



**LOCAL AGENCY FORMATION COMMISSION OF  
SANTA CLARA COUNTY  
MINUTES  
WEDNESDAY, OCTOBER 14, 2009**

**CALL TO ORDER**

Chairperson **John Howe** calls the meeting to order at 1:15 p.m.

**1. ROLL CALL**

The following Commissioners and Alternates are present:

- **Chair John Howe**
- **Vice-Chair Susan Vicklund-Wilson**
- **Commissioner Pete Constant**
- **Commissioner Donald F. Gage**
- **Commissioner Liz Kniss**
- **Alternate Commissioner Terry Trumbull**
- **Alternate Commissioner Al Pinheiro**

The following staff members are present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Analyst Dunia Noel**
- **LAFCO Counsel Mala Subramanian**

**2. PUBLIC PRESENTATION**

There was none.

**3. APPROVE THE MINUTES OF JUNE 3, 2009 MEETING**

**MOTION:** Approve the minutes of June 3, 2009 meeting, as submitted. (Don Gage)

**SECOND:** Liz Kniss

**MOTION PASSED**

**AYES:** Pete Constant, John Howe, Don Gage, Liz Kniss Susan Vicklund-Wilson

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

**4. WEST VALLEY SANITATION DISTRICT 2009-1 (CERRO VISTA DRIVE)**

**MOTION:** Adopt Resolution No. 2009-04, approving the annexation of one parcel (APN 537-26-027) located on Cerro Vista Drive in the Town of Los Gatos to West Valley Sanitation District. (Don Gage)

**SECOND:** Liz Kniss

**MOTION PASSED**

**AYES:** Pete Constant, Don Gage, John Howe, Liz Kniss, Susan Vicklund-Wilson

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

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**PUBLIC HEARING**

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**5. POLICY RELATED TO ROLE OF COMMISSIONERS**

Neelima Palacherla, Executive Officer presents the staff report and recaps the three issues that the Commission wanted addressed and/or included in the policies, namely, (1) whether alternate commissioners may attend closed sessions when regular members are present; (2) a policy stating that information or discussion in closed sessions must not be disclosed unless and until authorized by the Commission; and, (3) determine if there is a Brown Act violation when the majority members of the County Board of Supervisors attend a LAFCO meeting. She then recommends adoption of the proposed policies that incorporate and address the three items as directed by the Commission.

**MOTION:** Adopt policy titled Role of Commissioners, and delete existing LAFCO policy titled Role of Alternate Commissioners. (Don Gage)

**SECOND:** Pete Constant

**MOTION PASSED**

**AYES:** Pete Constant, Don Gage, John Howe, Liz Kniss, Susan Vicklund-Wilson

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

**6. POLICY FOR LAFCO RECORDS RETENTION**

Ms. Palacherla presents the proposed records retention policy and schedule, and recommends approval.

In response to an inquiry by **Commissioner Constant**, Ms. Subramanian proposes that commissioners may forward emails to staff to ensure compliance with the proposed 90-day retention schedule for general correspondence and the proposed 2-year requirement if the email relates to an application proposal. In response to an inquiry by **Commissioner Kniss**, **Commissioner Constant** informs that the City of San Jose does not consider emails that are opened, read and subsequently deleted as public record unless they are retained. Chairperson Howe informs that the City of Sunnyvale has a similar policy.

**MOTION:** Adopt the Records Retention Policy and Records Retention Schedule, and direct staff to develop a system for retaining emails forwarded by the commissioners in compliance with the retention schedule. (Pete Constant)

**SECOND:** Susan Wilson

**MOTION PASSED**

**AYES:** Pete Constant, Don Gage, John Howe, Liz Kniss, Susan Vicklund-Wilson

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

**7. REVISION OF CURRENT ISLAND ANNEXATION POLICIES TO REFLECT CHANGES IN STATE LAW**

Dunia Noel, LAFCO Analyst, presents the revised LAFCO island annexation policies which reflect the extended sunset date for island annexations as provided in State law, and recommends adoption of the revised island annexation policies.

**MOTION:** Adopt the revised Island Annexation Policies to take effect immediately.  
(Don Gage)

**SECOND:** Liz Kniss

**MOTION PASSED**

**AYES:** Pete Constant, Don Gage, John Howe, Liz Kniss, Susan Vicklund-Wilson

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

**8. REVISION OF CURRENT SERVICE REVIEW POLICIES TO REFLECT CHANGES IN STATE LAW**

Ms. Noel presents the revised Service Review Policies reflecting the changes to the required service review determinations in the State law. She recommends adoption of the revised Service Review Policies.

**MOTION:** Adopt the revised Service Review Policies to take effect immediately.  
(Don Gage)

**SECOND:** Liz Kniss

**Commissioner Constant** requests that, in the future, staff attach a redline version of the existing policy for easier understanding of the proposed changes.

**MOTION PASSED**

**AYES:** Pete Constant, Don Gage, John Howe, Liz Kniss, Susan Vicklund-Wilson

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

**9. WORK PLAN FOR SECOND ROUND OF SERVICE REVIEWS**

Ms. Noel reports that CKH Act requires LAFCOs to conduct service reviews prior to, or in conjunction with the five-year mandated SOI update, and that the second round of service reviews must be completed prior to January 1, 2013. She then recommends that the services reviews and SOI updates be conducted in the following manner: countywide fire protection services, countywide water services, and other services provided by cities and special districts

in South Central County and Northwest County. She then walks through a general work plan for the service reviews.

For the countywide fire service review and SOI updates, Ms. Noel recommends that \$70,000 in the current budget be used to retain a consultant with experience in evaluating fire services. She also recommends the establishment of the Countywide Fire Service Reviews TAC composed of a LAFCO Commissioner and representatives from the City and County Managers Association, and the Fire Chiefs Association.

**Commissioner Constant** expresses interest in serving on the Countywide Fire Service Review TAC. In response to an inquiry by **Commissioner Wilson** relating to the cost of the past and current service reviews, Ms. Noel states that staff undertook the SOI updates and CEQA studies for the previous service reviews and advises that staff may further refine the cost estimates if desired. **Commissioner Wilson** informs that, at the request of the California Association of LAFCOs (CALAFCO), the California Public Utilities Commission (PUC) now requires private water companies to provide data requested by LAFCOs. She also expresses appreciation to **Commissioner Constant** for his willingness to serve on the TAC.

**MOTION:** Authorize staff to conduct the service reviews and SOI updates in the following manner: (a) countywide level for fire protection; (b) countywide level for water services; (c) sub-regional level for other services provided by cities and special districts in central and southern Santa Clara County; and, (d) sub-regional level for other services provided by cities and special districts in northern and western Santa Clara County; authorize staff to conduct the service reviews and SOI updates based on the above priorities; and, appoint Commissioner Pete Constant to serve on the Countywide Fire Service Review TAC. (Liz Kniss)

**SECOND:** Don Gage

**MOTION PASSED**

**AYES:** Pete Constant, Don Gage, John Howe, Liz Kniss, Susan Vicklund-Wilson

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

**10. LAFCO ANNUAL REPORT**

Ms. Palacherla briefly presents the Fiscal Year 2008-09 Annual Report.

In response to an inquiry by **Commissioner Kniss**, Ms. Palacherla advises that staff will provide information on the population added to San Jose as a result of the island annexations. **Commissioner Kniss** discusses the importance of this information as Federal and State agencies allocate funds to local governments based on population. **Commissioner Constant** informs that the data on population of the pockets annexed is likely included in the staff reports to San Jose City Council. He informs that there are no remaining pockets in District 1.

**Commissioner Constant** suggests that since the Commission and members of the public did not have a chance to review the report, acceptance be deferred to the next meeting.

**MOTION:** Defer acceptance of the Annual Report to the December 9, 2009 meeting. (Pete Constant)

In response to an inquiry by **Commissioner Gage**, Ms. Palacherla informs that LAFCO's fee waiver for island annexations has been extended to reflect the State's extension of the sunset date for the streamlined island annexations.

**SECOND:** Don Gage

**MOTION PASSED**

**AYES:** Pete Constant, Don Gage, John Howe, Liz Kniss, Susan Vicklund-Wilson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**11. EXECUTIVE OFFICER'S REPORT**

**11.1 UPDATE ON SELECTION OF CONSULTANT FOR DESIGN AND IMPLEMENTATION OF LAFCO'S ELECTRONIC DOCUMENT MANAGEMENT SYSTEM (EDMS)**

Ms. Palacherla reports that in June 2009, LAFCO issued a request for proposals (RFP) on the design and implementation of EDMS for LAFCO. She informs that the interview committee chose Peelle Technologies, a document management firm located in Campbell. She advises that staff is working on the details of the contract.

**MOTION:** Accept the report. (Don Gage)

**SECOND:** Pete Constant

**MOTION PASSED**

**AYES:** Pete Constant, Don Gage, John Howe, Liz Kniss, Susan Vicklund-Wilson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**11.2 LAFCO LETTERS TO THE CITY OF GILROY COMMENTING ON THE CITY'S CEQA DOCUMENTS AND OTHER REPORTS RELATED TO ITS 2009 URBAN SERVICE AREA (USA) AMENDMENTS**

Ms. Palacherla reports that staff sent comment letters to the City of Gilroy relating to the environmental documents for the three USA amendment proposals being reviewed by the city. She continues by stating that staff provided comments to Gilroy because LAFCO is a responsible agency under CEQA. Staff reviewed the environmental documents and provided information about LAFCO policies and filing requirements, and identified several issues that need to be addressed before the USA amendment requests are submitted to LAFCO. The proposals, which will be heard by Gilroy City Council on October 19, 2009, must be submitted to LAFCO by October 21, 2009 in order to be heard at the next LAFCO meeting.

Brian Schmidt, Committee for Green Foothills, provides a copy of Gilroy Unified School District (GUSD) resolution opposing the three USA amendment proposals. He informs that an editorial in The Gilroy Dispatch is opposed to the project. He states that the application is precedent-setting because Morgan Hill, which has approximately 1,000 acres in its southeast quadrant, has indicated that it will also seek to expand its USA.

In response to an inquiry by **Commissioner Kniss**, Ms. Palacherla advises that LAFCO has not received any application from Gilroy. This item is included on the agenda to inform the

Commission that staff has provided a comment letter on the environmental documents for the proposed USA expansion. She adds that Item 15 of the agenda is a standard item that lists potential applications to LAFCO.

**Commissioner Kniss** comments that the three projects could expand Gilroy by about 20 percent, although the acreage has changed with the withdrawal of Shapell Industries, and requests Alternate Commissioner Pinheiro to provide an update on the proposal.

**Commissioner Pinheiro** informs that Shapell Industries has withdrawn its USA proposal and states that Gilroy City Council will determine on October 19, 2009 whether or not to approve the remaining two proposals. He then reads the October 13, 2009 letter from the City of Gilroy addressed to Chairperson Howe stating that staff's comment letter has an overly negative tone. He adds that the City has received a copy of GUSD resolution. **Chairperson Howe** requests staff to provide the Commission with copies of the letter from Gilroy.

**Commissioner Wilson** informs that she received a copy of the letter from Gilroy. She states that it is premature to look at the proposal at this time and assures the City of Gilroy that the Commission is not predisposed into making a decision and will look at the proposal when it is submitted. In addition, she states that the comment letters by the Executive Officer and LAFCO Counsel are appropriate given the history of USA expansions. She states that it is not uncommon for agencies to receive negative comments on CEQA documents. However, the purpose of the comment period is to gather input and, by commenting, staff has been helpful in providing information to the potential applicant.

**Commissioner Gage** informs that the GUSD is always concerned about the amount of impact fees that they are going to receive, but the State allows only certain amount of fees.

**Chairperson Howe** encourages staff to work with the applicants to enable the Commission to look at different options and come up with an impartial decision. He also requests staff to assist the applicants in order to meet the filing deadline.

**Commissioner Kniss** expresses agreement with Commissioner Wilson, stating that the Commission should be provided with information about potential applications; such that, when the application is submitted, the commissioners are not overwhelmed.

### **11.3 UPDATE ON PRESENTATION TO THE 2009-2010 SANTA CLARA COUNTY CIVIL GRAND JURY**

Ms. Palacherla informs that staff has made a presentation to the Santa Clara County Civil Grand Jury about LAFCO, its history, local policies and operations, and special districts.

## **12. COMMISSIONERS' REPORTS**

Chairperson Howe informs that his term as a Sunnyvale councilmember will end in December 2009. The Santa Clara County Cities Association will appoint a new representative to LAFCO in November 2009, to start in January 2010.

## **13. NEWSPAPER ARTICLES / NEWSLETTERS**

None

## **14. WRITTEN CORRESPONDENCE**

The Chairperson requests staff to provide all members of the Commission with a copy of the letter from the City of Gilroy.

**15. PENDING APPLICATIONS / UPCOMING PROJECTS**  
**15.1 POTENTIAL GILROY USA AMENDMENT APPLICATION**

**16. ADJOURN**

The meeting is adjourned at 2:10 p.m.

Approved:

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John Howe, Chairperson  
Local Agency Formation Commission of Santa Clara County

By: \_\_\_\_\_  
Emmanuel Abello, LAFCO Clerk