeral services in and around the city of Saratoga and part of Monte Sereno.

Mr. Zola advises that the Commission should make nine service review determinations and four SOI determinations. The nine determinations are: (1) infrastructure needs and deficiencies; (2) growth and population projections for the affected area; (3) financing constraints and opportunities; (4) cost-avoidance opportunities; (5) opportunities for rate restructuring; (6) opportunities for shared facilities; (7) government structure options, including advantages and disadvantages of consolidation or reorganization of service providers; (8) evaluation of management efficiencies; and (9) local accountability and governance. The four SOI determinations are: (a) present and planned land uses in the area, including agricultural and open-space lands; (b) present and probable need for public facilities and services in the area; (c) present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide; and (d) existence of any social or economic communities of interest in the area, if LAFCO determines that they are relevant to the agency.

Mr. Zola goes on to report on key determinations relating to the services of the cities being reviewed. The report indicates a storm drain deficiency in Cupertino, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View and Palo Alto. Another is lack of sewer capacity in Mountain View, Palo Alto and Los Altos, and these cities have identified the problem and are implementing the required improvements. The Town of Los Altos Hills needs 400,000 gallons in additional waste water treatment capacity at build-out, while Los Altos sewer system needs infrastructure improvements that are currently being addressed. Sunnyvale's wastewater treatment plant needs rehabilitation and projects to address this situation have either been funded or are now under construction. In

Campbell and Cupertino, park facilities are below the adopted standards. Campbell, Los Gatos, Mountain View and Sunnyvale need additional library facilities and each of these cities is exploring options to expand their library facilities. Los Altos, Los Gatos, Mountain View, Palo Alto and Sunnyvale need to expand police facilities and determine the specific facilities needed.

Mr. Zola comments that since the northwestern portion of the County is generally built-out and has limited vacant lands, growth would occur as redevelopment or as intensification of present land use.

He adds that Campbell, Cupertino, Los Gatos, Mountain View, Palo Alto, Saratoga and Sunnyvale are facing various types of fiscal challenges, and each city has reported that it has affected or is expected to affect the provision of services.

With regard to annexation of unincorporated pockets, Mr. Zola, notes that residents of Cambrian No. 36, an area adjacent to Campbell but within the SOI of San Jose, have requested an SOI amendment to place that area within Campbell's SOI and enable its annexation to Campbell. The City of Campbell has expressed support for that effort. Cupertino has several unincorporated pockets, of which some have been annexed recently. Los Altos has one 624-acre pocket; Los Altos Hills has several smaller pockets; Los Gatos has several pockets; and Monte Sereno has three unincorporated pockets. Mountain View has several pockets and three of which have been annexed last year and two will be annexed when these sites are developed. Palo Alto has no unincorporated pockets; Saratoga has four pockets; and, Sunnyvale has two pockets which will be annexed when these areas are developed.

Mr. Zola states that the proposed SOI recommendation reaffirms all existing SOIs of the cities, except for a small SOI amendment between Palo Alto and Los Altos Hills. This change will relocate two small areas from Palo Alto to Los Altos Hills.

Mr. Zola informs that the service review has identified issues related to the SOIs of two special districts. First, the El Camino Hospital District is presently providing services outside its SOI to the residents of Sunnyvale and Cupertino. Thus, it is recommended that the El Camino Hospital District's SOI be expanded to include all of Cupertino and

Sunnyvale. Secondly, WVSD provides services to two small areas outside its SOI; and it is recommended that these areas be included in that district's SOI.

Mr. Zola advises the Commission that the SOIs of all special districts be reaffirmed, except those of El Camino Hospital District and WVSD.

In response to an inquiry by Alternate Commissioner Trumbull, Ms. Palacherla replies that the County and Palo Alto signed an agreement that Stanford University will not be annexed to Palo Alto, and it is for this reason that Stanford is not considered as unincorporated island. In response to a follow-up inquiry by Commissioner Trumbull, Ms. Palacherla explains that this service review recognizes that agreement based on the Unincorporated Island law in the context of Santa Clara County policies.

In response to an inquiry by Commissioner Howe, Mr. Zola indicates that Rancho Rinconada receives property tax revenues. He adds that there are about 5,000 residents living in the area. In response to a follow-up inquiry by Commissioner Howe, Mr. Zola informs that the entire District is within the City of Cupertino; however, Cupertino does not intent to absorb the District services unless it is the desire of the residents. Ms. Palacherla adds that Cupertino annexed the Rancho Rinconada area in 1996 and, at that time, it was agreed that Cupertino will not absorb Rancho Rinconada unless it is the desire of the District itself. She adds that the members of the District's Board of Directors are elected by the residents; however, the County Board of Supervisors appoints them if there are no candidates. Currently, all board members have been appointed by the Santa Clara County Board of Supervisors.

Acting-Chairperson Constant opens the public comment period for this item.

Steven Wesolowski, Board Member, Rancho Rinconada Recreation and Park District, directs attention to his letter addressed to the Commission expressing objection to the draft service review report's government structure option for dissolution. He states that the District has no problem with finance, management or services and the service review report does not demonstrate tangible cost savings, service improvements or benefits from dissolution. He notes that the District provides services at cost and that the community is involved in running it. Mr. Wesolowski informs that the District did not

have input when the zero SOI was established in 1983. He comments that the government structure option for dissolution could have been arrived at due to incomplete data and states that the Board of Directors is the best source of information.

Jennifer Griffin, a homeowner in Rancho Rinconada area, states that the District has about 1,500 homes and 5,000 residents, and was annexed to Cupertino in 2000. While Cupertino is able to provide various services, the swim center continues to be a vital part of the neighborhood. She states that residents are very involved in the swim center and are distressed to learn that this facility could be absorbed by Cupertino. She states that the taxpayers in the area are co-owners of the facility and want to keep the District intact and serving the neighborhood.

L. Craig Britton, General Manager, Midpeninsula Regional Open Space District (MROSD), expresses appreciation to the Commission for the draft service review report and informs that there is a gap for open space services in the Loma Prieta area. He proposes that a statement be added in the final report directing MROSD to annex that area because MROSD owns about 60 percent of the lands there and its SOI is co-terminus with the County boundary. He said that a direction from LAFCO will be timely because MROSD is currently preparing a master plan for the area. He likewise expresses support for annexation of Stanford to Palo Alto because most of the affected residents live in that City.

In response to the inquiry of Commissioner Howe, Ms. Palacherla informs that the service review report does not deal with specific annexations such as that being proposed and that LAFCO does not have ability to initiate an annexation. She advises that since the area is already within the SOI of MROSD, the District or the residents in the area could initiate the annexation. Mr. Britton proposes that a statement, "MROSD should consider annexation of the area" be added in the final report.

The Acting-Chairperson 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.

Ms. Palacherla clarifies that there are two government structure options identified for Rancho Rinconada, namely, the status quo or dissolution and provision of service by

Cupertino. She advises that LAFCO is required by law to look at the government structure options and to evaluate their advantages and disadvantages. However, the service review itself does not initiate any action. Dissolution, if desired would be a separate action initiated by the resolution or petition of the residents, or LAFCO.

On motion of Commissioner Gage, seconded by Alternate Commissioner Trumbull, it is unanimously ordered on a vote of 4-0, with Chairperson Alvarado absent, that the Draft Report for Northwest Santa Clara County Service Reviews and Sphere of Influence Updates be accepted, staff be directed to prepare the final report and set the hearing date for October 3, 2007.

5. SAN MARTIN INCORPORATION PROPOSAL

5.1 FEE AGREEMENT FOR THE SAN MARTIN INCORPORATION PROPOSAL

Acting-Chairperson Constant requests the staff report. Ms. Palacherla informs that in compliance to the Commission's direction at the May 30, 2007 meeting, LAFCO and the San Martin Neighborhood Alliance (SMNA) have entered into a fee agreement.

5.2 UPDATE ON COMPREHENSIVE FISCAL ANALYSIS

Acting-Chairperson Constant requests the staff report. Ms. Noel informs that at the Commission's direction, Richard Berkson, Economic Planning System, was selected as the consultant to prepare the Comprehensive Fiscal Analysis (CFA) for the proposed incorporation of the Town of San Martin. LAFCO staff and the consultant held meetings with the proponents, key County staff, local agency staff and representatives from local organizations. Requests for data have been sent to 12 County departments, four special districts and the California Highway Patrol district office. The Consultant will review the data and request additional information if necessary. The administrative draft CFA will be prepared by late October 2007 for review by LAFCO staff. Appropriate County departments will then be requested to review specific sections of the draft CFA. By late November 2007, a public draft will be released and a workshop may be held in February 2008. The revenue neutrality negotiation will be initiated between December 2007 and February 2008. The final CFA report will be released in March 2008, in time for the May and June 2008 public hearings on the incorporation proposal.

5.3 UPDATE ON CEQA PROCESS

Acting-Chairperson Constant requests the staff report. Ms. Noel informs that at the Commission's direction, Steven Jenkins with Michael Brandman Associates, has been selected as the consultant to prepare the CEQA initial study and environmental recommendations for the San Martin incorporation. The professional service agreement with the consultant for the initial study and negative declaration is in the amount of \$20,845; however, if the initial study finds that an environmental impact report is required, the Commission may either amend or terminate the service agreement.

Ms. Noel further advises that staff, the consultant, proponents, and the County planning staff met in July 2007 to review the CEQA process, finalize the project description and objectives, and discuss the alternative boundaries for San Martin. County Planning staff agreed to provide the consultant with environmental and land use plans, development data and information, and geographic information system (GIS) layers.

She reports that staff also met with representatives from some environmental groups where several issues were raised on whether or not the incorporation would be growth inducing; if new services would be required; would the incorporation negatively impact the habitat, wildlife and agricultural resources; and, how could it potentially contribute to global warming. Ms. Noel informs that these issues will be addressed in the environmental review process.

5.4 INDEMNIFICATION AGREEMENT FOR THE SAN MARTIN INCORPORATION PROPOSAL

Acting-Chairperson Constant requests the staff report. Ms. Palacherla reports that this item has been continued from the May 30, 2007 meeting when staff proposed to require the proponents to defend and indemnify LAFCO from any claims against LAFCO's actions on the proposed incorporation and its CEQA documents. At the Commission's direction, staff and the proponents held several discussions where the proponents offered limited indemnification which excludes actions that the proponents object against and those that they file against LAFCO. LAFCO Counsel advised to forego the indemnification agreement because limited indemnification is not practical. She advises that if there is an action against LAFCO, the Commission will decide at that time

whether or not to proceed with the defense of the lawsuit, or offer the defense of the lawsuit to the proponents as the real party of interest.

Richard van'tRood, SMNA, expresses agreement with the staff report stating that litigation should be addressed when it arises rather than through an indemnification agreement. With regard to the invoices for staff time, he requests that they include a general description of the tasks and the amount of staff time spent for each. He likewise requests the Commission to allow the proponents to directly communicate with the consultants on matters like alternative boundaries of San Martin before the administrative draft is released.

In response to an inquiry by Commissioner Howe, Ms. Palacherla advises that at the May 30, 2007 meeting, staff recommended that all discussions between the proponents and consultants occur through LAFCO staff to ensure that the consultants are not influenced and that there will be no perception of bias to their reports. She advises that several meetings have been held between the proponents and the consultants with LAFCO staff present, and adds that if the proponents have any information they would like to provide to the consultant, staff will forward that to the consultant.

5.5 INVOICES FOR LAFCO STAFF COSTS

Acting-Chairperson Constant requests the staff report. Ms. Palacherla advises that the draft invoices for staff time have been provided to the proponents and staff will provide the proponents and the Commission with more detailed invoices. Alternate Commissioner Trumbull recommends that staff follow whatever standard practices the County has on billing the cities for staff hours.

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered on a vote of 4-0, with Commissioner Alvarado absent, that staff reports on the proposed incorporation of the Town of San Martin, items 5.1, 5.2, 5.3, 5.4 and 5.5, be accepted.

6. CLARIFICATION OF "AGRICULTURAL USE"

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered on a 4-0 vote, with Chairperson Alvarado absent, that this item on clarification of "agricultural use" be held to the October 3, 2007 meeting.

7. OPTIONS FOR LAFCO LEGAL SERVICES

Acting-Chairperson Constant requests the staff report. Ms. Palacherla reports that at the May 30, 2007 LAFCO meeting, the Commission directed staff to explore legal services outside the Office of the County Counsel. Staff looked at legal services in other LAFCOs and found that about half of all LAFCOs statewide use legal services outside of the counties. As directed by the Commission, prior to renewing the current legal services agreement, staff will provide options to the Commission, including the issuance of an RFP and a selection process.

In response to the inquiry of Commissioner Gage, Ms. Palacherla advises that staff can provide a rough cost comparison between Office of the County Counsel and that from outside counsel. Commissioner Gage proposes that the Office of the County Counsel should bid on that.

On motion of Commissioner Howe, seconded by Commissioner Gage, it is unanimously ordered on 4-0 vote, with Chairperson Alvarado absent, that staff be directed to prepare an RFP for legal services and to invite the Office of the County Counsel to be one of the bidders.

8. LAFCO'S COMMENTS ON COYOTE VALLEY SPECIFIC PLAN DRAFT ENVIRONMENTAL IMPACT REPORT

Acting-Chairperson Constant requests the staff report. Ms. Noel directs attention to the staff report and LAFCO's comment letter on San Jose's draft Environmental Impact Report (EIR) for the Coyote Valley Specific Plan (CVSP) which was delivered to the City on June 29, 2007. She advises that LAFCO is a responsible agency for CVSP and must have an adequate environmental document to meet the CEQA requirement. LAFCO's primary concern is to determine whether or not the EIR is adequate before San Jose comes to LAFCO to request the amendment of its urban service area (USA). Ms. Noel reports that

the draft EIR is not adequate for LAFCO's use as a responsible agency because it does not discuss CVSP's consistency with LAFCO policies, particularly with regard to USA amendment, island annexation and agricultural mitigation; the EIR's discussion on agricultural resources is likewise inadequate because there is no information about specific agricultural mitigation programs or approaches; and, finally, the EIR's discussion on water supply is inadequate for LAFCO's purposes. Ms. Noel indicates that these comments are in addition to previous LAFCO comments on CVSP. In order to address these concerns, staff requested the City to revise and recirculate the draft EIR for further review and comments. Under CEQA, the City is legally obligated to respond to LAFCO comments in writing within ten days prior to certifying the EIR. Ms. Noel informs that the City staff and the EIR consultant review on these comments.

9. LAFCO ANNUAL REPORT

Ms. Palacherla informs that the last 12 months have been busy for the Commission and staff. She directs attention to the application processing activity report indicating that staff processed 14 city-conducted annexations, five special district annexations, two USA amendments and one out-of-agency contract for services. On top of that, staff also processed 40 island annexations, and coordinated island annexations processes with County staff and the cities' staff. The completed island annexations brought into cities nearly 530 acres of unincorporated territory with a combined population of about 2,600. The Commission developed and adopted the Agricultural Mitigation Policies, a year-long process that involved a wide variety of stakeholders and interests. With the adoption of these policies, LAFCO took a leadership role in initiating a discussion on preserving the remaining agricultural lands in the County, generating interest among the cities and other agencies to preserve agricultural lands, and providing an example for other LAFCOs to develop similar agricultural mitigation policies. Ms. Palacherla also reports that LAFCO completed the South Central Service Review in August 2006 which covers cities and special districts in the south and central region of the County. A copy of this report is on the LAFCO website. She adds that LAFCO has started the Northwest Valley Service Review with the draft report presented at this meeting. With regard to the proposed

incorporation of the Town of San Martin, LAFCO has adopted policies for incorporation, held two informational workshops on the process and hired consultants to start work on the CFA and CEQA analyses. Ms. Palacherla advises that staff is participating in the CVSP Technical Advisory Committee. LAFCO has completed GIS mapping of all special districts in the County and will maintain and update these maps as district boundaries change. Additionally, Commissioners and staff have also participated in the California Association of LAFCOs (CALAFCO) workshops and conferences. Commissioner Wilson is serving as a CALAFCO Board Member and is the Board Secretary. Commissioner Wilson and staff participated in discussions with the California Public Utilities Commission (PUC) on regulating private water companies.

Commissioner Howe moves to accept the staff report. Commissioner Gage seconds the motion. Commissioner Howe expresses appreciation to Ms. Palacherla and staff for a wonderful job this year. He notes that while the agricultural mitigation policies were contentious, Ms. Palacherla stepped in such a way that everybody got along.

It is unanimously ordered on a vote of 4-0, with Chairperson Alvarado absent, that the annual report be accepted.

10. EXECUTIVE OFFICER'S REPORT

10.1 CALAFCO ANNUAL CONFERENCE ON AUGUST 28-31, 2007

Ms. Palacherla advises that each LAFCO is requested to designate a voting delegate at the CALAFCO Conference which will be held in Sacramento on August 28-30, 2007. In response to an inquiry by Commissioner Trumbull, Ms. Palacherla states that each LAFCO has one vote. Commissioner Howe comments that Commissioner Wilson has been designated as the voting delegate last year and proposes that she be designated again this year, with Acting-Chairperson Constant as the alternate voting delegate. Acting-Chairperson Constant expresses agreement. Commissioner Gage seconds the motion.

It is unanimously ordered on a vote of 4-0, with Chairperson Alvarado absent, that Commissioner Susan Vicklund-Wilson be designated as Santa Clara LAFCO's voting delegate at the 2007 CALAFCO Conference, and Vice-Chairperson Constant be designated as the alternate voting delegate.

11. COMMISSIONERS' REPORTS

There are no reports from Commissioners.

12. WRITTEN CORRESPONDENCE

There is no written correspondence.

13. NEWSPAPER ARTICLES

There are no newspaper articles.

14. PENDING APPLICATIONS / UPCOMING PROJECTS

The Commission takes note of two pending applications: namely, West Valley Sanitation District 2007-1, a district annexation; and a request by the Town of Los Altos Hills to provide sewer service to a property located outside its boundary.

15. ADJOURN

On the order of the Acting-Chairperson, there being no objection, the meeting is adjourned at 2:03 p.m.

The next regular LAFCO meeting is scheduled to be held on Wednesday, October 3, 2007 at 1:00 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Pete Constant, Acting-Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk