



**Local Agency
Formation Commission
of Santa Clara County**
777 North First Street
Suite 410
San Jose, CA 95112
SantaClaraLAFCO.org

Commissioners
Susan Ellenberg
Sequoia Hall
Sergio Jimenez
Linda J. LeZotte
Rob Rennie
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners
Cindy Chavez
Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING MINUTES WEDNESDAY, OCTOBER 2, 2019

CALL TO ORDER

The meeting was called to order at 1:15 p.m.

1. ROLL CALL

The following commissioners were present:

- Chairperson Susan Vicklund Wilson
- Vice Chairperson Sergio Jimenez (arrived at 1:17 p.m.)
- Commissioner Susan Ellenberg
- Commissioner Sequoia Hall
- Commissioner Linda J. LeZotte
- Commissioner Rob Rennie
- Commissioner Mike Wasserman
- Alternate Commissioner Yoriko Kishimoto (arrived at 1:18 p.m.)
- Alternate Commissioner Russ Melton
- Alternate Commissioner Terry Trumbull

The following commissioners were absent:

- Alternate Commissioner Cindy Chavez
- Alternate Commissioner Maya Esparza

The following staff members were present:

- LAFCO Executive Officer Neelima Palacherla
- LAFCO Assistant Executive Officer Dunia Noel
- LAFCO Analyst Lakshmi Rajagopalan
- LAFCO Clerk Emmanuel Abello
- LAFCO Counsel Mala Subramanian

2. PUBLIC COMMENTS

There were none.

3. APPROVE MINUTES OF JUNE 5, 2019 LAFCO MEETING

The Commission approved the minutes of June 5, 2019 meeting.

Motion: LeZotte

Second: Wasserman

AYES: Ellenberg, Hall, LeZotte, Rennie, Wasserman, Vicklund Wilson

NOES: None ABSTAIN: None ABSENT: Jimenez

MOTION PASSED

4. COMPREHENSIVE ORGANIZATIONAL ASSESSMENT

Ms. Palacherla presented the staff report.

Alternate Commissioner Melton, as Chairperson of the Finance Committee, expressed appreciation to Committee members and staff for their work. He provided a brief background on the organizational assessment study and issuance of RFP, and informed that the Finance Committee interviewed four consultants on September 18th and recommended the hiring of Koff and Associates.

The Commission:

1. Awarded a service contract to Koff & Associates to conduct a Comprehensive Organizational Assessment of LAFCO in an amount not to exceed \$24,920.
2. Authorized the LAFCO Chairperson to execute the contract with Koff & Associates and to execute any necessary amendments subject to LAFCO Counsel's review and approval.

Motion: Jimenez

Second: LeZotte

AYES: Ellenberg, Hall, Jimenez, LeZotte, Rennie, Wasserman, Vicklund Wilson

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

5. UPDATE ON IMPLEMENTATION OF COMMUNICATIONS AND OUTREACH PLAN

Ms. Noel presented the staff report and invited commissioners and the public to view the LAFCO public exhibit displayed outside the Board Chambers in the County Government Center. **Chairperson Vicklund Wilson** informed that the Communications Plan will be presented at the CALAFCO Conference in Sacramento as there is interest among LAFCOs on how it was done. **Commissioner LeZotte** congratulated staff and the consultant for their work. **Chairperson Vicklund Wilson** stated that the outreach materials will be useful in expanding the public's understanding of LAFCO.

The Commission accepted the report and directed staff to display the outreach materials at the CALAFCO Conference.

Motion: Vicklund Wilson

Second: LeZotte

AYES: Ellenberg, Hall, Jimenez, LeZotte, Rennie, Wasserman, Vicklund Wilson

providers, including cities, special districts and agencies with land use jurisdiction such as the County. She also noted that staff would have to consider existing State law and LAFCO policies. She proposed that rather than a policy recommendation, staff would bring back more detailed information and analysis of this issue, including insights from a session about it at the CALAFCO Conference.

Alternate Commissioner Kishimoto noted the policy contradictions between the need to provide safe water and sanitary service to the farm worker housing, and its location outside the city.

In response to **Commissioner Rennie**, **Commissioner Wasserman** stated that the discussion is related to items #9.1 and #9.2, but he made his motion under Item #8 because of its generic title. **Commissioner Rennie** observed that staff analysis involves a good amount of work. **Commissioner Jimenez** expressed the need for more information and indicated support for directing staff to conduct more analysis. He disclosed that proponents for the temple have reached out to his office.

Commissioner Hall expressed concern that the motion may impact staff's work plan. Ms. Palacherla agreed this would be a time intensive effort because it involves discussions with a number of agencies and stated that staff would have to juggle priorities.

Chairperson Vicklund Wilson expressed opposition to the part of the motion directing staff to develop specific policy recommendation. She noted that water extension to certain areas could be growth inducing and could negatively impact agricultural lands. She observed that such a policy would become a slippery slope when there are no safeguards, such as designating the water for a specific use or prohibiting its use for future development.

Commissioner Wasserman amended his motion to direct staff to provide information regarding the issue, and **Chairperson Vicklund Wilson** agreed.

Commissioner LeZotte noted that the staff report has identified the problem and provided an update on the discussions that staff has had with other agencies. She noted that it is unreasonable to expect a policy recommendation at the next meeting and suggested that staff bring back a report to start a conversation. **Commissioner Wasserman** expressed agreement and indicated that his amended motion only requests for more information. **Commissioner Jimenez** accepted the amended motion.

The Commission accepted the report and directed staff to provide additional information on the issue.

Motion: Hall

Second: LeZotte

AYES: Ellenberg, Hall, Jimenez, LeZotte, Rennie, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: Vicklund Wilson

ABSENT: None

MOTION PASSED

9. EXECUTIVE OFFICER'S REPORT

9.1 Inquiry re. Water Service Extension to Proposed Metta Tam Tu Buddhist Temple Development

Ms. Noel provided the staff report.

Commissioner Wasserman stated that the proposed temple is one of the reasons for the discussions under Item #8. He provided a brief background on the project and the reasons why the temple is seeking water service connection from Morgan Hill.

Commissioner Ellenberg observed that if the extra-territorial water connection from Morgan Hill is not allowed, the proposed temple would be in a difficult position since SWRCB has denied the well permit. She noted the need for a policy addressing the situation where a project was approved under a certain law but the law changes midstream with no grandfather provision, particularly when the proponent has acted in good faith. She proposed that such policy include safeguards so it would not be growth-inducing or precedent-setting. She also expressed concern regarding possible violation of the 1993 and 2000 acts covering religious institutions and land use.

Chairperson Vicklund Wilson observed that the item is being considered for information only, and **Commissioner Ellenberg** agreed.

At the direction of **Chairperson Vicklund Wilson**, Ms. Palacherla advised that the process would require the Temple to approach Morgan Hill and the City to agree to provide water service and seek LAFCO approval. She noted that LAFCO has not yet received an application. **Commissioner Ellenberg** indicated that the application could be coming and inquired how LAFCO would help in the situation. In response, Ms. Palacherla informed that when it is received, various aspects of the application will be reviewed including the detailed history of the project, the grandfather issue, consistency with the County General Plan, whether the County would approve the proposal if it were not served by an onsite well, and noted that staff would have to work closely with the County Planning Office. **Commissioner Ellenberg** stated she would like assurance that the process would start in an open and neutral position, with no presumption for disapproval and also without compromising LAFCO goals. Ms. Palacherla expressed understanding.

Commissioner Hall informed that it is not unusual for LAFCO to receive applications for churches and religious schools in Morgan Hill, and that some were even larger than this proposal and what the County would allow.

Commissioner Rennie disclosed that he met with proponents for the temple and stated that he explained LAFCO policies and procedures to them. He indicated that a hypothetical situation where the property is sold to a housing developer 10 years after the water connection is approved could be prevented by requiring an agricultural easement around the area. He cautioned, however, that if LAFCO facilitates water connection to this group, then others will be emboldened to also build large structures in unincorporated areas requiring urban service connections.

He stated that there are gray areas in this case because it appears that the amount of development has increased over time and is yet unclear what process was used. He agreed that LAFCO should find ways to help while addressing policy concerns.

The Commission noted the report.

9.2 Comment Letters on City of Gilroy's Consideration of Providing City Water Service Outside City Boundaries Without Seeking LAFCO Approval

Ms. Noel presented that staff report.

Bart Hechtman, informed that he is counsel for Christopher Ranch, which is the owner of the farm workers housing requesting water service connection from Gilroy. He stated that Christopher Ranch is one of the largest farming concerns in the South Bay and a natural ally for LAFCO in preserving agricultural lands. He noted that LAFCO staff is legally incorrect that LAFCO approval is required. He indicated that preventing water connection is contrary to policies of LAFCO, the City and the County. He stated this unique situation is exempt from LAFCO approval as surplus water is used to benefit agricultural industries and residential structures. He urged LAFCO to accept the report without further direction to staff and to just let Gilroy move forward, which will allow the County to approve the use permit.

In response to an inquiry by **Commissioner Wasserman**, Mr. Hechtman informed that the packet only includes the two letters that staff submitted to Gilroy and he had no further questions.

Commissioner Wasserman noted that since the sewer service was existing prior to 2001, there is no need for LAFCO approval. A brief discussion ensued between **Chairperson Vicklund Wilson** and **Commissioner Wasserman** and it was determined that correspondence between Gilroy and LAFCO is available to the commissioners.

Commissioner Jimenez acknowledged that this is an informational item at this time. In response to his inquiry, Ms. Palacherla advised that the Commission will be informed if staff has further correspondence with the City but there will be no action unless there is an application to LAFCO. Ms. Subramanian added that if Gilroy provides water service connection after making a decision that LAFCO approval is not required, staff will come back and inform LAFCO and LAFCO could consider if it wants to challenge that decision.

In response to an inquiry by **Commissioner Rennie**, Ms. Palacherla informed that no other agency has claimed exemption from LAFCO approval, and she advised that State law has criteria for exemption from LAFCO approval for certain service extensions, but in this case staff does not believe that the project meets the criteria.

Commissioner Hall referenced Commissioner Jimenez's statement that this is an informational item and suggested that unless there is an application, staff may not have detailed information on the project. **Commissioner Ellenberg** agreed and requested staff to forward any new correspondence to the Commission.

11. PENDING APPLICATIONS / UPCOMING PROJECTS

There was none.

12. COMMISSIONER REPORTS

Commissioner Rennie informed that Los Gatos successfully completed its island annexations with little opposition because the Town staff has thoroughly explained the advantages of annexation. **Chairperson Vicklund Wilson** congratulated Commissioner Rennie.

13. NEWSPAPER ARTICLES / NEWSLETTERS

There was none.

14. WRITTEN CORRESPONDENCE

The Commission noted the Letter from the Special District Risk Management Authority Regarding President's Special Acknowledgement Award – Workers' Compensation Program.

15. CLOSED SESSION: NEWSPAPER ARTICLES / NEWSLETTERS

The Commission adjourned to closed session at 2:21 p.m., and reconvened at 2:42 p.m., with no report.

16. ADJOURN

The Commission adjourned at 2:43 p.m., to the next regular LAFCO meeting on December 4, 2019 at 1:15 p.m., in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

Approved on December 4, 2019.



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

By: 

Emmanuel Abello, LAFCO Clerk