



**LAFCO MEETING MINUTES  
WEDNESDAY, JUNE 5, 2013**

**CALL TO ORDER**

**Chairperson Mike Wasserman** called the meeting to order at 1:15 p.m.

**1. ROLL CALL**

The following commissioners were present:

- **Chairperson Mike Wasserman**
- **Commissioner Pete Constant**
- **Commissioner Sequoia Hall**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Linda J. LeZotte** (arrived at 1:21 p.m.)
- **Commissioner Susan Vicklund Wilson**
- **Alternate Commissioner Johnny Khamis**
- **Alternate Commissioner Yoriko Kishimoto** (Arrived at 1:18 p.m.)
- **Alternate Commissioner Terry Trumbull**
- **Alternate Commissioner Cat Tucker**

The following staff members were present:

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

**2. PUBLIC COMMENTS**

There was no public comment.

**3. APPROVE MINUTES OF APRIL 3, 2013 LAFCO MEETING**

The Commission approved the minutes of the April 3, 2013 LAFCO meeting.

Motion: Constant

Second: Abe-Koga

**MOTION PASSED**

**AYES:** Constant, Hall, Abe-Koga, Wasserman

**NOES:** None

**ABSTAIN:** None

**ABSENT:** LeZotte

4. **SPECIAL DISTRICTS SERVICE REVIEW: PHASE 1 AND SPHERE OF INFLUENCE UPDATES**

Dunia Noel, LAFCO Analyst, provided an overview of the special districts service review process. She informed that Jennifer Stephenson, Policy Consulting Associates, is present to answer questions.

Kirsten Powell, District Counsel for the South Santa Clara Valley Memorial District (SSCVMD), informed that SSCVMD submitted two letters updating the Commission on the work that has been done in response to the Report's recommendations. She stated that SSCVMD is committed to implementing recommendations in the Report. She announced that SSCVMD Board President John Ceballos and Vice President Phil Garcia are present to answer any questions. Ms. Powell informed that SSCVMD will report to the Commission in September 2013 on the implementation of the Report's recommendations, and in May 2014 for those items that are not completed by September 2013.

**Commissioner LeZotte** noted that SSCVMD has moved forward with the Report's recommendations without waiting for the Commission to take action. In response to an inquiry by **Chairperson Wasserman**, Ms. Powell indicated that SSCVMD will have more information regarding the audits when the person responsible for the District's finances returns. She informed that the SSCVMD will comply with whatever LAFCO thought was appropriate.

Miriam Salo, President, Rancho Rinconada Recreation and Park District (RRRPD), informed that she has submitted written comments at the meeting in addition to her May 14, 2013 letter.

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

In response to an inquiry by **Chairperson Wasserman**, Ms. Palacherla advised that pursuant to state law, special districts must file annual audits with the County Controller unless the special district Board requests and the County Board of Supervisors agrees to change the audit cycle to three or five years. She further informed that SSCVMD has not submitted its audit in the last five years and there is no record that the Board of Supervisors has authorized a three or five year audit cycle for the District.

**Commissioner Constant** moved for approval of the staff recommendation and at the request of **Commissioner Wilson**, clarified that the motion includes the California Environmental Quality Act (CEQA) action.

In response to an inquiry by **Commissioner Kishimoto**, Ms. Noel advised that RRRPD has a zero sphere of influence (SOI) since it is expected to be taken over by Cupertino. In response to **Commissioner Hall**, Ms. Noel advised that Cupertino has not taken a position regarding RRRPD since the service review in 2006. Staff expressed concurrence with **Commissioner Hall's** suggestion to resolve this issue so it does not come up each time RRRPD is reviewed.

The Commission adopted Resolution No. 2013-02, adopting the Special Districts Service Review: Phase 1 Report, adopting service review determinations, and adopting SOI updates and determinations for Rancho Rinconada Recreation and Park District, Santa

Clara County Lighting Service Area, Santa Clara Vector Control District, Saratoga Cemetery District, South Santa Clara Valley Memorial District, and Santa Clara Valley Transportation Authority. Said Resolution, by reference hereto, is made part of these minutes.

The Commission directed staff to (1) prepare the Final Report for the Special Districts Service Review: Phase 1 and to distribute the Final Report to all the affected agencies; (2) contact each agency and request a written response on how and when the agency plans to address the findings and/or implement the recommendations presented in the Final Report and to provide an explanation if the agency disagrees with a finding or does not plan to implement the recommendation; and (3) Requested that the County consider implementing recommendations in the Report in order to facilitate transparency and public accountability of special districts within this county.

Motion: Constant

Second: Abe-Koga

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

5. **CONTINUED FROM APRIL 3, 2013: MORGAN HILL URBAN SERVICE AREA (USA) AMENDMENT 2012 MONTEREY – SOUTH OF WATSONVILLE**

**Chairperson Wasserman** informed that the City of Morgan Hill has requested a further continuance of the public hearing to October 2, 2013.

Doug Muirhead, resident of Morgan Hill, informed that repeated postponement of the hearing is inconvenient for members of the public who want to participate in the process. He stated that while Morgan Hill has cited understaffing as a one of the reasons for the continuance, City staff is spending time on other projects. He inquired if LAFCO policies require Commission members to disclose meetings with the applicants.

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

In response to an inquiry by **Commissioner LeZotte**, **Chairperson Wasserman** informed that the LAFCO position will be filled after the District 2 County Supervisor is elected. In response to an inquiry by **Commissioner LeZotte**, commissioners indicated that they were planning to attend the October 2, 2013 public hearing. **Commissioner Wilson** stated that while commission members are required to disclose if they have spoken with the applicants at the time of the public hearing, she announced that she met with the City staff and property owners upon their request. She expressed support for the continuance of the public hearing.

The Commission continued the public hearing to October 2, 2013.

Motion: Constant

Second: Abe-Koga

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

6. **FINAL LAFCO BUDGET FOR FISCAL YEAR 2014**

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

Ms. Palacherla presented the staff report.

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

The Commission:

- a. Adopted the Final LAFCO Budget for Fiscal Year 2013-2014.
- b. Found that the Final LAFCO Budget for Fiscal Year 2014 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 special districts, to the County, to the Cities Association and to the Special Districts Association.
- d. Directed the County Auditor-Controller to apportion LAFCO costs to the cities; to the special districts; and to the County; and to collect payment pursuant to Government Code §56381.

Motion: Wilson

Second: Constant

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

7. **ELECTRONIC AGENDA PACKETS FOR LAFCO**

Ms. Palacherla presented the staff report.

In response to an inquiry by **Commissioner Abe-Koga**, Ms. Subramanian informed that in a recent case involving the City of San Jose, the court determined that all official business related information constitutes a public record regardless of its location, including those on personal devices and personal emails. She informed that the language in the proposed policy puts people on notice regarding this.

**Commissioner Abe-Koga** expressed support for electronic agenda packets and, in reference to Policy #9, she suggested the use of a software application to secure closed session materials rather than using passwords on the devices.

In response to an inquiry by **Commissioner Hall**, Ms. Subramanian stated that records that relate to LAFCO business, regardless of their location, are public records and those that relate to personal business are not public records. In response to a follow-up inquiry by **Commissioner Hall**, Ms. Subramanian informed that when a public records request is received involving personal devices and personal emails of commissioners, the LAFCO Counsel may be requested to review the records to determine which of those must be disclosed and which of those can be redacted. She noted that LAFCO Counsel would provide an explanation for the redaction or non-disclosure. In response to an inquiry by **Commissioner Wilson**, Ms. Subramanian informed that LAFCO-issued iPads may be

used for LAFCO business as well as for business of the other public agencies on which LAFCO members also serve. In response to an inquiry by **Chairperson Wasserman**, Ms. Subramanian advised that commissioners are not required to use iPads and electronic agenda packets.

In response to an inquiry by **Alternate Commissioner Khamis**, Ms. Palacherla advised that staff is recommending the use of iPads based on the experience of the public agencies that staff surveyed. She stated that if directed, staff will conduct research on other devices. **Commissioner Constant** stated that the proposed policy covers all types of devices. He indicated that the other boards and commissions that he serves on use iPads. He informed that the Finance Committee had an extensive discussion on the issue and recommended iPads. **Commissioner Hall** inquired if the recommended applications are available for the Android platform. **Commissioner Abe-Koga** stated that the choice of device and technology can be revisited when the iPads are due for upgrade.

In response to an inquiry by **Alternate Commissioner Tucker**, Ms. Palacherla stated that there is no wireless internet access in the Board Meeting Chambers and noted that commissioners must download the agenda packets prior to the meeting. **Chairperson Wasserman** requested staff to determine if the LCD monitors located on the dais can display the LAFCO agenda packets. **Commissioner Hall** noted that since commissioners serve on multiple bodies, he recommended that clerks coordinate to ensure uniformity of software and devices. He indicated that he made this proposal to the Santa Clara County Open Space Authority and the Santa Clara County Special Districts Association (SCCSDA). He noted that LAFCO could help initiate the discussions since its members sit on different governing bodies. **Commissioner Abe-Koga** informed that the Valley Transportation Authority (VTA) uses a portable Wi-Fi device for VTA Board meetings in the Board Chambers and offered to facilitate if necessary.

The Commission:

- a. Adopted policies related to use of LAFCO issued electronic devices, such as iPads, in order to address potential issues associated with the use of this technology and equipment.
- b. Authorized the purchase of iPads for LAFCO staff and interested commissioners to be used for accessing electronic agenda packets and other LAFCO meeting materials, as necessary.

Motion: Constant

Second: Hall

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**8. EL CAMINO HEALTHCARE DISTRICT**  
**8.1 LEGISLATIVE COUNSEL'S OPINION REGARDING APPLICABILITY OF GANN APPROPRIATIONS LIMIT TO HEALTH CARE DISTRICTS**

Ms. Palacherla presented the staff report.

**Commissioner Abe-Koga** proposed that rather than pursue a State Attorney General's (AG) opinion, the Commission move forward with the other options to address the issues related to the El Camino Healthcare District (ECHD) Gann Appropriations Limit (GAL). **Commissioner LeZotte** expressed agreement.

Ms. Palacherla informed that staff will request ECHD to consider if the three options listed in the staff report are feasible, the LAFCO Counsel will review ECHD's response to that request, and staff will report back to the Commission at the August 7, 2013 meeting.

In response to an inquiry by **Commissioner Wilson**, **Commissioner LeZotte** clarified that the motion does not direct staff to seek AG opinion, and **Commissioner Wilson** expressed agreement.

The Commission directed staff to request the ECHD to consider (1) amending its GAL to better reflect the revenues its receives, (2) using its revenue for other expenditures (such as paying off debt) that are exempt from the GAL, and that would provide more direct benefit to the district's residents or (3) returning excess funds.

Motion: LeZotte

Second: Wilson

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**8.2 UPDATE ON EL CAMINO HEALTHCARE DISTRICT'S IMPLEMENTATION OF THE RECOMMENDATIONS IN LAFCO'S AUDIT AND SERVICE REVIEW OF THE DISTRICT**

Ms. Palacherla informed that staff will review the status report provided by ECHD on the implementation of the 2012 ECHD Audit and Service Review recommendations and will report back to the Commission.

**9. LEGISLATIVE REPORT**

Ms. Palacherla presented the staff report.

In response to an inquiry by **Chairperson Wasserman**, Ms. Palacherla informed that AB 743 would eliminate the requirement for a protest hearing for certain island annexations. In response to an inquiry by **Commissioner Wilson**, Ms. Palacherla advised that the proposal to increase the acreage eligible for the streamlined island annexation process from 150 to 300 acres did not go forward. In response to an inquiry by **Alternate Commissioner Kishimoto**, Ms. Palacherla informed that AB 1427 clarifies that special districts' representatives to LAFCO must be elected or appointed members of their legislative bodies and not district staff members.

The Commission expressed support for State Assembly bills 743, 1427, 678 and 453, and authorized staff to send letter(s) of support as necessary.

Motion: Hall

Second: Wilson

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: LeZotte

**10. EXECUTIVE OFFICER'S REPORT**

**10.1 SPECIAL DISTRICTS SERVICE REVIEW: PHASE 2 UNDERWAY**

Ms. Noel presented the staff report. She stated that staff will use the contact information provided by Commissioner Hall for the Lake Canyon Community Services District.

**Commissioner Constant** suggested that LAFCO consider the dissolution of special districts that do not respond to LAFCO inquiries since it is very likely that such districts also ignore inquiries from the public. **Commissioner Hall** stated that he would inform the SSCSDA and encourage its members to respond to LAFCO communications.

**10.2 REPORT ON THE 2013 CALAFCO STAFF WORKSHOP**

Ms. Noel provided a staff report.

**10.3 NOMINATIONS TO THE CALAFCO BOARD OF DIRECTORS**

Ms. Noel provided a staff report. The Commission did not take any action.

**10.4 DESIGNATE VOTING DELEGATE AND ALTERNATE VOTING DELEGATE FOR SANTA CLARA LAFCO**

Ms. Noel provided a staff report.

**Commissioner Wilson** nominated Commissioner Constant as the voting delegate. Ms. Subramanian proposed that Ms. Palacherla be designated as the alternate voting delegate.

The Commission appointed Commissioner Constant as the voting delegate and Ms. Palacherla as the alternate voting delegate for Santa Clara LAFCO at the 2013 CALAFCO Annual Conference.

Motion: Susan

Second: LeZotte

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**10.5 SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY (SDRMA) BOARD ELECTION**

Ms. Noel provided a staff report. The Commission did not take any action.

**11. PENDING APPLICATIONS**

**11.1 West Bay Sanitary District SOI Amendment and Annexation**

12. **COMMISSIONER REPORTS**

**Commissioner Hall** directed attention to the May 2013 SPUR Report entitled Locally Nourished: How a Stronger Regional Food System Improves the Bay Area. He reported his attendance at a SPUR presentation and noted its relevance to LAFCO. **Commissioner Hall** also reported that SCCSDA is pursuing a certificate of transparency program and Santa Clara will be the first county to do so. **Commissioner LeZotte** announced that she would update the SSCSDA on LAFCO activities.

13. **NEWSPAPER ARTICLES / NEWSLETTERS**

The Commission noted the newspaper articles and newsletters.

14. **WRITTEN CORRESPONDENCE**

15. **ADJOURN**

The meeting was adjourned at 2:25 p.m. to the next meeting on Wednesday, August 7, 2013 in the Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

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Mike Wasserman, Chairperson  
Local Agency Formation Commission of Santa Clara County

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