

5. **Continued from October 5, 2016, December 7, 2016 and February 1, 2017 meetings:
MONTE SERENO URBAN SERVICE AREA AND SPHERE OF INFLUENCE
AMENDMENT 2016 (LUCKY ROAD)**

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

Ms. Palacherla presented the staff report.

Nick Petredis stated that he is counsel to the property owners and also represented them in 2013. He stated that the expansion request is consistent with LAFCO policies, will not promote urban sprawl, and will make the city boundary more orderly. He informed that the annexation would have an environmental benefit because the property would be able to connect to sewer along with five or six homes that are now on septic. He also stated that the city is supportive of anyone who wants to annex and that this annexation can be used as a positive example.

Commissioner Rennie informed that he visited the proposal area. In response to an inquiry by **Commissioner Rennie**, Alex Rubashevsky, property owner, informed that he already purchased the sewer line easement, and that the parcel is three quarters of an acre and that it is a legal lot. He indicated that he plans to build a house on the property either on septic or sewer, and that sewer is more environmentally friendly. In response to **Commissioner Rennie**, Mr. Petredis informed that the zoning allows for one unit/acre based on slope density.

Chairperson Hall determined that there are no more speakers from the public and declared the public hearing closed.

Commissioner Wilson informed that LAFCO policies for orderly growth require jurisdictions to annex their urban pockets before they expand their boundaries, and that state law has a streamlined annexation process to facilitate that. She informed that this application by Monte Sereno to expand its boundary without annexing its urban pockets has not changed since LAFCO heard it in 2013. She suggested that LAFCO consider a policy regarding applications brought back repeatedly without any change even after LAFCO denied them once. She indicated that while sewer connection maybe beneficial to the environment, this particular boundary expansion could be growth inducing. In response to her inquiry, Ms. Palacherla advised that there is no development proposal associated with the application but there is potential for two or three additional lots under the city's zoning designation for the area.

Commissioner Wilson noted that this is an example of leapfrog expansion that promotes urban sprawl. She also noted that there has been no change in any facts or circumstances since LAFCO considered it in 2013, and moved for denial of the expansion request.

Commissioner Jimenez seconded the motion.

In response to an inquiry by **Commissioner Rennie**, Ms. Palacherla informed that staff has no topographic map illustrating the elevation and buildable area, and that LAFCO cannot regulate zoning or density.

Commissioner Wasserman indicated that while he acknowledges LAFCO policies and preference for internal infill before expansion, he respects the decision of the residents to remain unincorporated. He directed attention to the map in the staff report and stated

that the expansion area is adjacent to the city and is orderly growth. He stated that the annexation would benefit the area as the neighboring properties can also connect to the sewer line. He expressed interest to move for approval if the motion for denial fails.

Commissioner Rennie requested more discussion on the application before voting and stated that he was not on the Commission in 2013 when this was discussed. He stated that the city attempted to annex the islands twice since 2013 but the residents opposed it. He suggested that LAFCO consider a less onerous condition such as annexation of only some pockets rather than all.

Commissioner Varela inquired about the frequency of Monte Sereno's expansion requests, concurred with Commissioner Wasserman, and stated that the sewer connection has an environmental advantage. He stated that the application would not induce growth since it is the only expansion proposal from the city.

Commissioner Jimenez inquired about the city's position on this application and if there were city representatives who could respond to this question. Perry Woodward stated that he represents the applicant. He indicated that the City supports the application and that by having no city representative present he believed the discussion could focus on this specific project rather on policy that is out of the applicant's control.

Chairperson Hall stated that the city's intent is unknown because it has withdrawn from an agreement with the County relating to preservation of the West Valley hillsides. He stated that there is no city staff present to answer questions about the city's plans for this area.

In response to an inquiry by **Commissioner Jimenez**, Ms. Palacherla advised that a major General Plan amendment must occur in order to allow subdivision in the County and even then, the properties would not be able to receive sewer services. In response to his follow-up inquiry, Ms. Palacherla advised that the West Valley Sanitation District could serve or is already serving the three Monte Sereno pockets since they are located within the city's USA. **Commissioner Jimenez** inquired if the residents who wrote in opposition to the expansion remain opposed and Mr. Petredis indicated that those opposed live to the north towards Lucky Road while those who are in support are those who could connect to sewer line when the expansion is approved. In response to his follow-up inquiry, Mr. Petredis indicated that based on his years of land use experience, he is certain that there is no interest from properties further up the hill to connect to sewer. **Commissioner Wasserman**, in reference to a prior inquiry by Commissioner Jimenez, stated that LAFCO should approve the expansion request since the landowners themselves are asking for annexation, unlike those property owners in the pockets who are opposed to annexation. In response to the inquiry by **Commissioner Jimenez**, Commissioner Wasserman indicated that the benefit of the application is sewer service to the area. In response to another inquiry by **Commissioner Jimenez**, Ms. Palacherla advised that LAFCO could not rescind approval of USA expansion unless the city comes back to request for USA retraction.

Citing the example of supporting affordable housing, **Commissioner Jimenez** stated that elected officials must sometimes take unpopular actions for the common good even if that impacts their reelection. He expressed understanding of the political dynamics that prevented Monte Sereno from annexing its pockets despite the streamlined annexation

process available in state law. Stating that it is in the City's best interest to annex islands, he urged Monte Sereno to annex urban pockets for the residents' good even if some of them are opposed. He informed that LAFCO policies are in place for a reason and he observed that the City's application appears to be contrary to those policies. He stated that he would not like LAFCO to create a precedent through this application that may play out differently in Gilroy, Morgan Hill or other cities that are continuing to sprawl.

Commissioner Wilson indicated that land use is not within LAFCO's authority and that LAFCO has no purview over zoning once a parcel is included into a city's USA. She brought the Commission's attention to the LAFCO 101 class which taught commissioners to wear a LAFCO hat when sitting on LAFCO even if they were appointed by a city, county or special district. She stated that while she understands the concerns of the city and its constituents, she considers boundary expansion requests from the perspective of LAFCO and its policies.

Commissioner Rennie informed that he would have asked city staff questions about their zoning ordinance if they were present. In response to his inquiry, Ms. Palacherla advised that if USA expansion is approved the area would be able to connect to the sewer line. **Commissioner Rennie** offered a compromise that would allow USA expansion to facilitate sewer connection but without annexation. Ms. Palacherla advised that city could annex the area anytime once it is within its USA boundary. In response to another inquiry by **Commissioner Rennie**, Ms. Palacherla advised that urban pocket residents currently use city services and infrastructure without contributing in taxes but when the pockets are annexed, residents can help pay for city services, run for public office and serve on the city committees. In response to another inquiry by **Commissioner Rennie**, Ms. Palacherla stated that the map depicts the SOI boundary as the blue line, and the USA boundary, the more relevant boundary, as the red line that is currently straight and clean.

Chairperson Hall again expressed concern that the city has no representative to answer questions. He discussed the importance of pocket annexations and described how difficult and inefficient it is for the County to provide services to those areas. He stated that other jurisdictions have annexed pockets in recognition of greater government efficiency even without support from all residents.

Commissioner Wasserman informed that the County encourages pocket annexation so it will not have to maintain roads or provide services, and that LAFCO promotes it for the purpose of logical boundaries and efficient delivery of services; however, the cities do not want to annex pockets because they must then assume responsibilities for infrastructure and services that the County currently provides. He informed that a Los Gatos study found that providing service to pockets costs more money. He stated that LAFCO, the County and Monte Sereno are all public agencies with their own preferences regarding urban pockets. He indicated that he supports what is before LAFCO which is the request for expansion to enable infill and sewer service provision.

Chairperson Hall granted Mr. Woodward's request to address the Commission.

Mr. Woodward informed that the applicant has requested the continuation of the item since Fall 2016 in order to have all seven members present as a full hearing body. He

requested that the Commission continue the item if it comes to 3-3 vote so that a full Commission could be present and city representatives could attend.

In response to an inquiry by **Commissioner Wilson**, Ms. Subramanian clarified that at the December meeting, five members and two alternates were present, and offered to check the previous records. Ms. Palacherla clarified that Monte Sereno has not made any new efforts to annex its pockets since 2013. Upon the request of **Chairperson Hall**, she informed that Saratoga had numerous islands when it brought an USA application to LAFCO, and through discussions the City decided to remove certain islands from its USA and annex others. She noted that even though the City initiated annexation, it could not complete the annexation of one of the larger islands due to protest from the residents. She noted that Monte Sereno pockets are smaller than 150 acres. **Chairperson Hall** stated that unlike the Saratoga case where the city made progress on island annexations, it does not appear that Monte Sereno has made any efforts and he stated that LAFCO should require consistency with its policies. He further stated that the Saratoga application provided a good example and that Monte Sereno should move forward in a similar way. He again questioned why Monte Sereno withdrew from the agreement with the County to protect the West Valley hillsides. He expressed support for the motion to deny the expansion request.

Commissioner Rennie stated that sewer connection is generally beneficial and he expressed agreement with the Chairperson about annexing some of the pockets. **Chairperson Hall** noted that LAFCO has not heard back from the city after the 2013 approval. He informed that it is easier to make decisions that are consistent with LAFCO policies as considering individual parcels could create precedent that plays differently in other parts of the county.

In response to an inquiry by **Commissioner Jimenez**, Ms. Palacherla informed that Saratoga had several pockets when it came to LAFCO to seek boundary expansion and that Saratoga came up with a plan to annex some pockets and a request to remove from its USA those it did not intend to annex. In response to his follow-up inquiry, Ms. Palacherla indicated that she would review and provide information on the Saratoga application since it involved multiple actions on different dates. In response to his other inquiry, Ms. Palacherla informed that if LAFCO denies the application, Monte Sereno can request for a reconsideration within 30 days if there are new facts that could not be presented previously.

In response to an inquiry by **Commissioner Jimenez**, Mr. Woodward indicated that they would have to discuss annexation of pockets with the City. He stated that there may be interest but the city council believes that all pocket residents are opposed.

Commissioner Jimenez indicated that while he seconded the motion for denial, he could support a motion for continuance to allow city representatives to be present at the next meeting.

Mr. Petredis stated that if LAFCO enforced its policies unwaveringly they become regulations and statutes. He indicated that policies guide decision-making and LAFCO has the discretion to apply them.

In response to an inquiry by **Commissioner Wasserman**, Ms. Subramanian advised that a 3-3 vote would be a no action. **Commissioner Wasserman** expressed his support for the continuance.

Commissioner Wilson stated that annexation of pockets by jurisdictions would make the delivery of services more efficient. She noted that the map is deceptive since previous speakers have referred to the blue SOI boundary line in arguing that the expansion will make the boundary orderly. She clarified that, in fact, the red USA boundary line that is presently straight and orderly would have a little thumb stick out if this expansion is approved, making the boundary disorderly regardless of whether or not Monte Sereno annexes its pockets. She informed that exceptions to policies create precedents. She expressed agreement with the Chairperson's comment that LAFCO must enforce its policies consistently.

Commissioner Jimenez requested Commissioner Wilson to amend the motion to continue the public hearing so that city representatives could be present at the next meeting and to allow staff to provide more information on the Saratoga application. Acknowledging the likelihood of a 3-3 vote, **Commissioner Wilson** amended the motion to continue the public hearing to June 7, 2017 with a seven-member Commission and requested staff to provide information on the Saratoga application. She clarified that a seven-member commission could include alternates voting in place of the regular members. **Commissioner Jimenez** concurred.

The Commission continued the public hearing to June 7, 2017, and directed staff to provide a report on the Saratoga pocket annexations.

Motion: Wilson

Second: Jimenez

AYES: Hall, Jimenez, Rennie, Varela, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Yeager

MOTION PASSED

6. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2018

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

Ms. Palacherla presented the staff report.

Doug Muirhead, a resident of Morgan Hill, expressed his support for the proposed budget for the development of the communications plan and for staff training. He stated that the communications plan would provide a new approach in promoting public support for LAFCO's positions on certain issues. He stated that the office move derailed the development of the communications plan and described the need for LAFCO to develop such a plan in order to gain public understanding and support in the face of confusion and speculation.

Chairperson Hall determined that there are no speakers from the public, and closed the public hearing.

In response to the inquiries by **Commissioner Wasserman**, Ms. Palacherla informed that the \$100,000 for consultant services are in the proposed FY 2018 budget since the projects

that were planned for FY 2017 could not be implemented. She advised that office expenses in the amount of \$52,000 includes rent. She informed that in FY 2017, rent and office furniture expenses came out of the reserve. She advised that the proposed FY 2018 budget includes \$42,000 to restore the reserve to \$150,000.

Upon the request of **Commissioner Wasserman**, Ms. Palacherla stated that she would work with County staff to determine how the budget will show rent without deviating from the County budget format. She indicated that the \$28,437 in overhead cost was determined by the County's cost allocation plan. She informed that the overhead charges vary from year to year.

The Commission:

1. Adopted the Proposed Budget for Fiscal Year 2017-2018.
2. Found that the Proposed Budget for Fiscal Year 2018 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorized staff to transmit the Proposed Budget adopted by the Commission including the estimated agency costs as well as the LAFCO public hearing notice on the adoption of the Fiscal Year 2018 Final Budget to the cities, the special districts, the County, the Cities Association and the Special Districts Association.

Motion: Jimenez

Second: Wasserman

AYES: Hall, Jimenez, Rennie, Varela, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Yeager

MOTION PASSED

The Commission has determined on consensus, there being no objection, to take Agenda Item No. 8 out of order in order to ensure Commission quorum.

8. OUT OF ORDER: LEGISLATIVE REPORT*

Dunia Noel, LAFCO analyst, presented the staff report.

The Commission accepted the report, took a support position on AB 1725 and AB 464, and authorized staff to send letters of support.

Motion: Wilson

Second: Rennie

AYES: Hall, Jimenez, Rennie, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Yeager, Varela

MOTION PASSED

7. EXECUTIVE OFFICER'S REPORT

7.1 RELOCATION AND SET-UP OF LAFCO OFFICE

The Commission noted the report.

7.2 MEETING WITH COUNTY COUNSEL ON POTENTIAL DISSOLUTION OF RECLAMATION DISTRICT NO. 1663 AND SANTA CLARA COUNTY LIBRARY SERVICE AREA SITES AND FACILITIES

The Commission noted the report.

7.3 UPDATE ON REQUEST TO ANNEX 3343 ALPINE ROAD TO WEST BAY SANITARY DISTRICT

The Commission noted the report.

7.4 REQUEST FROM 12475 LLAGAS AVENUE TO RECEIVE WATER SERVICE FROM SAN MARTIN COUNTY WATER DISTRICT

The Commission noted the report.

7.5 MEETINGS WITH OTHER APPLICANTS ON POTENTIAL LAFCO APPLICATIONS

The Commission noted the report.

7.6 UPDATE ON PUBLIC AGENCY PURCHASES OF LANDS WITHIN THE SOUTHEAST QUADRANT

In response to an inquiry by **Commissioner Jimenez**, Ms. Noel informed that staff has received an increased number of inquiries from realtors and developers about plans in Morgan Hill's Southeast Quadrant in view of recent acquisitions in the area and a school site being considered by the Morgan Hill Unified School District (MHUSD). She expressed concern that there is a continuing confusion and speculation while the County and the Santa Clara Valley Open Space Authority are working on a strategy to protect agricultural lands in the area. In response to his follow-up inquiry, Ms. Noel informed that staff provides information to the public when inquiries are received and, in the case of school site, LAFCO sent a letter to MHUSD expressing concern.

Commissioner Rennie informed that the Morgan Hill has bought properties adjacent to its sports field, and its General Plan includes more sports fields near the high school that would wipe out a big piece of land. On his inquiry on what stops the city from building sports fields in the County, Ms. Noel informed that the County does not provide sewer, water and other urban services in the unincorporated area.

Commissioner Wilson referenced a newspaper article that Ms. Palacherla wrote on LAFCO's role and suggested that similar outreach be conducted for Morgan Hill. She suggested that the article explain how development plans for the area are premature while work on ag preservation is in progress.

7.7 MEETING WITH REPRESENTATIVES OF THE SAN MARTIN NEIGHBORHOOD ALLIANCE

The Commission noted the report.

7.8 MEETING WITH REPRESENTATIVES OF THE SAN MARTIN NEIGHBORHOOD ALLIANCE

The Commission noted the report.

7.9 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING

The Commission noted the report.

7.10 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS MEETING

The Commission noted the report.

7.11 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING

The Commission noted the report.

***8. TAKEN OUT OF ORDER: LEGISLATIVE REPORT**

9. PENDING APPLICATIONS / UPCOMING PROJECTS

There was none.

10. COMMISSIONER REPORTS

Chairperson Hall informed that he attended a Santa Clara University symposium on urban fringe agriculture where he learned that there are new modes of agriculture that could generate revenues of up to \$100,000 per acre per year. He expressed interest in such potential for economic development and informed that the person who pioneered the system is training a Coyote Valley farmer.

11. NEWSPAPER ARTICLES / NEWSLETTERS

12. WRITTEN CORRESPONDENCE

There was none.

13. ADJOURN

The Commission adjourned at 11:58 AM to the regular LAFCO meeting on June 7, 2017 at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

Approved on _____.

Sequoia Hall, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk