



**Local Agency
Formation Commission
of Santa Clara County**

777 North First Street
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San Jose, CA 95112

SantaClaraLAFCO.org

Commissioners

Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners

Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull

Executive Officer
Neelima Palacherla

**LAFCO MEETING MINUTES - CORRECTED
WEDNESDAY, DECEMBER 2, 2020**

CALL TO ORDER

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

Pursuant to the provisions of California Governor's Executive Order N-29-20 issued on March 17, 2020, this meeting was held by teleconference only.

1. ROLL CALL

The following commissioners were present:

- Chairperson Sergio Jimenez
- Vice Chairperson Susan Ellenberg
- Commissioner Rich Constantine
- Commissioner Sequoia Hall (joined at 1:20 p.m.)
- Commissioner Linda J. LeZotte
- Commissioner Mike Wasserman
- Commissioner Susan Vicklund Wilson
- Alternate Commissioner Yoriko Kishimoto (joined at 1:20 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:

- Neelima Palacherla, LAFCO Executive Officer
- Dunia Noel, LAFCO Assistant Executive Officer
- Emmanuel Abello, LAFCO Clerk
- Mala Subramanian, LAFCO Counsel

2. PUBLIC COMMENTS

There were none.

Ms. Subramanian noted that there was some confusion at the October meeting among the members of the public and the Commission as to whether the commission can discuss certain items on the agenda, including items that are for information only. She advised that any item on the agenda could be discussed but no action may be taken on informational items, and the discussion on items will be recorded in the minutes.

3. APPROVE MINUTES OF OCTOBER 7, 2020 LAFCO MEETING

The Commission approved the minutes of October 7, 2020 meeting.

Motion: Wasserman Second: LeZotte

AYES: Constantine, Ellenberg, Jimenez, LeZotte, Trumbull, Wasserman

NOES: None ABSTAIN: Vicklund Wilson ABSENT: Hall

MOTION PASSED

4. ANNUAL FINANCIAL AUDIT REPORT (JUNE 30, 2020)

Ms. Palacherla expressed appreciation to the staff of various County Departments, including staff in the Accounting division of the County Executive's Office, Payroll division in the ESA and in the Controller's Office for their assistance with the Audit.

Sheldon Chavan, Principal, Chavan & Associates, LLP, LAFCO's independent auditor, made a brief presentation on the Audit Report.

In response to inquiries by **Commission LeZotte**, Mr. Chavan informed that LAFCO staff is under the CalPERS pension system with a seven percent rate of return recently, and since the plan is through the County, there is no ability for staff to increase their contributions beyond what the County allows.

In response to an inquiry by **Commissioner Ellenberg**, Mr. Chavan informed that the 147 percent increase in liabilities reflects the advance payment made in Fiscal Year (FY) 2020 by a LAFCO member agency for its share in the FY 2021 LAFCO Budget. In response to further inquiry by **Commissioner Ellenberg**, Mr. Chavan informed that the actual investment incomes between FY 2019 and FY 2020 are at par. **Commissioner Ellenberg** noted that in the statement of activity the vacation earned exceeds the amount of vacation used and encouraged staff to take time off and have a little balance. She thanked Mr. Chavan for the report and the presentation.

The Commission:

1. Received a presentation from Chavan & Associates, LLP on LAFCO's Annual Financial Audit Report.
2. Received and filed the Annual Financial Audit Report (June 30, 2020) prepared for Santa Clara LAFCO by Chavan & Associates LLP.

Motion: Wasserman Second: Ellenberg

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

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

5. PROPOSED REVISION OF LAFCO'S SERVICE REVIEW WORK PLAN TO PRIORITIZE THE COUNTYWIDE FIRE SERVICE REVIEW

Dunia Noel, LAFCO Analyst, presented the staff report.

Ms. Palacherla added that she contacted Fire Chief Tony Bowden who informed her that Garry Herceg, Deputy County Executive, is coordinating the County's fire study. She stated that she then contacted Mr. Herceg and it is her understanding that the County's study will focus on operational and implementation issues that are specific to the County, and that the County Board of Supervisors will consider the issue at its December 15, 2020 meeting. She indicated that LAFCO's fire service review would be broad in nature and will look at various issues including wildfire prevention and safety.

Allan Epstein, a resident of Los Altos Hills, noted his comment letter and proposed that the wildland fire portions be taken out from the fire service review and studied separately, and he noted that the issue will require more specific study and immediate action than a broad and comprehensive study. He then questioned how LAFCO's service review differs from the County's fire study.

In response to an inquiry from **Chairperson Jimenez**, Ms. Palacherla indicated that she has no more specific information about the County study at this time.

In response to an inquiry by **Commissioner LeZotte**, Ms. Palacherla indicated that LAFCO's fire service review will not look at operational issues. She referenced the LAFCO staff report prepared at the end of the 2010 Fire Service Review that included implementation steps for the recommendations from the Service Review and noted that it identifies the agencies that may further study and implement the recommendations. She anticipated that the County study will be at the operational level and could consider the implementation of recommended options. In response to another inquiry by **Commissioner LeZotte**, Ms. Palacherla stated that the issues regarding private fire protection services will be added to the list of issues that the consultant will talk about with the fire agencies.

In response to an inquiry by **Chairperson Jimenez**, Ms. Palacherla explained the service review process and informed that staff will prepare a draft RFP, circulate it for review and comment and bring it for LAFCO approval at the February meeting. **Commissioner Ellenberg** observed that the process as outlined indicates that there are opportunities for LAFCO and the County to interact to prevent overlaps and ensure a thorough study.

Commissioner Wasserman noted that LAFCO's work plan includes review of special districts and that a fire service review would also include special districts and

be duplicative. He proposed that the same consultant be hired for both LAFCO's fire service review and the County study to prevent overlaps in the two separate studies and to be fiscally responsible. He also proposed that staff do the service review in-house since it is included in the work plan and LAFCO recently added a staff member. At the request of **Chairperson Jimenez**, Ms. Palacherla provided a brief overview of LAFCO's service review program and explained LAFCO's approach to the various services reviews such as for countywide fire services, countywide water and wastewater services, a review of other remaining special districts and a review of cities. She noted that districts included in the fire or water service reviews are not included in the special districts service review. She also noted that LAFCO may step back and consider a different approach to service reviews if desired. She informed that LAFCO retains consultants with the necessary expertise to conduct its service reviews and that staff's role has been to plan for, manage and review the work of the consultant, and coordinate with affected agencies. In response to another inquiry by **Commissioner Wasserman**, Ms. Palacherla informed that a service review is a year-long process and that the cost for the consultant is included in the LAFCO budget, and she indicated that the four fire districts being studied at this time will not be included in the review of special districts. In response to another inquiry by **Commissioner Wasserman**, Ms. Palacherla reiterated that LAFCO's fire service review is countywide and will include the four fire districts and all city fire departments. **Commissioner Wasserman** then confirmed that LAFCO will hire a consultant to study the four fire districts along with the cities that provide fire services and that the service review report is expected to be completed in 12 months.

In response to the inquiry by **Chairperson Jimenez**, Ms. Palacherla advised that while it may be possible for both LAFCO and the County's study to be done by the same consultant, the scope of LAFCO's fire service review will be different from the County's as LAFCO's review is will broad in scope and will be at a higher level, and the County will likely focus on specific operational aspects, and therefore may require different consultant qualifications and technical expertise. She indicated that LAFCO's study is mandated by state law and the expectation is that it is an independent study and having a consultant working on both studies would make it difficult to clarify responsibilities between LAFCO and the County.

Alternate Commissioner Kishimoto indicated the need for a focused study on wildfires in the wildlands and wildland-urban interface considering the wind and drought exacerbated by climate change, and she cited an article about fuel and wind driven wildfires. She also inquired whether land use zoning could be a potential solution to keeping development out of areas susceptible to severe fire danger. Ms. Palacherla informed that the previous fire service reviews covered the underserved areas in the Diablo mountain range and the Santa Cruz mountains and was the basis for large annexations to the Santa Clara County Central Fire Protection District and the South Santa Clara County Fire Protection District, but there are still remaining underserved areas along the Diablo range. She also indicated that wildfire issues would continue to be a focus area for the fire service review. She noted that in most cases it is not LAFCO but the County that would have the ability to study, analyze

further and implement any recommendations that come out of the service review. Ms. Palacherla also informed that LAFCO does not have land use authority and could not make land use recommendations, but the study can consider current general plan designations as a strategy for managing growth in such areas.

Commissioner Hall expressed agreement with Alternate Commissioner Kishimoto and noted that open space districts own a lot of land and play a key role in fire protection of the land. He discussed how the Santa Clara Valley Open Space Authority (OSA) has created buffer zones and coordinated with local fire agencies, and he briefly discussed OSA's role in containing the fire outside Morgan Hill four years ago. He noted the importance of interagency communication and the coordination of responsibilities in both fire and water services, and he directed attention to an article about UC San Diego's Covid-19 wastewater surveillance as a model for collaboration. He stated that coordinating local governments is one role that LAFCO can play in the county. He also informed that a recent regional study has found that open space lands create real dollar benefits.

Commissioner Susan Vicklund Wilson indicated that service reviews look at the upper level governance of the fire agencies but may have recommendations for future focused studies, such as the special study on Saratoga Fire district to look at potential consolidation. She noted that the type of consultant expertise that LAFCO and the County would need for their studies would likely be different. She noted that the service review could be the starting point for the County's study and vice versa, and she expressed optimism for a smoother service review as agencies are more willing to share information. Ms. Palacherla expressed agreement and added that LAFCO's fire service review was placed on hold last year to await the completion of the County's management audit of the fire districts as the reports could inform LAFCO's service review. She recommended that it is now time for LAFCO to move forward with the fire service review.

Commissioner Wasserman requested that staff provide a breakdown of how their time is spent during the year. He noted that a fire service review is overdue and requested for the schedule of service reviews of the other special districts.

Commissioner Vicklund Wilson stated that LAFCO has retained a consultant to conduct LAFCO's Organizational Assessment Study which contains such information on staffing issues. She also indicated that specific studies on individual agencies such as El Camino Healthcare District and Saratoga Fire District are considered part of the service review program and that LAFCO has the ability to skip a service review when a previous study is still determined as sufficient and if everything is going well. Ms. Palacherla expressed agreement and stated that LAFCO completed service reviews annually until 2015, and that staff has been working on fire issues since the 2010 fire service review and has conducted the special study on Saratoga Fire District in 2014. She informed that state law requires LAFCO to update spheres of influence of special districts every five years and conduct service reviews prior to the update, as necessary. In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla indicated that the Special Study on the Saratoga Fire District was about governance

options recommended for the district in the 2010 fire service review, and she provided a brief overview on it. **Commissioner Wasserman** indicated that he has learned more about the service review program and expressed hope that the public has gained a better understanding of LAFCO's service review program. He noted that it is important to have transparency.

The Commission:

1. Directed staff to revise the LAFCO Service Review work plan as follows (listed from highest priority to lowest priority):
 - a. Countywide Fire Service Review
 - b. Countywide Water and Wastewater Service Review
 - c. Special Districts Service Review
 - d. Cities Service Review
2. Directed staff to prepare for the Commission's consideration at the February 3, 2021 LAFCO meeting a Draft Request for Proposals (RFP) for a professional services firm to conduct a Countywide Fire Service Review.
3. Appointed Commissioner Susan Vicklund Wilson and Alternate Commissioner Yoriko Kishimoto to serve on the Countywide Fire Service Review Technical Advisory Committee.

Motion: Wasserman

Second: Ellenberg

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

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

6. UPDATE ON REGIONAL HOUSING NEEDS ALLOCATION FOR UNINCORPORATED SANTA CLARA COUNTY

Ms. Palacherla presented the staff report.

In response to inquiries by **Commissioner Ellenberg**, Ms. Palacherla advised that LAFCO has provided comments to the Association of Bay Area Government (ABAG) and is participating in partner agency discussions on the issue. In response to further inquiry by **Commissioner Ellenberg**, Ms. Palacherla informed that LAFCO has no authority over ABAG and that LAFCO's role in this instance is as an advocate and that LAFCO does not have a direct role in the Regional Housing Needs Allocation (RHNA) implementation. She noted that while LAFCO approval is not needed for development in the unincorporated County, LAFCO approval is needed prior to any city extension of services into the unincorporated areas to serve potential new development approved by the County to meet their RHNA allocations.

Commissioner Ellenberg requested staff to provide LAFCO with regular updates on this issue, as they become available.

Commissioner Wasserman expressed support for requesting ABAG and the cities to modify RHNA allocations for the unincorporated County since it conflicts with the County General Plan, Plan Bay Area 2050 and greenhouse gas reduction goals. He also indicated that while the State is mandating the County and the cities to build more homes, it is not providing the funds to pay for new services such as police, water, fire protection, schools and infrastructure.

In response to an inquiry by **Chairperson Jimenez**, Ms. Palacherla agreed that potential new legislation is an option to address this issue and noted that other counties such as Napa and Sonoma are experiencing similar concerns as unincorporated Santa Clara County. She noted that ABAG is currently required to consider LAFCO's sphere of influence boundaries in the preparation of the Plan Bay Area 2050, which was the basis for the RHNA methodology until this year.

The Commission accepted the report, directed staff to continue working with ABAG on RHNA and to keep the Commission informed on the issue.

Motion: Vicklund Wilson

Second: Constantine

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

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

7. NOTIFICATION OF INACTIVE DISTRICTS IN SANTA CLARA COUNTY

Ms. Noel presented the staff report.

The Commission accepted the report.

Motion: Vicklund Wilson

Second: Constantine

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

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

8. EXECUTIVE OFFICER'S REPORT

8.1 Update on LAFCO Organizational Assessment

The Commission accepted the report.

8.2 Update on Rancho Rinconada Recreation and Park District Special Study

The Commission accepted the report.

8.3 Correspondence re. San Jose Annexations and Concurrent Detachments from Burbank Sanitary District

In response to the inquiry by **Commissioner Ellenberg**, Ms. Palacherla informed that she has no further updates on the issue at this time beyond what is in the staff report. **Commissioner Ellenberg** requested staff to notify her with any new information on the issue as the area is within her Supervisorial District. **Chairperson**

Jimenez, as the City of San Jose Council Member, offered his assistance for coordination with the city. **Alternate Commissioner Kishimoto** expressed her interest in the issue and requested updates.

The Commission accepted the report.

8.4 Meeting with Town of Los Altos Hills, West Bay Sanitary District & San Mateo LAFCO re. Potential Annexation

The Commission accepted the report.

8.5 Presentation on LAFCO to Guadalupe-Coyote Resource Conservation District

The Commission accepted the report.

8.6 Comment Letter on City of Gilroy's 2040 General Plan Final Environmental Impact Report

The Commission accepted the report.

8.7 Comment Letter on San Jose Staff Recommendation on the Future of Coyote Valley

The Commission accepted the report.

8.8 Santa Clara County Association of Planning Officials Meeting

The Commission accepted the report.

8.9 Sustainability County Working Group Meeting

The Commission accepted the report.

8.10 Inter-Jurisdictional GIS Working Group Meeting

The Commission accepted the report.

9. CALAFCO RELATED ACTIVITIES

9.1 Report on CALAFCO Legislative Committee Meetings

The Commission noted the report.

9.2 CALAFCO Monthly Meetings for Executive Officers

The Commission noted the report.

9.3 CALAFCO University Webinar Series

The Commission noted the report.

10. 2021 SCHEDULE OF LAFCO MEETINGS

The Commission adopted the schedule of LAFCO meetings and application filing deadlines for 2021.

Motion: Wasserman

Second: Hall

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

NOES: None ABSTAIN: None ABSENT: Hall

MOTION PASSED

11. APPOINTMENT OF 2021 LAFCO CHAIRPERSON AND VICE-CHAIRPERSON

Ms. Noel presented the staff report.

Chairperson Jimenez inquired if there was prior discussion with members recommended for appointment, and Ms. Noel indicated that there was none.

Commissioner Vicklund Wilson moved for appointment of Commissioner Ellenberg as Chairperson for 2021 and Commissioner LeZotte as Vice Chairperson.

Commissioner Hall seconded.

Commissioner Wasserman requested clarification whether staff recommendation is appointment of a County representative as Chairperson and the special districts representative as Vice Chairperson, and **Chairperson Jimenez** clarified that the motion is to appoint Commissioner Ellenberg as Chairperson and Commissioner LeZotte as Vice Chairperson. **Commissioner Ellenberg** offered to yield the nomination in favor of Commissioner Wasserman who is also a County representative, and **Commissioner Wasserman** declined.

The Commission appointed Commissioner Ellenberg to serve as Chairperson for 2021 and Commissioner Linda LeZotte to serve as Vice-Chairperson for 2021.

Motion: Vicklund Wilson Second: Hall

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

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

12. RESOLUTION OF COMMENDATION FOR OUTGOING COMMISSIONER SEQUOIA HALL

Chairperson Jimenez read the resolution of commendation for outgoing Commissioner Hall.

Commissioner Jimenez expressed his appreciation to Commissioner Hall for the perspective he brings to the meetings and for sharing his expertise on LAFCO and open space, and noted that LAFCO will lose a strong voice that has consistently stood for open space. **Commissioner Vicklund Wilson** stated that LAFCO would lose Commissioner Hall's thoughtful and diplomatic approach to several crucial issues that LAFCO has addressed over the years. **Commissioner LeZotte** expressed agreement and recognized Commissioner Hall's wise counsel and thoughtful comments on many issues, particularly those at the Finance Committee, and she stated that Commissioner Hall understands what LAFCO is and has always reminded

members of their role on LAFCO. **Alternate Commissioner Kishimoto** indicated that special districts appreciate Commissioner Hall's representation, and his thoughtful and balanced approach on LAFCO reflects his diverse public service experience. **Commissioner Ellenberg** recalled that when she was campaigning for her supervisorial seat, Commissioner Hall spoke to her on the importance of LAFCO that encouraged her to serve on the Commission. **Alternate Commissioner Melton** acknowledged Commissioner Hall's good demeanor, thoughtfulness, knowledge and deep understanding of the LAFCO mission, and recognized his work on the Finance Committee. **Commissioner Wasserman** observed that Commissioner Hall comes to the meetings prepared for the items on the agenda but he listens to what other members say before he makes his decision, and that he has comprehensive knowledge about LAFCO and the environment. He expressed appreciation for Commissioner Hall's leadership and professionalism. Ms. Palacherla expressed appreciation to Commissioner Hall for his service and for helping LAFCO build connections with partner agencies.

Commissioner Hall expressed appreciation for the comments and stated that he has served on LAFCO to make the community a better place, and he stated that LAFCO is where local leaders should come together and ensure that they are communicating effectively in getting government to work efficiently from a higher level perspective. He requested distribution of a white paper by the Rodale Institute regarding a partnership with a local hospital for organic farming which represents LAFCO's mission. He stated that he enjoyed working with the commission and staff, and he expressed appreciation to the staff.

13. PENDING APPLICATIONS / UPCOMING PROJECTS

There were none.

14. COMMISSIONER REPORTS

There were none.

15. NEWSPAPER ARTICLES / NEWSLETTERS

There were none.

16. WRITTEN CORRESPONDENCE

There was none.

12. PERFORMANCE EVALUATION

The Commission adjourned to closed session at 3:16 p.m., and reconvened at 3:22 p.m., with no report.

13. ADJOURN

The Commission adjourned at 3:22 p.m., to the next regular LAFCO meeting on February 3, 2021 at 1:15 p.m., by teleconference.

Approved on February 3, 2021.

DocuSigned by:

Susan Ellenberg

Susan Ellenberg, Chairperson

Local Agency Formation Commission of Santa Clara County

DocuSigned by:

Emmanuel Abello

By: Emmanuel Abello, LAFCO Clerk