



LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, JUNE 1, 2011

CALL TO ORDER

Acting Chairperson Pete Constant called the meeting to order at 1:15 p.m.

1. ROLL CALL

The following Commissioners and Alternate Commissioners were present:

- **Acting Chairperson Pete Constant**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Mike Wasserman**
- **Commissioner Susan Vicklund-Wilson**
- **Alternate Commissioner George Shirakawa** (Acting in place of Chairperson Liz Kniss; arrived at 1:20 p.m. and left at 2:25 p.m.)
- **Alternate Commissioner Al Pinheiro**
- **Alternate Commissioner Terry Trumbull**

The following Commissioners and Alternate Commissioners were absent:

- **Chairperson Liz Kniss**
- **Alternate Commissioner Sam Liccardo**

The following staff members were present:

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

2. PUBLIC COMMENT

There is no public comment.

Acting Chairperson Constant, there being no objection, announced that agenda items for Commission action will be taken out of order.

3. APPROVE THE MINUTES OF APRIL 20, 2011 LAFCO MEETING

The Commission approved the minutes of April 20, 2011 LAFCO meeting, as submitted.

Motion: Susan Vicklund-Wilson **Second:** Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

4. WEST VALLEY SANITATION DISTRICT 2011-1 (QUARRY ROAD)

The Commission adopted **Resolution No. 2011-01**, approving the annexation to the West Valley Sanitation District of approximately 0.577 acres (APN 532-27-009) located at

16860 Quarry Road in the Town of Los Gatos. Said Resolution, by reference hereto, is made part of these minutes.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

5. **LOS GATOS URBAN SERVICE AREA AMENDMENT 2010 (LANDS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT)**

Ms. Noel presented the staff report.

Acting Chairperson Constant declared the public hearing open, determined that there are no members of the public who wished to speak on the item, and declared the public hearing closed.

Commissioner Wasserman informed that his motion included the CEQA action.

The Commission adopted **Resolution No. 2011-2**, amending the urban service area boundary of the Town of Los Gatos to exclude approximately 16.1 acres of land consisting of two parcels (APNs 575-04-011 and a portion of 575-05-001) owned by the Midpeninsula Regional Open Space District. Said Resolution, by reference hereto, is made part of these minutes.

Motion: Mike Wasserman

Second: Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

6. **FINAL LAFCO BUDGET FOR FISCAL YEAR 2011-2012**

Ms. Palacherla presented the staff report.

Acting Chairperson Constant declared the public hearing open, determined that there are no members of the public who wished to speak on the item, and declared the public hearing closed.

The Commission (a) adopted the Final LAFCO Budget for Fiscal Year 2011-2012; (b) found that the Final LAFCO Budget for Fiscal Year 2012 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; (c) authorized staff to transmit the Final LAFCO Budget adopted by the Commission including the estimated agency costs to each of the cities, to the County and to the Cities Association; and, (d) directed the County Auditor-Controller to apportion LAFCO costs to cities and the County using the most recent edition of the Cities Annual Report published by the State Controller, and to collect payment pursuant to Government Code §56381.

Motion: Susan Vicklund-Wilson

Second: Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

8. **TAKEN OUT OF ORDER: APPOINT PUBLIC MEMBER AND ALTERNATE PUBLIC MEMBER**

Acting Chairperson Constant determined that there are no members of the public who wished to speak on the item.

In response to an inquiry by **Commissioner Abe-Koga**, **Acting Chairperson Constant** stated that at the February 2, 2011 meeting (Item No. 5), the Commission was presented with two options to fill the public and alternate public member positions, namely, to reappoint the incumbents or to hold a formal, advertised recruitment process, and that the Commission voted to reappoint the incumbents. In response to a follow-up inquiry by **Commissioner Abe-Koga**, **Acting Chairperson Constant** informed that the Commission has the discretion to reappoint the incumbents or seek applications from the public.

The Commission reappointed Susan Vicklund-Wilson as LAFCO public commissioner and Terry Trumbull as LAFCO alternate public commissioner to new four-year terms for a period from May 2011 to May 2015.

Motion: Margaret Abe-Koga

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman

NOES: None

ABSTAIN: Susan Vicklund-Wilson

Acting Chairperson Constant directed staff to include the topic of selection and appointment of public and alternate members in a future review of LAFCO policies.

7. **EL CAMINO HOSPITAL DISTRICT AND SERVICES OUTSIDE ITS BOUNDARY**

Ms. Palacherla presented the staff report summarizing the information in the April 2011 staff report regarding the issue of the El Camino Hospital District providing services beyond its boundaries as well as the information in the February 2011 staff report regarding transparency issues related to the operations and financing relationships between the El Camino Hospital District and the non-profit corporation, and other issues including whether the District is performing the functions for which it was created and how the District is using its property tax revenues. She informed that these issues will be addressed in the next countywide service review, to be discussed under Agenda Item No. 9.

Acting Chairperson Constant expressed concern about how the El Camino Hospital District, a public entity formed to provide hospital services, has given away its assets to a non-profit entity. He noted that it is difficult to distinguish the District from the non-profit. **Acting Chairperson Constant** also questioned the District's continued existence given that the non-profit is now providing the services that the government agency was originally formed to provide. He inquired as to where the tax revenues are being spent because the non-profit has stated that it is not using tax money to provide hospital services. He questioned how the District and the non-profit were able to segregate their funds enough to establish if the District is providing services outside of its boundary.

Commissioner Wasserman supported staff's recommendation that the next service review should study this issue further and agreed with Commissioner Constant that more clarification is required as to the finances for operating the hospital and on the use of the tax revenues that the District is receiving.

Commissioner Abe-Koga expressed appreciation that a service review will be conducted to address these issues, stating that she resides within the District and is concerned about the recent taxes and bond measures for the retrofitting of the hospital. She proposed that the staff report be received and that LAFCO not accept the report's conclusion until further analysis can be done to determine whether or not the District is providing services outside of its boundary.

Commissioner Wilson confirmed her understanding that a countywide service review would be conducted shortly, which will be carried out with an outside consultant, and would look deeper into this issue. She added that the service review would identify any other special districts that are not performing their mandated functions and that LAFCO has the ability to consider their dissolution. **Commissioner Shirakawa** suggested that the District staff provide a presentation to the Commission.

In response to an inquiry by **Acting Chairperson Constant**, Ms. Palacherla informed that the staff report's conclusion that the District is not providing services outside its boundary was based on the information provided by the District. **Acting Chairperson Constant** stated that the Commission's action should be to receive the staff report rather than accept it because it is not confirmed that the District is, in fact, not providing services outside its boundary. He then requested that staff ensure that the service review work plan specifically include a forensic accounting of the district to follow the tax revenues. He stated that this is LAFCO's paramount responsibility because the public relies on agencies like LAFCO to look out for their interest.

At the request of **Commissioner Wilson**, Ms. Subramanian agreed that without forensic accounting expertise, it is not possible for staff to be certain whether or not the District is providing services outside its boundary and added that such experts would be able to determine the accuracy of the information through the service review process.

Commissioner Shirakawa directed staff to request all financial reports and accounting data from the District.

Greg Caligari, Cox Castle Nicholson, legal counsel for El Camino Hospital District, informed that the District will continue to cooperate with LAFCO on the service review.

Commissioner Wasserman requested that Mr. Caligari provide all existing reports, audits and annual statements that would be helpful in the matter, and Mr. Caligari expressed agreement.

The Commission received the staff report and directed staff to take a closer look at the El Camino Hospital District, its tax dollars and use, as part of the service review, and that the issue be brought back to the Commission for further action after the service review is completed.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

9. PROPOSED REVISION TO LAFCO'S WORK PLAN FOR REMAINING SERVICE REVIEWS

Ms. Noel presented the staff report.

In response to an inquiry by **Acting Chairperson Constant**, Ms. Noel advised that the Commission may decide to have a separate service review for the El Camino Hospital District; however, a single countywide service review could also be phased to study the District separately. **Commissioner Wilson** stated that a countywide service review may allow LAFCO to identify other districts that are not performing their mandated functions. **Commissioner Wasserman** stated that the \$80,000 allotted for the countywide service reviews be expended first and, based on the findings, the Commission may decide on further action.

Commissioner Abe-Koga stated that it has already been determined that the District is one of those that the Commission should take a closer look and proposed that the service review of the District be completed ahead of the reviews of other agencies. **Acting Chairperson Constant** commented that the Commission should be able to take action on issues about the El Camino Hospital District in a timely manner and expressed support for a single countywide service review as long as it is done in mini-sections that would allow the Commission to take action. Ms. Palacherla advised that based on commission discussion, the service review for the Hospital District would require different expertise than that required for reviewing the other agencies and informed that a work plan will be presented to the Commission.

In response to an inquiry by **Commissioner Wilson**, Ms. Palacherla informed that staff is currently working on the Water Service Review and would bring back a work plan for the countywide service review in October 2011. **Commissioner Wilson** requested that staff present a status report or initial work plan at the August 3, 2011 meeting if a comprehensive work plan is unavailable at that time.

The Commission approved the revision to the Service Review Work Plan, authorized staff to conduct a single countywide service review for all services (excluding fire protection service and water service) provided by cities and special districts, and to bring back a status update or initial work plan at the August 3, 2011 LAFCO meeting.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

13.4 TAKEN OUT OF ORDER: CALAFCO ANNUAL CONFERENCE IN NAPA, CALIFORNIA: AUGUST 31 THROUGH SEPTEMBER 2, 2011

Ms. Palacherla presented the staff report.

The Commission authorized commissioners and staff to attend the 2011 CALAFCO Annual Conference and authorized travel expenses to be funded by the LAFCO budget.

Motion: Susan Vicklund-Wilson **Second:** Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

13.5 TAKEN OUT OF ORDER: DESIGNATE VOTING DELEGATE AND ALTERNATE FOR SANTA CLARA LAFCO

Commissioner Wilson volunteered to be the voting delegate and **Commissioner Constant** volunteered as alternate voting delegate at the CALAFCO Conference.

The Commission designated Commissioner Susan Vicklund-Wilson as the voting delegate and Commissioner Pete Constant as the alternate voting delegate at the CALAFCO Conference.

Motion: Susan Vicklund-Wilson **Second:** Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

13.6 TAKEN OUT OF ORDER: NOMINATIONS TO THE CALAFCO BOARD OF DIRECTORS

Ms. Palacherla informed that the staff report is revised to state that Commissioner Wilson would seek reelection if there are no other public member candidates nominated to the CALAFCO Board of Directors from the Coastal Region.

Commissioner Wilson requested nomination to the CALAFCO Board of Directors conditioned on interest from other public members in the Coastal Region.

Nominated Commissioner Susan Vicklund-Wilson to the CALAFCO Board of Directors.

Motion: Mike Wasserman **Second:** Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

10. UPDATE ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY

Ms. Noel provided the staff report. She added that staff will meet with the City of Cupertino planning staff on July 2, 2011.

Commissioners Constant and **Wasserman** briefly discussed the number of remaining islands in San Jose and Los Gatos.

In response to an inquiry by **Commissioner Wilson**, Ms. Noel informed that the special provision for island annexation will sunset on January 1, 2014; however, she noted that cities should begin their island annexation because it is a long process. **Commissioner Wilson** requested that status updates on island annexations be made a continuing item on the agenda.

Curtis Wright, former Mayor of Monte Sereno, suggested that no reference be made to sunset date as cities may feel that they do not have to do anything after that date. He recommended that the Commissioners work directly with the city council members. He also stated that there is a perception among some residents in unincorporated areas that they receive better services at a lesser expense and more relaxed law and building code enforcement in the County.

The Commission accepted the report and directed staff to include a status report on island annexations as a recurring item on the agenda.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

11. LEGISLATIVE REPORT

Ms. Palacherla presented the report. The Commission accepted the report.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

**12. UPDATE ON CALIFORNIA FORWARD'S SMART GOVERNMENT
FRAMEWORK AND REGIONAL STAKEHOLDER ROUNDTABLES**

Ms. Palacherla presented the report. She added that there is a follow up meeting on June 24, 2011 from 9:00 a.m. to 12:30 p.m. at the Cupertino Community Center and would email this information to the Commissioners.

The Commission accepted the report.

Motion: Mike Wasserman

Second: Susan Vicklund-Wilson

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, George Shirakawa, Mike Wasserman,
Susan Vicklund-Wilson

NOES: None

13.1 UPDATE ON LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW

Ms. Noel presented the staff report.

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

Ms. Noel presented the staff report.

13.3 UPDATE ON CONDUCTING FURTHER ANALYSIS OF OPPORTUNITIES FOR FIRE SERVICE EFFICIENCIES INCLUDING CHANGES IN GOVERNANCE STRUCTURE OF FIRE DISTRICTS

Ms. Noel presented the staff report.

14. PENDING APPLICATIONS / UPCOMING PROJECTS

The Commission noted the pending application.

15. NEWSPAPER ARTICLES / NEWSLETTERS

There are no newspaper articles/newsletters.

16. WRITTEN CORRESPONDENCE

There was no written correspondence.

17. ADJOURN

Adjourned at 2:27 p.m. to the next meeting on Wednesday, August 3, 2011 in Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Pete Constant, Acting-Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk