

**LOCAL AGENCY FORMATION COMMISSION OF  
SANTA CLARA COUNTY  
MINUTES  
WEDNESDAY, FEBRUARY 4, 2009**

**1. ROLL CALL**

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 4th day of February 2009 at 1:15 p.m. in the Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California, with the following members present: Chairperson John Howe, Vice Chairperson Susan Vicklund-Wilson, and Commissioners Pete Constant, Don Gage and Liz Kniss. Alternate Commissioners Al Pinheiro and Terry Trumbull are also present.

The LAFCO staff in attendance includes Neelima Palacherla, LAFCO Executive Officer; Dunia Noel, LAFCO Analyst; and, Steve Mitra, LAFCO Counsel, Office of the County Counsel.

The meeting is called to order by Chairperson Howe and the following proceedings are had, to wit:

**2. WELCOME NEW LAFCO COMMISSIONERS: LIZ KNISS AND GEORGE SHIRAKAWA**

The Chairperson welcomes Commissioner Kniss and Alternate Commissioner Shirakawa. Commissioner Kniss informs that she and Alternate Commissioner Shirakawa attended a LAFCO orientation presented by staff on February 2, 2009.

The Chairperson proposes to take the agenda out of order so that the Closed Session will be convened towards the end of the meeting. On motion of Commissioner Wilson, seconded by Commissioner Gage, it is unanimously ordered that items 8 and 9 of the agenda will be taken up at the end of the meeting.

**3. PUBLIC PRESENTATION**

Brian Schmidt, Committee for Green Foothills, proposes that a LAFCO policy be put in place to require analysis of proposals relating to extension of services outside of agency boundaries, particularly those applications addressing concerns like failing septic systems that, as a consequence, would make urban services available to intervening vacant lands.

**4. APPROVE THE MINUTES OF DECEMBER 3, 2008 MEETING**

On motion of Commissioner Gage, seconded by Commissioner Constant, it is unanimously ordered that the minutes of the December 3, 2008 meeting be approved, as submitted.

**5. APPROVE CONSENT CALENDAR**

**5.1 WEST VALLEY SANITATION DISTRICT 2008-03 (FORRESTER ROAD)**

On motion of Commissioner Kniss, seconded by Commissioner Constant, it is unanimously ordered that Resolution No. 2009-01 be adopted, approving the annexation to West Valley Sanitation District of one parcel with a total area of about 1.82 acres, located at 235 Forrester Road in the Town of Los Gatos. Said Resolution, by reference hereto, is made part of these minutes.

**6. BUDGET SUBCOMMITTEE FOR FISCAL YEAR 2009-10**

Ms. Palacherla recommends that the Commission appoint two commissioners to the Budget Subcommittee. In response to an inquiry by Commissioner Kniss, Commissioner Gage informs that he and Chairperson Howe served previously on the Budget Subcommittee. Chairperson Howe and Commissioner Gage express interest in serving on the Subcommittee again.

On motion of Commissioner Constant, seconded by Commissioner Wilson, it is unanimously ordered that Chairperson Howe and Commissioner Gage be appointed to the FY 2009-10 Budget Subcommittee.

**7. LAFCO FEE WAIVER REQUEST FROM CAMPBELL AND LOS GATOS FOR AN URBAN SERVICE AREA (USA) / SPHERE OF INFLUENCE AMENDMENT (SOD) AND FOR DETACHMENT FROM CAMPBELL TO FACILITATE ANNEXATION OF ISLAND (WEST PARR AVENUE)**

Ms. Palacherla reports that the City of Campbell and the Town of Los Gatos have requested a waiver of LAFCO USA amendment fees to facilitate the annexation of a portion of West Parr Avenue that qualifies for island annexation. She directs attention to a map illustrating the segments of West Parr Avenue, and the boundaries of Campbell and Los Gatos in the area. She states that the road could be annexed to Campbell currently under the island annexation provision without amendment of the USA. LAFCO would waive island annexation fees, and the County would cover Surveyor and Assessor costs,

as well as the State Board of Equalization processing fee. However, the two cities would like to annex up to the centerline of West Parr Road as opposed to Campbell annexing the full width of the road since they believe that this would allow for more logical boundaries. This would require LAFCO review and approval of an amendment to the USA and SOI boundaries. Ms. Palacherla reports that State law allows waiver of LAFCO fees if LAFCO can find that the waiver is not detrimental to public interest. She indicates that LAFCO's cost is borne by the 15 cities and the County and it would be difficult to waive fees that benefit only two cities and that it might set a precedent for such requests from other agencies. She states that the Commission may deny the fee waiver or request the cities to submit a complete USA amendment application to allow the Commission to review the merits of the application and the fee waiver request simultaneously.

In response to an inquiry by Commissioner Gage, Ms. Palacherla advises that the USA/SOI amendment application should be submitted along with the required fees and the Commission would then consider the request for a fee waiver. Commissioner Gage expresses interest in the USA amendment application and informs that the Commission has waived processing fees for island annexations. He then moves to approve the staff recommendation to request Campbell and Los Gatos to first submit the application before the Commission determines whether or not to waive the fees. In response to an inquiry by Commissioner Wilson, Ms. Palacherla advises that the USA/SOI processing fee is \$11,000 deposit. Commissioner Wilson comments that the Commission must review the application because the fee waiver would benefit only two cities. Commissioner Kniss comments that the Commission should have more information about the project before the fees are waived and Commissioner Gage expresses agreement.

Bob Kass, Public Works Director, City of Campbell, informs that the USA/SOI application and island annexation involves no private property, would establish a logical boundary between the two cities, and would address jurisdictional responsibility issues. He explains that a minor USA adjustment and island annexation are necessary because Campbell's boundary with Los Gatos is jagged. He likewise informs that the \$47,000 from the County Roads and Airports Department is a reimbursement to Campbell for the money already spent to repave West Parr Avenue. He comments that an island annexation

without USA amendment will not benefit Campbell. He then requests staff to indicate whether or not the USA amendment is feasible before Campbell submits its application.

Commissioner Gage expresses support for the USA application, indicating that the County, San Jose and Campbell have diligently worked to annex pockets in order to resolve confusion over jurisdictional responsibilities and provision of public services.

Commissioner Constant seconds the motion. He indicates that the City of San Jose also has illogical boundaries with Campbell and states that one of LAFCO goals is to create logical boundaries because it is important for both the residents and public agencies providing services. He then expresses support for the USA application, stating that the waiver of fees is a small cost compared to the benefits of island annexation.

In response to a request by Commissioner Wilson, Commissioner Gage clarifies that his motion is for the Commission to request an application from Campbell, and then determine whether or not fees are to be waived. He states that waiver of fees would not set a precedent because this is a unique situation of two cities cleaning up their boundaries and resolving jurisdictional problems, and that the Commission would have to review the merits of any fee waiver requests in the future. Ms. Palacherla advises that Campbell staff has indicated that they would submit an application for USA amendment to LAFCO even the fees are not waived because the reimbursement of road maintenance costs from Roads and Airports Department is contingent on annexation of West Parr Avenue to a city.

Commissioner Kniss expresses support for the application and inquires whether LAFCO fees have been waived in the past. Ms. Palacherla advises that LAFCO has not waived fees for applications; however, LAFCO has approved a blanket fee waiver for processing island annexations. In response to another inquiry by Commissioner Kniss, Commissioner Gage clarifies that his motion does not waive the USA/SOI fees at this time. Chairperson Howe comments that the two cities are working together to fix their boundaries, and Commissioner Kniss observes that island annexations are important to the County.

The Chairperson calls the question. It is unanimously ordered that Campbell and Los Gatos must submit a complete application to allow LAFCO to consider the merits of the proposal, at which time it will be determined if the USA/SOI fees will be waived.

**10. EXECUTIVE OFFICER'S REPORT**

**10.1 CALAFCO STAFF WORKSHOP IN SAN LUIS OBISPO ON APRIL 29 - MAY 1, 2009**

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered that staff be authorized to attend the CALAFCO Staff Workshop and travel expenses be funded by LAFCO budget.

**10.2 CALAFCO "U" CLASS ON "SB 375 - SO HOW WILL IT WORK FOR LAFCO?" IN SAN JOSE, MARCH 27, 2009**

Ms. Palacherla reports that CALAFCO has a class on Senate Bill No. 375 which will discuss LAFCO and its role in SB 375. She informs that the workshop will be held on March 27, 2009 at San Jose City Hall, and thanks Commissioner Constant and his staff for arranging the location. Ms. Palacherla then recommends that commissioners and staff be authorized to attend the workshop. The Chairperson requests public comment.

Brian Schmidt, Committee for Green Foothills inquires if the workshop is open to the public. Ms. Palacherla states that it is likely open but that she would check with CALAFCO and inform Mr. Schmidt.

On motion of Commissioner Kniss, seconded by Commissioner Constant, it is unanimously ordered that commissioners and staff be authorized to attend the CALAFCO workshop on SB 375.

**10.3 LAFCO INFORMATIONAL WORKSHOP ON ANNEXATION PROCEDURES FOR CITIES AND SPECIAL DISTRICTS (MARCH 10, 2009)**

Ms. Palacherla reports that staff will hold an informational workshop on annexation procedures for County, cities and special districts staff on March 10, 2009.

**11. COMMISSIONERS' REPORTS**

There are no reports from commissioners.

**12. WRITTEN CORRESPONDENCE**

There is no written correspondence.

**13. NEWSPAPER ARTICLES**

There are no newspaper articles.

**14. PENDING APPLICATIONS / UPCOMING PROJECTS**

Ms. Palacherla informs that staff has received an application from the City of Morgan Hill to annex a 20-acre parcel in order to preserve open space. The application will be taken up at the April 8, 2009 LAFCO meeting.

**8. TAKEN OUT OF ORDER: CLOSED SESSION**

On order of the Chairperson, there being no objection, the meeting is adjourned to a Closed Session at 1:47 p.m.

*Alternate Commissioners Pinheiro and Trumbull leave at 1:47 p.m.*

*The Commission reconvenes at 2:23 p.m.*

**9. TAKEN OUT OF ORDER: REPORT OUT OF CLOSED SESSION**

The Chairperson informs that the Commission met in closed session pursuant to Government Code §54957(b)(1) and reports that it directed staff to terminate LAFCO's legal services agreement with the County of Santa Clara and states that the Commission unanimously decided to retain Best, Best & Krieger as the LAFCO General Counsel.

**15. ADJOURN**

On order of the Chairperson, there being no objection, the meeting is adjourned at 3:17 p.m. to a regular meeting to be held on Wednesday, April 8, 2009 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

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John Howe, Chairperson  
Local Agency Formation Commission

ATTEST:

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Emmanuel Abello, LAFCO Clerk