

LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, APRIL 21, 2010

CALL TO ORDER

Chairperson Susan Vicklund-Wilson calls the meeting to order at 1:15 p.m.

1. ROLL CALL

The following Commissioners and Alternate Commissioners are present:

- Chairperson Susan Vicklund-Wilson
- Vice-Chairperson Liz Kniss
- Commissioner Pete Constant
- Commissioner Donald F. Gage
- Commissioner Margaret Abe-Koga
- 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 PRESENTATIONS

None

3. APPROVE THE MINUTES OF FEBRUARY 3, 2010 LAFCO MEETING

MOTION: Approve the minutes of February 3, 2010 meeting, as submitted. (Don Gage)

SECOND: Pete Constant

MOTION PASSED

AYES: Pete Constant, Don Gage, Liz Kniss, Margaret Abe-Koga, Susan Vicklund-Wilson

NOES: None **ABSTAIN:** None **ABSENT:** None

The Chairperson announces a request to consider Item No. 9 ahead of the other items on the agenda.

MOTION: Consider Item No. 9 out of order on the agenda. (Don Gage)

SECOND: Pete Constant

MOTION PASSED

AYES: Pete Constant, Don Gage, Liz Kniss, Margaret Abe-Koga, Susan Vicklund-Wilson

NOES: None **ABSTAIN:** None **ABSENT:** None

9. TAKEN OUT OF ORDER: UPDATE ON COUNTYWIDE FIRE SERVICE REVIEW

Dunia Noel, LAFCO Analyst, provides a brief background on municipal service reviews. She then reports on the preparation for the Countywide Fire Service Review, including the RFP process and the selection of Management Partners as consultant for the project.

Arne Croce, partner, Management Partners, makes a brief presentation and states that he is working with the 19 fire agencies, including four fire districts, seven cities, and five volunteer fire companies among others. He describes the purpose of the review and identifies some of the key issues that the municipal service review will focus on includes services and funding for unprotected and underserved areas, role of and oversight for volunteer fire companies, fire service delivery in the South County, and governance structure of the Saratoga Fire District and Los Altos Hills County Fire District. Mr. Croce then outlines the steps and timeline for the project, including LAFCO public hearings in October and December of 2010.

Commissioner Gage clarifies that the public hearing for the draft MSR report will be on October 20, 2010. He then expresses appreciation for the work being done to ensure that fire agencies would be reimbursed for the services they provide to underserved areas.

MOTION: Accept the report. (Don Gage)

SECOND: Pete Constant

MOTION PASSED

AYES: Pete Constant, Don Gage, Liz Kniss, Margaret Abe-Koga, Susan Vicklund-Wilson

NOES: None **ABSTAIN:** None **ABSENT:** None

4. PROPOSED REVISION OF LAFCO FEE SCHEDULE

Neelima Palacherla, LAFCO Executive Officer, reports that the Budget Subcommittee directed staff on March 10, 2010 to review and propose changes to the LAFCO fee schedule to ensure cost recovery. She directs attention to the staff report which provides information on changes to processing costs and the details of the proposed fee revisions. Ms. Palacherla then recommends adoption of the revised fee schedule to become effective on April 22, 2010.

Commissioner Constant inquires about the hourly rate for LAFCO Counsel and a brief discussion ensues to clarify that item. **Commissioner Gage** comments that the change is very minimal. In response to an inquiry by **Alternate Commissioner Pinheiro, Chairperson Wilson** notes that the rate for legal services is still very good compared to that of other agencies. **Commissioner Constant** states that the reduction to legal counsel monthly retainer rate would result in significant savings for the next Fiscal Year.

Commissioner Abe-Koga states that the proposed fee increase is minimal and notes that any savings in the current budget will be carried over to the next budget to reduce costs to the County and the cities.

MOTION: Open the public hearing. (Don Gage)

SECOND: Pete Constant

MOTION PASSED

AYES: Pete Constant, Don Gage, Liz Kniss, Margaret Abe-Koga Susan Vicklund-Wilson

NOES: None ABSTAIN: None ABSENT: None

The **Chairperson** determines that there are no members of the public who would like to speak on the item and, on Commission consensus, there being no objection, declares that the public hearing be closed.

MOTION: Adopt Resolution No. 2010-02, revising the LAFCO fee Schedule. Said Resolution, by reference hereto, is made part of these minutes. (Don Gage)

SECOND: Pete Constant

MOTION PASSED

AYES: Pete Constant, Don Gage, Liz Kniss, Margaret Abe-Koga, Susan Vicklund-Wilson

NOES: None ABSTAIN: None ABSENT: None

5. PROPOSED LAFCO BUDGET FOR FISCAL YEAR (FY) 2010-11

Ms. Palacherla reports that State law requires LAFCO to adopt a draft budget by May 1st and a final budget by June 15th. The Budget Subcommittee, composed of Commissioners Constant and Gage, and staff met on March 10 and April 7, 2010 to discuss issues related to the budget, and recommend the proposed budget for FY 2010-11 in the amount of \$809,698.

On Commission consensus, there being no objection, the **Chairperson** declares the public hearing open, determines that there are no members of the public who would like to speak on the item, and declares that the public hearing be closed.

MOTION: Adopt the Draft LAFCO Budget for Fiscal Year 2010-11; find that the Draft FY 2011 budget is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; and authorize staff to transmit the Draft Budget adopted by the Commission, including the estimated agency costs, as well as notice of public hearing on the adoption of Fiscal Year 2011 Final Budget, to each of the cities, the County and Cities Association. (Liz Kniss)

SECOND: Don Gage

MOTION PASSED

AYES: Pete Constant, Don Gage, Liz Kniss, Margaret Abe-Koga, Susan Vicklund-Wilson

NOES: None ABSTAIN: None ABSENT: None

6. ADOPTION OF LAFCO CONFLICT OF INTEREST CODE

Ms. Palacherla directs attention to the proposed Conflict of Interest Code, which designates a list of positions requiring disclosure of economic interests and the disclosure categories for each of the positions.

On Commission consensus, there being no objection, the **Chairperson** declares the public hearing open, determines that there is no member of the public who would like to speak on the item, and declares that the public hearing be closed.

MOTION: Adopt Resolution No. 2010-03, approving the Conflict of Interest Code pursuant to the Political Reform Act of 1974. (Don Gage)

SECOND: Pete Constant

MOTION PASSED

AYES: Pete Constant, Don Gage, Liz Kniss, Margaret Abe-Koga, Susan Vicklund-Wilson

NOES: None **ABSTAIN:** None **ABSENT:** None

7. APPROVAL OF LAFCO'S GENERAL LIABILITY INSURANCE COVERAGE

Ms. Palacherla provides background information on the reasons for switching LAFCO's general liability insurance coverage from the County to an outside provider. She advises that the Budget Subcommittee, at its meeting on April 7, 2010, reviewed quotes from two insurance carriers and chose Special District Risk Management Authority (SDRMA). Ms. Palacherla advises that the SDRMA liability insurance coverage, which requires membership to the California Special Districts Association (CSDA), costs a total of \$4,533 per year.

Commissioner Constant informs that the Budget Subcommittee recommends SDRMA even though it is more expensive because it offers better coverage, less deductibles, and has a better overall value. **Commissioner Gage** informs that LAFCO has no coverage for injunctive or declaratory relief in an event of litigation; however, it is partly addressed by LAFCO's Indemnification Policy. Ms. Palacherla states that SDRMA has denied injunctive and declaratory relief coverage because of LAFCO's San Martin incorporation litigation. She also advises that other LAFCOs have indicated that this coverage is expensive and the benefit it provides is uncertain. **Commissioner Gage** observes that there is no need for this coverage because there is no application being anticipated similar to the San Martin incorporation.

MOTION: Adopt Resolution 2010-04, approving the form of and authorizing the execution of the sixth amended joint powers agreement and authorizing participation in the SDRMA property / liability program, said Resolution by reference hereto is made part of these minutes. (b) Direct the Chairperson to execute the Sixth Amended Joint Powers Agreement with SDRMA; and (c) Direct LAFCO Executive Officer to apply for CSDA membership, pay its annual membership dues of \$776, and make the annual payments for property/general liability coverage for \$3,757. (Pete Constant)

SECOND: Don Gage

MOTION PASSED

AYES: Pete Constant, Don Gage, Liz Kniss, Margaret Abe-Koga, Susan Vicklund-Wilson

NOES: None **ABSTAIN:** None **ABSENT:** None

8. FIRST AMENDMENT TO AGREEMENT FOR LEGAL SERVICES BETWEEN LAFCO AND BEST BEST & KRIEGER

Ms. Palacherla advises that LAFCO retained Best Best & Krieger in February 2009 at a monthly retainer fee of \$5,900. This retainer amount was based on a five-year history of LAFCO's legal counsel time. However, based on experience over the last 12 months,

staff is recommending a reduced monthly retainer fee of \$4,370 with a 240-hour annual cap, beyond which, the contracted hourly rate would apply.

MOTION: Approve the First Amendment to Legal Services Agreement between LAFCO and Best Best & Krieger. (Don Gage)

SECOND: Pete Constant

MOTION PASSED

AYES: Pete Constant, Don Gage, Liz Kniss, Margaret Abe-Koga, Susan Vicklund-Wilson

NOES: None **ABSTAIN:** None **ABSENT:** None

9. TAKEN OUT OF ORDER

10. EXECUTIVE OFFICER'S REPORT

10.1 UPDATE ON IMPLEMENTATION OF LAFCO'S ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

Ms. Palacherla informs that four batches of files have been digitally scanned and added to LAFCO Electronic Document Management System. She informs that additional files, including the urban service area amendments files, are being prepared for scanning.

10.2 UPDATE ON AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN LAFCO AND THE COUNTY OF SANTA CLARA

Ms. Palacherla reports that staff will continue to work with the County to amend the MOU to reflect the recent changes in staffing and services.

10.3 LAFCO COMMENT LETTERS TO THE CITY OF MORGAN HILL ON ITS SOUTH EAST QUADRANT PROJECT

Ms. Palacherla informs that staff has sent two comment letters to the City of Morgan Hill relating to the proposed development of its southeast quadrant, an unincorporated area to the east of US-101, located within its sphere of influence (SOI) but outside its urban service area (USA) boundaries. She informs that the City is proposing to develop that area for sports/recreational/leisure/public facility and for some residential and commercial uses. Prior to annexation, LAFCO approval is required to include the area within the City's USA. She advises that the Morgan Hill City Council has approved the preparation of an environmental impact report. LAFCO's comment letters express concerns, provide input, and indicate inconsistencies of the proposal with LAFCO policies. She advises that since LAFCO is a responsible agency for this project, staff will continue to provide comments on Morgan Hill's environmental documents. Ms. Palacherla also directs attention to an email regarding the southeast quadrant from Mark Grzan, a former Morgan Hill councilmember.

11. COMMISSIONERS' REPORTS

None.

12. NEWSPAPER ARTICLES / NEWSLETTERS

The Sphere, a CALAFCO newsletter.

13. WRITTEN CORRESPONDENCE

None.

14. PENDING APPLICATIONS / UPCOMING PROJECTS

14.1 POTENTIAL LOS GATOS URBAN SERVICE AREA (USA) AMENDMENT 2010 - LANDS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT (MROSD)

Ms. Palacherla advises that LAFCO has received an USA amendment application from Los Gatos to exclude MROSD lands from its USA. The application is incomplete because the indemnification agreement has not yet been submitted.

14.2 PROPOSAL OF THE SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT (CFPD) FOR ANNEXATION OF LANDS IN THE SANTA CRUZ MOUNTAINS)

Ms. Palacherla informs that CFPD is requesting to annex over 22,000 acres in the Santa Cruz mountains, and if the application is complete, this could be heard either at the June or August 2010 meeting.

15. ADJOURN

On motion of Commissioner Constant, seconded by Commissioner Gage, it is unanimously ordered that the meeting be adjourned at 1:50 p.m. to the next LAFCO meeting on June 2, 2010.

Approved:

Susan Vicklund-Wilson, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk