

**MINUTES
WEDNESDAY, MAY 30, 2012**

CALL TO ORDER

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

1. ROLL CALL

The following Commissioners were present:

- **Chairperson Pete Constant**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Mike Wasserman**
- **Commissioner Susan Vicklund-Wilson**
- **Alternate Commissioner Terry Trumbull**
- **Alternate Commissioner Cat Tucker**

The following were absent:

- **Commissioner Liz Kniss**
- **Alternate Commissioner Sam Liccardo**
- **Alternate Commissioner George Shirakawa**

The following staff members were present:

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

2. WELCOME NEW COMMISSIONER CAT TUCKER

Chairperson Constant welcomed Alternate Commissioner Cat Tucker to LAFCO.

3. PUBLIC COMMENT

There was no public comment.

4. APPROVE MINUTES OF APRIL 4, 2012 LAFCO MEETING

The Commission approved the minutes of April 4, 2012 LAFCO meeting.

Motion: Mike Wasserman

Second: Margaret Abe-Koga

MOTION PASSED

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

NOES: None **ABSTAIN:** Susan Vicklund-Wilson **ABSENT:** Liz Kniss

5. WEST VALLEY SANITATION DISTRICT SPHERE OF INFLUENCE AMENDMENT 2012, WEST VALLEY SANITATION DISTRICT 2012-01 (CENTRAL PARK), AND COUNTY LIBRARY SERVICES AREA 2012-01 (CENTRAL PARK)

Ms. Palacherla presented the staff report.

This being the time and place for the public hearing, **Chairperson Constant** declared the public hearing open, determined that there were no members of the public who wished to speak on the item and ordered the public hearing closed.

The Commission adopted **Resolution No. 2012-03**, approving an amendment to the Sphere of Influence of the West Valley Sanitation District to include the Central Park Neighborhood and the Cambrian #36 island and approving the annexation of the Central Park Neighborhood to the West Valley Sanitation District and to the County Library Services Area.

Motion: Mike Wasserman

Second: Margaret Abe-Koga

MOTION PASSED

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

NOES: None

ABSTAIN: None

ABSENT: Liz Kniss

6. FINAL LAFCO BUDGET FOR FISCAL YEAR 2012-2013

Ms. Palacherla reported that staff is not proposing any changes to the Draft Budget that was adopted by LAFCO at the April 4, 2012 meeting.

This being the time and place for the public hearing, **Chairperson Constant** declared the public hearing open, determined that there are no members of the public who wished to speak on the item and ordered the public hearing closed.

The Commission adopted the Final LAFCO Budget for Fiscal Year 2012-2013; found that the Final LAFCO Budget for Fiscal Year 2013 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; 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 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: Mike Wasserman

MOTION PASSED

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

NOES: None

ABSTAIN: None

ABSENT: Liz Kniss

7. AUDIT AND SERVICE REVIEW OF THE EL CAMINO HOSPITAL DISTRICT DRAFT REPORT

Chairperson Constant informed that the Commission will take no action on the Audit and Service Review of the El Camino Hospital District (ECHD) Draft Report at the meeting. He then disclosed that he had a phone conversation with Wes Alles, ECHD Board member, relating to this item. **Commissioner Wasserman** likewise announced that he met with John Zoglin, Chairman, ECHD Board of Directors; **Commissioner Abe-Koga** informed that she had a meeting with Tomi Ryba, CEO, ECHD; and, **Commissioner Wilson** reported that she met with Mr. Alles and Barbara Avery, Director for Community Benefit, ECHD.

Ms. Palacherla presented the staff report and stated that comments on the Draft Report received by June 22, 2012 would be considered in the preparation of the Revised Draft Report which will be available to the public by mid-July 2012, and that LAFCO would hold a public hearing to consider adoption of the Final Report on August 1, 2012. She provided an overview of the service review process and informed that comment letters were received from ECHD and from Santa Clara Valley Medical Center.

Steve Foti, Principal and Project Manager, Harvey Rose Associates, provided a PowerPoint presentation on the Draft Report and its recommendations.

This being the time and place for the public hearing, **Chairperson Constant** declared the public hearing open.

Wes Alles, ECHD Board member, urged the Commission not to adopt the Draft Report's recommendations on corporate restructuring and dissolution. He stated that the County Board of Supervisors recognized El Camino Hospital for its collaboration with Valley Medical Center. He said that the existing governance structure, with elected board of directors and publicly accessible financial reports, agenda and minutes on their websites, provides positive results. He stated that the ECHD is open to dialogue to discuss solutions.

Barbara Avery, Director for Community Benefit, ECHD, stated that change in governance structure or dissolution would negatively impact vulnerable members of the community. She then discussed the process for distribution of community benefits.

Craig Goldman, Superintendent, Mountain View Whisman School District, urged the Commission to oppose the recommendations in the Draft Report, stating that the ECHD grants enable his school district to provide school nurse services, counseling and crisis intervention. He said that changes to ECHD's governance structure would negatively impact vulnerable members of the community.

Todd Hansen, Chief Operating Officer, Health Trust, a Santa Clara County public benefit corporation, urged the Commission not to adopt recommendations from the Draft Report, stating that this would disrupt community benefit grants and the delivery of vital health programs.

Judy van Dyck, a resident of Los Altos, stated that market competition and financial difficulties in the 1990s prompted the creation of the non-profit corporation. She noted that the governance structure is working well and the residents are content with the medical care that they receive.

Greg Caligiri, Partner, Cox Castle Nicholson, and counsel for the ECHD, stated that the Draft Report's mandate for the District and the Corporation to restructure governance or face dissolution is unwarranted because there is no finding of impropriety and no District funds were used to acquire and operate the Los Gatos campus. He stated that the recommendations are legally problematic. He noted that if these were implemented, community benefit program would be lost and the District would lose control of its hospital in Mountain View. He informed that the CKH Act does not provide authority to the Commission to restructure or dissolve the District which was created by the voters. He stated that if the Commission adopts the report's recommendations the District

would either have to give up its enumerated powers or must challenge the LAFCO decision. He requested the Commission not to adopt recommendations on corporate restructuring or the dissolution findings.

Kary Lynch, El Camino Hospital employee, expressed support for greater transparency, stating that the budget is prepared behind closed doors and it is unclear whether actions are being taken by the District or the Corporation. He expressed support for the recommendations for improving governance transparency. He added that he does not favor dissolution.

Ben Field, South Bay Labor Council, stated that the Draft Report sheds light on serious governance problems at the District. He stated that contrary to what previous speakers had indicated, the Draft Report found that ECHD is providing much less community benefits compared with the other hospitals. He added that ECHD should increase community benefits and that the ECHD Board must comply with the Brown Act.

Dennis Chiu, Santa Clara County Planning Commissioner, Sunnyvale Housing and Human Services Commissioner, former Vice President for Asian-American Community Service, and a resident in the district, expressed support for the report's recommendations stating that the acquisition of the Los Gatos hospital has changed the District's mission and so the recommendation for dissolution is necessary. He stated that the District must increase community benefit assistance to school districts and non-profits.

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

Chairperson Constant announced that there would be more discussion at the next LAFCO meeting. He noted that the study is being done in response to accountability and transparency concerns. He stated that the District receives a portion of property taxes that would otherwise go to the cities and school districts. He added that there is a different dynamic when residents who are specifically paying taxes to the District are receiving the same level of service as those living outside its boundaries.

Commissioner Wasserman noted that the May 29, 2012 letter from Mr. Caligari did not address the recommendations in the report and requested that the ECHD prepare a response to Recommendations 1a through 1f prior to the next LAFCO meeting. In response to an inquiry by **Commissioner Abe-Koga**, Mr. Foti advised that the Gann Appropriations Limit Act restricts the amount of expenditures that jurisdictions can make based on several factors; however, certain types of expenditures like capital improvement and debt service are exempt. He reported that analysis shows that ECHD funds were designated for capital improvement. He also noted that there are questions on whether or not that limit applies to health care districts. In response to a follow-up inquiry by **Commissioner Abe-Koga**, Mr. Foti informed that the District was transferring monies to the Corporation designated for capital improvement without the associated capital improvement plans. He also cited a document notifying the ECHD Board that these must be expended on capital improvements in order to avoid violating the Gann limit. In response to a follow-up inquiry by **Commissioner Abe-Koga**, Mr. Foti informed that the reference was not to automatic payment of voter-approved general

obligations bonds but to a portion of the one percent property tax. In response to an inquiry by **Commissioner Wilson**, Ms. Palacherla advised that public comments will be accepted up to August 1, 2012; however, comments received by June 22, 2012 will be considered in the preparation of the Revised Draft Report which will be released by mid-July 2012.

Chairperson Constant announced that the Commission does not need to act on this issue at the August 1, 2012 meeting if LAFCO members need more information. He also noted that the websites of the District and the Corporation can now be distinguished from each other.

Motion: Mike Wasserman

Second: Susan Vicklund-Wilson

MOTION PASSED

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

NOES: None

ABSTAIN: None

ABSENT: Liz Kniss

8. SPECIAL DISTRICTS SERVICE REPORT: DRAFT REQUEST FOR PROPOSALS

Ms. Noel presented the staff report.

The Commission (a) authorized staff to issue a Request for Proposals (RFP) for a professional service firm to prepare a service review of special districts in Santa Clara county; (b) delegated authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$70,000 and to execute any necessary amendments subject to LAFCO Counsel's review and approval; and (c) appointed Commissioner Margaret Abe-Koga to serve on the Special Districts Service Review Technical Advisory Committee.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

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

NOES: None

ABSTAIN: None

ABSENT: Liz Kniss

9. DRAFT RFP: SPECIAL STUDY ON IMPACTS OF THE POTENTIAL DISSOLUTION OF THE SARATOGA FIRE PROTECTION DISTRICT AND ANNEXATION OF ITS TERRITORY TO THE SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

Ms. Noel presented the staff report.

After a brief discussion, it was determined that there was no need to establish an ad-hoc committee.

The Commission authorized staff to issue the RFP for a professional service firm to prepare a special study in order to inform LAFCO's decision on whether or not to initiate dissolution of the Saratoga Fire Protection District and annex its territory to the Santa Clara County Central Fire Protection District.

Motion: Susan Vicklund-Wilson

Second: Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson
NOES: None ABSTAIN: None ABSENT: Liz Kniss

10. SPECIAL DISTRICTS REPRESENTATION ON LAFCO

Ms. Noel presented the staff report.

In response to an inquiry by **Chairperson Constant**, Ms. Noel advised that based on the CKH Act, the special districts will decide whether or not they will be represented on LAFCO. In response to an inquiry by **Commissioner Wasserman**, Ms. Noel informed that nine special districts must adopt resolutions in favor; and, one-third of the total LAFCO cost will be apportioned to the independent special districts. In response to an inquiry by **Chairperson Constant**, Ms. Noel stated that special districts may reach agreement on an alternative way by which the LAFCO cost will be apportioned amongst them.

The Commission accepted the report.

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

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson
NOES: None ABSTAIN: None ABSENT: Liz Kniss

11. LEGISLATIVE REPORT

Ms. Palacherla presented the staff report.

The Commission authorized staff to send letters of support for the following bills: AB 2238 (Perea), relating to LAFCO Municipal Service Reviews; AB 2624 (Smyth), on Sustainable Community Grants; and, AB 2698 (Assembly Local Government Committee), the CKH Act Omnibus Bill.

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

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson
NOES: None ABSTAIN: None ABSENT: Liz Kniss

12. EXECUTIVE OFFICER'S REPORT

12.1 LAFCO STRATEGIC WORKSHOP

Ms. Noel presented the staff report. The Commission accepted the report.

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

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson
NOES: None ABSTAIN: None ABSENT: Liz Kniss

12.2 LAFCO COMMISSIONERS TERMS AND APPOINTMENTS

12.3 REPORT ON THE 2012 CALAFCO STAFF WORKSHOP

12.4 UPDATE ON WEBSITE REDESIGN

12.5 CALAFCO ANNUAL CONFERENCE IN MONTEREY ON OCTOBER 3-5, 2012

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

Motion: Mike Wasserman

Second: Susan Vicklund-Wilson

MOTION PASSED

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

NOES: None

ABSTAIN: None

ABSENT: Liz Kniss

13. PENDING APPLICATIONS / UPCOMING PROJECTS

There were none.

14. COMMISSIONER REPORTS

There were none.

15. NEWSPAPER ARTICLES / NEWSLETTERS

16. WRITTEN CORRESPONDENCE

There were none.

17. ADJOURN

The meeting was adjourned at 3:05 p.m. to the next meeting on Wednesday, August 1, 2012 in Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Pete Constant, Chairperson

Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk