



**LAFCO MEETING
AGENDA**

**Wednesday, February 2, 2011
1:15 PM**

**Isaac Newton Senter Auditorium
70 West Hedding Street, First Floor
San Jose, CA 95110**

**CHAIRPERSON: Liz Kniss • VICE-CHAIRPERSON: Pete Constant
COMMISSIONERS: Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson
ALTERNATES: Al Pinheiro, Sam Liccardo, George Shirakawa, Terry Trumbull**

The items marked with an asterisk (*) are included on the Consent Agenda and will be taken in one motion. At the beginning of the meeting, anyone who wants to discuss a consent item should make a request to remove that item from the Consent Agenda.

Disclosure Requirements

1. Disclosure of Campaign Contributions

If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than \$250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than \$250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings.

If you or your agent have made a contribution of more than \$250 to any commissioner or alternate during the twelve (12) months preceding the decision, that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings. For disclosure forms and additional information see:

<http://www.santaclara.lafco.ca.gov/annexations&Reorg/PartyDisclForm.pdf>

2. Lobbying Disclosure

Any person or group lobbying the Commission or the Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. Any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. For disclosure forms and additional information see:

<http://www.santaclara.lafco.ca.gov/annexations&Reorg/LobbyDisclForm.pdf>

3. Disclosure of Political Expenditures and Contributions Regarding LAFCO Proceedings

If the proponents or opponents of a LAFCO proposal spend \$1,000 with respect to that proposal, they must report their contributions of \$100 or more and all of their expenditures under the rules of the Political Reform Act for local initiative measures to the LAFCO office. For additional information and for disclosure forms see:

http://www.santaclara.lafco.ca.gov/sclafcopolicies_annex&reorg_home.html

1. ROLL CALL

2. PUBLIC PRESENTATIONS

This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on this agenda. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

3. APPROVE MINUTES OF DECEMBER 15, 2010 LAFCO MEETING

4. EL CAMINO HOSPITAL DISTRICT AND SERVICES OUTSIDE ITS BOUNDARY

Possible Action: Accept staff report and provide further direction to staff, as necessary.

5. PUBLIC AND ALTERNATE PUBLIC MEMBER APPOINTMENT PROCESS

Possible Action: Determine process for appointment of LAFCO public and alternate public members whose terms expire in May 2011.

6. EXECUTIVE OFFICER'S REPORT

6.1 BUDGET SUBCOMMITTEE FOR FISCAL YEAR 2011-2012

Possible Action: Establish a LAFCO Budget Subcommittee for Fiscal Year 2011-2012.

6.2 UPDATE ON 2011 COUNTYWIDE WATER SERVICE REVIEW

Information Only.

6.3 UPDATE ON 2010 COUNTYWIDE FIRE SERVICE REVIEW

Information Only.

6.4 CALAFCO STAFF WORKSHOP IN VENTURA: APRIL 6-8, 2011

Possible Action: Authorize staff to attend the 2011 CALAFCO Staff Workshop and authorize travel expenses funded by LAFCO budget.

7. COMMISSIONER REPORTS

8. NEWSPAPER ARTICLES / NEWSLETTERS

9. WRITTEN CORRESPONDENCE

10. PENDING APPLICATIONS / UPCOMING PROJECTS

10.1 Morgan Hill Urban Service Area Amendment 2010

10.2 Los Gatos Urban Service Area Amendment 2010 (Lands of Midpeninsula Regional Open Space District)

11. **ADJOURN**

Adjourn to regular LAFCO meeting on Wednesday, April 20, 2011, at 1:15 PM in the Isaac Newton Senter Auditorium, 70 West Hedding Street, First Floor, San Jose.

Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commission less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office at the address listed at the bottom of the first page of the agenda during normal business hours. In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408) 299-6415, or at TDD (408) 993-8272, indicating that the message is for the LAFCO Clerk.



**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, DECEMBER 15, 2010**

CALL TO ORDER

Chairperson **Susan Vicklund-Wilson** calls the meeting to order at 1:16 p.m.

1. ROLL CALL

The following Commissioners and Alternate Commissioners are present:

- **Chairperson Susan Vicklund-Wilson**
- **Commissioner Pete Constant**
- **Commissioner Liz Kniss** (*Arrives at 1:32 p.m.*)
- **Commissioner Margaret Abe-Koga**
- **Commissioner Mike Wasserman**
- **Alternate Commissioner Terry Trumbull**

The following staff members are present:

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

2. WELCOME NEW LAFCO COMMISSIONER: MIKE WASSERMAN

Chairperson **Wilson** welcomes Commissioner **Mike Wasserman**.

3. PUBLIC PRESENTATIONS

None.

4. APPROVE THE MINUTES OF OCTOBER 20, 2010 LAFCO MEETING

MOTION: Approve the minutes of October 20, 2010 meeting, as submitted. (Pete Constant)

SECOND: Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Margaret Abe-Koga and Susan Vicklund-Wilson

NOES: None

ABSTAIN: Mike Wasserman

ABSENT: Liz Kniss

5. **2010 COUNTYWIDE FIRE SERVICE REVIEW FINAL REPORT AND SPHERE OF INFLUENCE UPDATES FOR FIRE DISTRICTS**

Neelima Palacherla discusses the purpose of the public hearing and informs that the report includes a presentation by the project consultant that will be followed by more information about specific options identified in the report.

Andrew S. Belknap, Management Partners, provides a brief overview on the service review process and the fire and emergency medical services in the County. He then discusses the highlights of the mandated determinations and the four issues relating to fire service in the County, namely, providing service to underserved area, regionalization of fire services in South County, evaluating governance options for Saratoga Fire and Los Altos Hills fire districts and improving efficiency and effectiveness of fire service provider agencies. Ms. Palacherla explains the options identified in the report to address each of the following four issues and then discusses the next steps necessary to address the issues identified in the report. She informs that LAFCO may initiate certain actions but that more detailed information is necessary before proceeding further.

On Commission consensus, there being no objection, the Chairperson declares the public hearing open.

Owen Halliday, President, Los Altos Hills County Fire District, recommends that the Commission maintain the Los Altos Hills County Fire District because the cost savings would be only in the range of \$50,000 a year and because the district provides various special programs such as water mains upgrade, additional fire hydrants, fuel break reduction and dead pine removal.

Chairperson Wilson notes that there are no other members of the public who would like to speak on the item and declares the public hearing closed.

Commissioner Constant expresses appreciation to staff, the consultant and members of TAC. He states that it is important in these economic times to look at maximizing services and minimizing overhead costs to provide those services. He states that the report provides a good foundation for issues such as regionalization and consolidation of services and agrees with staff recommendation that more information is necessary to move forward.

MOTION: Adopt Resolution No. 2010-10 approving the 2010 Countywide Fire Service Review report, adopting service review determinations, and adopting Sphere of Influence updates and determinations for Los Altos Hills County Fire District, Santa Clara County Central Fire Protection District, Saratoga Fire Protection District, and South Santa Clara County

Fire Protection District. Said Resolution, by reference hereto, is made part of these minutes. Direct staff to prepare the Final Report and distribute it to all the affected agencies, and to pursue further research / analysis of specific options identified in the Report, as necessary, and report back to the commission. (Pete Constant)

In response to an inquiry by **Commissioner Kniss**, **Commissioner Constant** states that the report identifies possible options. Ms. Palacherla advises that the staff report identifies areas where more information is needed before any actions can be taken. In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla advises that staff will bring back a report at the April 20, 2011 meeting. In response to an inquiry by **Commissioner Abe-Koga**, Ms. Palacherla advises that the staff report indicates that LAFCO can initiate governance changes to Saratoga and Los Altos Hills fire districts, and that staff has identified many questions that need to be answered before taking any action. Ms. Palacherla also states that the County may initiate action with regard to the underserved areas. In response to another inquiry by **Commissioner Abe-Koga**, Ms. Palacherla advises that staff recommends that the Commission adopt the report as presented because all the comments received have been addressed. At the request of **Commissioner Abe-Koga** and the **Chairperson**, **Commissioner Constant** informs that his motion includes the recommended action items 1 through 6, as well as the CEQA action.

In response to inquiries by **Commissioners Abe-Koga** and **Kniss**, **Commissioner Constant** informs that the fire departments were involved throughout the process; however, since every fire agency accounts for certain expenditures differently, he states that the report includes different metrics (e.g., cost per personnel, cost per apparatus, etc.) to provide multiple viewpoints in the evaluation.

SECOND: Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Liz Kniss, Margaret Abe-Koga, Mike Wasserman
and Susan Vicklund-Wilson

NOES: None

ABSTAIN: None

ABSENT: None

Chairperson Wilson expresses appreciation to Commissioner Constant, the staff and all the fire agencies for their participation.

6. UPDATE ON LAFCO'S CONFLICT OF INTEREST CODE

Ms. Palacherla informs that the amended LAFCO Conflict of Interest Code was adopted by the Board of Supervisors on November 23, 2010 and took effect on that date. In response to an inquiry by **Commissioner Kniss**, Ms. Subramanian advises that the amendment is non-substantive.

7. EXECUTIVE OFFICER'S REPORT

7.1 UPDATE ON THE 2011 COUNTYWIDE WATER SERVICE REVIEW

Ms. Noel informs that a RFP for Countywide Water Service Review and SOI updates was issued in October 2010 and consultants have been interviewed. She also states that the project could be delayed to await the availability of the most current water service providers data in June 2011.

7.2 UPDATE ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY

Ms. Noel informs that San Jose annexed four large islands this year, briefly reports on the status of Cambrian No. 36, and informs that staff has completed the inventory of the remaining islands. She states that staff will contact the cities about their plans for these islands and will update the Commission.

In response to an inquiry by **Commissioner Kniss**, Ms. Subramanian advises that the Commission may discuss Cambrian No. 36 for information purposes. In response to an inquiry by **Commissioner Kniss**, Ms. Noel states that Cambrian No. 36 is within the USA boundary of San Jose and an amendment would require LAFCO approval of application from both the cities. **Chairperson Wilson** informs that Santa Clara County is unique among LAFCOs because once the city expands the USA boundary, LAFCO has no control over the annexations. **Commissioner Constant** notes that discussions will take place between San Jose and Campbell regarding the annexation of the area.

Chairperson Wilson informs that the CALAFCO Legislative Committee discussed the possible extension of sunset date and increased acreage for the streamlined island annexation provision in State law.

7.3 LAFCO'S COMMENT LETTER ON MORGAN HILL'S SOUTHEAST QUADRANT PROJECT

Ms. Noel informs that LAFCO sent a comment letter in response to Morgan Hill's Notice of Preparation of the EIR requesting more specific project description, discussion of environmental facts on each project component, and recommending that the project be undertaken as part of comprehensive General Plan update.

Julie Hutcheson, Committee for Green Foothills, states that the Committee has likewise provided a comment letter to Morgan Hill stating that the project is contrary to the City's land use and General Plan policies, that its fiscal feasibility is questionable in its present form, and that it is ill-conceived, ill-defined and ill-timed.

8. 2011 SCHEDULE OF LAFCO MEETINGS

Ms. Palacherla reports that there is a request to move the meeting time from 1:15 p.m. to 1:00 p.m. and to reschedule the December 14, 2011 meeting to December 7, 2011.

Discussion ensues between **Commissioners Kniss** and **Wasserman** relating to a request to move the start of the meeting from 1:15 p.m. to 1:00 p.m. and both agree that the

meeting continue to begin at 1:15 p.m. The **Chairperson** notes that there is no objection to moving the December 14 meeting to December 7, 2011.

MOTION: Approve the 2011 Schedule of LAFCO Meetings, as amended. (Pete Constant)

SECOND: Margaret Abe-Koga

MOTION PASSED

AYES: Pete Constant, Liz Kniss, Margaret Abe-Koga, Mike Wasserman and Susan Vicklund-Wilson

NOES: None

ABSTAIN: None

ABSENT: None

9. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2011

Ms. Palacherla reports that based on the rotation schedule, the Chairperson for 2011 is Commissioner Kniss and the Vice Chairperson is Commissioner Constant.

MOTION: Appoint Vice-Chairperson Liz Kniss as Chairperson in 2011 and Commissioner Pete Constant as Vice-Chairperson. (Margaret Abe-Koga)

SECOND: Mike Wasserman

MOTION PASSED

AYES: Pete Constant, Liz Kniss, Margaret Abe-Koga, Mike Wasserman and Susan Vicklund-Wilson

NOES: None

ABSTAIN: None

ABSENT: None

10. COMMISSIONER REPORTS

None.

11. NEWSPAPER ARTICLES/NEWSLETTERS

None.

12. WRITTEN CORRESPONDENCE

None.

13. PENDING APPLICATIONS / UPCOMING PROJECTS

13.1 LOS GATOS URBAN SERVICE AREA (USA) AMENDMENT 2010 (LANDS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT)

Ms. Palacherla reports that the application for USA retraction by the Town Los Gatos remains pending because the Indemnification Agreement has not been received.

In response to the inquiry by the **Chairperson**, Ms. Palacherla informs that the delay is partly due to changes in city staffing. **Commissioner Wasserman** states that both Los Gatos and Midpeninsula Regional Open Space District are in agreement about the application and the delay is due to compliance with the application requirements.

14. ADJOURN

Commissioners express appreciation to Chairperson Wilson for serving as chairperson in 2011.

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:14 p.m. to the next regular meeting to be held on Wednesday, February 2, 2011, at 1:15 p.m., in the Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

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

By: _____
Emmanuel Abello, LAFCO Clerk

LAFCO Meeting: February 2, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Mala Subramanian, LAFCO Counsel
SUBJECT: **El Camino Hospital District and Services Outside its Boundary**
Agenda Item # 4

STAFF RECOMMENDATION

Accept staff report and provide further direction to staff, as necessary.

BACKGROUND

El Camino Hospital District

The El Camino Hospital District's boundaries include the cities of Los Altos, Los Altos Hills, Mountain View, a majority of Sunnyvale, a small portion of Cupertino and some adjacent unincorporated areas. The District was formed in 1956 pursuant to the Health and Safety Code. Funded by property taxes and a bond measure, the District's construction of the El Camino Hospital in Mountain View was completed in 1961.

In 1993, the District created the El Camino Hospital Corporation (Corporation) a 501(c)(3) corporation. The Board of the Corporation was different than the District Board. The District transferred all of its employees to the Corporation. In 1997, the Board of the Corporation resigned and the District Board placed itself as the Board to the Corporation. The District currently has no employees.

The District has several funding sources including a share of the 1% property tax from properties within the District's boundary, maintenance and operations funds from a 1950s bond measure, funds to retrofit and rebuild the El Camino Hospital from a 2003 general obligation bond measure, interest income from District investments and income from leasing the land for the El Camino Hospital to the Corporation.

We have been informed that in 2008, the Corporation purchased land and some assets of a community hospital in Los Gatos using surplus cash from operating the El Camino Hospital and in 2009 started operating a hospital on the Los Gatos Campus.

Locating Facility and Providing Service Outside District's Boundary Using District Funds

The District has stated that it is the Corporation and not the District that purchased and is operating the Los Gatos Hospital. The District and the Corporation appear on paper to be two different entities; however, we believe that in reality they are operating as one entity. Pursuant to the Bylaws of the Corporation, the District is the sole member of the

Corporation. For instance, the District selects the Corporation's Board, which is the same board as the District, they have the same administration, same website, and in the event of dissolution of the Corporation all assets, including all property such as the Los Gatos Hospital would transfer to the District. We do not believe there is transparency in how these two entities truly operate. While the Corporation purchased the Los Gatos Hospital, the funds for the purchase came from operations of the El Camino Hospital which in turn was constructed with funds from taxes levied by the District. For that reason, we believe District funds have been used to acquire/ operate the Los Gatos Hospital through the Corporation.

We are therefore concerned that the District is operating a health care facility and providing services outside its jurisdiction via the Corporation. While the District can operate a health care facility outside of their boundaries under certain circumstances under the Health and Safety Code, this does not as we understand it, alleviate the requirement for LAFCO approval.

Government Code section 56133 states that a district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from LAFCO. LAFCO may authorize a district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change or reorganization.

The Los Gatos Hospital is located outside the District's jurisdiction and sphere of influence. The area served by the Los Gatos Hospital is benefitting from District services / funding without participating in the funding mechanism. Taxes levied by the District within its boundaries are being used outside the current District's boundary to benefit residents there.

Staff has discussed these concerns with the District and recommended that the District consider submitting an application to LAFCO for expanding its sphere of influence into the areas that it is currently serving and for annexation of those areas. LAFCO in its review of the application will consider among other things, the District's ability to provide/fund service in the new areas and the fiscal/service impacts of the annexation on the residents and other affected agencies in the area.

We have been informed that the El Camino Hospital District will discuss this issue at their February 9th Board meeting.

NEXT STEPS

Staff will send a letter to the El Camino Hospital District informing the District that it is providing service outside its jurisdiction without LAFCO approval (in violation of Government Code Section 56133) and recommend that the District submit an application to LAFCO for a sphere of influence amendment and annexation of the area to the District in order to remedy the situation. Staff will update the Commission as this issue progresses.



Item No. 4
Supplemental Information #1

Cox, Castle & Nicholson LLP
555 California Street, 10th Floor
San Francisco, California 94104-1513
P 415.392.4200 F 415.392.4250

Gregory B. Caligari
415.262.5111
gcaligari@coxcastle.com

February 1, 2011

File No. 58723

BY EMAIL (.PDF)

Santa Clara County Local Agency Formation Commission
70 West Hedding Street
11th Floor, East Wing
San Jose, CA 95110

Attention: Neelima Palacherla, Executive Officer
(Neelima.Palacherla@ceo.sccgov.org)

Re: El Camino Hospital District
February 2, 2011 LAFCO Meeting, Agenda Item No. 4

Dear Chairperson Kniss and Honorable Commissioners:

On behalf of the El Camino Hospital District (the "District"), we respectfully request that the Commission defer or continue the above-referenced agenda item concerning the El Camino Hospital District.

The District strongly disagrees with the conclusions in the staff report that the District is operating health care facilities outside its jurisdiction without Commission approval in violation of Government Code Section 56113. The staff report bases these conclusions on the premise that the existence of El Camino Hospital, a California nonprofit public benefit corporation (the "Corporation"), as a separate legal entity should be disregarded, which is not supported by the facts before you or the law.

The issues raised in the staff report come on very short notice to the District, and we do not believe that requiring the District to respond to these issues on such an expedited basis is productive. Rather, we believe that providing additional time for these issues to be discussed by the District Board of Directors, and then for continued dialogue between Commission staff and District representatives, is the most productive way to address all parties' concerns regarding this matter. We are not aware of any deadline that requires immediate action by LAFCO on this issue.

In response to our request to Commission staff to continue this matter, we were informed that "The item on the LAFCO Agenda regarding the El Camino Hospital is only to provide information to the [C]ommission on the issue and to let them know about the discussions we have had so far. The item is not on the agenda for a definite action by LAFCO on the issue." We concur, and request that the Commission not take any action on this item at this time.

A. Prior Correspondence with Commission Staff.

By way of background, on November 4, 2010, the District received from Commission staff a written request that the District provide certain information related to the legal and financial relationship between the District and the Corporation. The District provided all requested information in a 144-page response on November 30, 2010.

Subsequently, Commission staff requested a follow-up meeting with Matt Harris, Controller for El Camino Hospital. Mr. Harris and counsel met with Commission staff as requested on January 7, 2011.

The District has been open and cooperative with Commission staff regarding these requests for information and meetings, and previously informed Commission staff that the District would be considering issues raised by Commission staff related to the service boundaries of the District. However, the District Board of Directors has not yet had time to consider these issues and provide direction for continuing discussions with Commission staff, which is one of the reasons why we believe Commission action on this matter at this time is premature.

B. Factual Corrections to Staff Report.

There are a number of factual errors contained in the staff report for this matter. Some examples including the following:

1. The staff report states that the District issued general obligation bonds in 2003. The general obligation bonds were actually issued in 2006.
2. The staff report states that "in 2009 [the Corporation] started operating a hospital on the Los Gatos Campus." To clarify, the Corporation is operating the Los Gatos campus as part of a single hospital that includes both the Mountain View campus and the Los Gatos campus that operate under a single consolidated license issue to the Corporation pursuant to Health and Safety Code Section 1250.8. The Los Gatos campus is not a separate hospital.
3. The staff report states that the Corporation's Board is the same as the District's Board. In fact, the Corporation and the District have separate Boards, which meet separately, and the Corporation's Board includes the Chief Executive Officer of the Corporation, who is not a member of the District's Board.
4. The staff report incorrectly states that District funds have been used to acquire/operate the Los Gatos campus, that the area served by the Los Gatos campus is benefitting from District services/funding without participating in the funding mechanism, and that taxes levied by the District within its boundaries are being used outside the current District's boundary to benefit residents there. As the District has previously disclosed to the Commission staff, no District funds or taxes levied by the District have been used to acquire, purchase equipment for, or operate the Los Gatos campus.

C. Disregarding El Camino Hospital Corporation as a Separate Legal Entity Is Not Justified.

LAFCO staff appears to recommend that the Commission conclude that the District is operating health care facilities outside of its jurisdiction without Commission approval in violation of Government Code Section 56113, essentially because of the Corporation's acquisition of the Los Gatos campus assets in 2009 and the Corporation's operations at the Los Gatos campus. The staff bases this recommendation upon an assertion that the Corporation should be disregarded as a separate legal entity from the District. The staff report asserts that the District and the Corporation are not separate legal entities because of the following:

1. The District is the sole member of Corporation.
2. The District selects the Board of Directors of the Corporation.
3. The District and the Corporation have the same Board of Directors. (As noted above, this is not correct.)
4. The District and the Corporation do not have a separate administrations, employees or websites.
5. In the event of dissolution of Corporation, all assets of the Corporation would transfer the District.

In fact, all of the above factors are extremely common in situations where one legal entity is wholly owned by another legal entity -- and it is well settled that this does not mean that the parent and the subsidiary are not separate legal entities. In California, "[c]orporate entities are presumed to have separate existences" and "common ownership or control alone is never enough to establish parent liability." (*Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 738; *see also, Mid-Century Ins. Co. v. Gardner* (1992) 9 Cal.App.4th 1205, 1212 ("*Mid-Century*").) Accordingly, when determining whether to disregard corporate status, "[t]he courts have cautioned against relying too heavily in isolation of the factors of ... concentration of ownership or control." (*Mid-Century, supra*, 9 Cal.App.4th at p. 1213.) This caution applies with particular force here, where the District and the Corporation are recognized as separate legal entities under state statutes. (*See, e.g., Health and Safety Code* § 32121.7.) Indeed, it is questionable whether the "alter ego" doctrine can ever be applied against a governmental entity. (*Tucker Land Co. v. California* (2001) 94 Cal.App.4th 1191, 1201.)

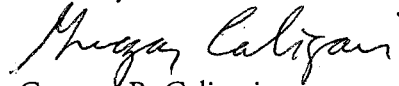
The staff report then makes the additional incorrect assertion that the revenues from the Mountain View campus operations are not in fact revenues of Corporation, but rather are revenues of District. This is incorrect. The Mountain View campus property has been ground leased by the District to the Corporation since 1992, and the Mountain View campus improvements were purchased from the District by the Corporation in 1992 for fair market value, after such improvements were constructed by the District using tax-exempt debt. As the ground lessee of the property and the owner of the improvements constituting the Mountain View campus, revenues generated by the Mountain View campus are Corporation revenues, not District revenues. To assert otherwise would also requires the Commission to disregard that the Corporation as a separate legal entity from the District, which is not justified or legally defensible.

D. Conclusion.

For the reasons stated above, the District strongly disagrees with statements in the staff report that the District is operating health care facilities outside its jurisdiction without Commission approval in violation of Government Code Section 56113, and that the Corporation should be disregarded as a separate legal entity.

We respectfully request that the Commission defer or continue the El Camino Hospital District item on the agenda for the February 2nd Commission meeting until a later date, to allow additional time for Commission staff and District representatives to continue discussions to identify and address all parties' concerns regarding this matter.

Sincerely,



Gregory B. Caligari

58723\4056322v2A

cc: (by email)

Chairperson Kniss (Liz.Kniss@bos.sccgov.org)

Vice-Chairperson Constant (Pete.Constant@sanjoseca.gov)

Commissioner Abe-Koga (Margaret.AbeKoga@mountainveiw.gov)

Commissioner Wasserman (Mike.Wasserman@bos.sccgov.org)

Commissioner Vicklund-Wilson (Susan@svwilsonlaw.com)

Emmanuel Abello, LAFCO Clerk (Emmanuel.Abello@ceo.sccgov.org)

Malathy Subramanian, LAFCO Counsel (Malathy.Subramanian@bbklaw.com)

Wesley F. Alles, Board of Directors, El Camino Hospital District (walles@stanford.edu)

Uwe R. Kladde, Board of Directors, El Camino Hospital District (kladdeu@yahoo.com)

David Reeder, Board of Directors, El Camino Hospital District (dwreeder@sbcglobal.net)

John L. Zoglin, Board of Directors, El Camino Hospital District (jzoglin@comcast.net)

Patricia A. Einarson, M.D., M.B.A., Board of Directors, El Camino Hospital District (peinarson@stanfordalumi.net)

Ken Graham, President and Chief Executive Officer, El Camino Hospital Corporation (Ken_Graham@elcaminohospital.org)

Palacherla, Neelima

From: Palacherla, Neelima
Sent: Monday, January 31, 2011 3:37 PM
To: 'gcaligari@coxcastle.com'
Cc: 'Malathy Subramanian'; 'Mitchell.Olejko@ropesgray.com'
Subject: RE: Feb 2nd LAFCO Meeting -- Request Re Agenda Item Re El Camino Hospital District

Hi Greg:

The item on the LAFCO Agenda regarding the El Camino Hospital is only to provide information to the commission on the issue and to let them know about the discussions we have had so far. The item is not on the agenda for a definite action by LAFCO on the issue. We cannot continue the item to a later date because we would like to inform our commission about the issue in a timely manner.

What we could do, and we hope this helps alleviate your concerns is: we will make it clear to LAFCO in our oral report (and in our letter) that our conclusion about the District is based on the information we have to date and that we are open to considering any other new information or analysis that the District provides or prepares. Hope this helps.

Thanks. Neelima.

Neelima Palacherla
Executive Officer
LAFCO of Santa Clara County
70 West Hedding Street San Jose CA 95110
Ph: (408) 299-5127 Fax: (408) 295-1613
www.santaclara.lafco.ca.gov

NOTICE: This email message and/or its attachments may contain information that is confidential or restricted. It is intended only for the individuals named as recipients in the message. If you are NOT an authorized recipient, you are prohibited from using, delivering, distributing, printing, copying, or disclosing the message or its content to others and must delete the message from your computer. If you have received this message in error, please notify the sender by return email.

From: Caligari, Gregory B. [<mailto:gcaligari@coxcastle.com>]
Sent: Monday, January 31, 2011 11:03 AM
To: Palacherla, Neelima
Cc: malathy.subramanian@bbklaw.com; Mitchell.Olejko@ropesgray.com
Subject: Feb 2nd LAFCO Meeting -- Request Re Agenda Item Re El Camino Hospital District

Neelima:

Following-up on my voicemail message to you, we would appreciate it if the El Camino Hospital District item on the agenda for the February 2nd LAFCO meeting could be deferred or continued.

The issues raised in the staff report come on very short notice to the District, and we do not believe that requiring the District to respond to these issues on such an expedited basis is the most productive way to proceed.

We believe that providing additional time for us to discuss this issue with the District board, and then for continued discussions and dialogue between LAFCO staff and District personnel would be the best way to identify and address all parties' concerns. We are not aware of any deadline that requires immediate action by LAFCO on this issue.

As time is short, we would appreciate it if you could advise as to the request for deferral today, as soon as possible.

Thank you in advance for your consideration of this request.

Regards,
Greg

Gregory B. Caligari
Cox, Castle & Nicholson LLP
555 California Street, 10th Floor
San Francisco, CA 94104
Direct Dial: (415) 262-5111
Fax: (415) 392-4250
Email: gcaligari@coxcastle.com
Website: www.coxcastle.com

LAFCO Meeting: February 2, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
SUBJECT: **Process for Appointment of LAFCO Public Member and
Alternate Public Member**
Agenda Item # 5

STAFF RECOMMENDATION

Determine process for appointment of LAFCO public and alternate public member whose terms expire in May 2011. Appointment will be made at the April 2011 LAFCO meeting.

BACKGROUND

LAFCO public member, Susan Wilson's and alternate public member, Terry Trumbull's terms expire in May 2011. Both the commissioners have expressed interest in being reappointed to LAFCO for 4-year terms starting in May 2011.

Government Code Section 56327 requires that the public member be appointed by the four members of the commission. The statute leaves the public member selection process to the discretion of the four commission members except to provide (applicable to Santa Clara County only) that the public member must not be a resident of a city which is already represented on the commission.

Two Options

LAFCO has two options for the appointment of the public member and alternate public member:

Option 1. Reappoint Public Member Susan Wilson and Alternate Public Member Terry Trumbull each to a 4-year term.

Commissioner Wilson was selected through an interview process by LAFCO in 1995 to serve as the public member. She has since been reappointed 3 times to the position -in 1999, in 2003 and in 2007. Commissioner Wilson has been an involved member of the commission and has made significant contributions - she has volunteered and served on the policy subcommittee for developing LAFCO's Agricultural Mitigation Policies; she has participated on the technical advisory committees for countywide fire and water service reviews; and she has participated in the selection process for service review consultants and for LAFCO legal counsel. Furthermore, Commissioner Wilson has been active

in CALAFCO (i.e., the state association of LAFCOs). She currently is serving a term as the Chair of the CALAFCO Executive Board and has been an elected member of the CALAFCO Executive Board since 2003 - serving in the positions of secretary, treasurer and vice chair over the years. She is also a member of the CALAFCO Legislative Committee and was a member of the CALAFCO Structural Options Committee that successfully established a regional election process for the CALAFCO Board. She has also attended almost all the CALAFCO Annual Conferences since 1995, has served as Program Chair for the 2005 Conference and has been a speaker / moderator at various conference sessions.

Alternate Commissioner Terry Trumbull was appointed to serve as alternate public member in 2003 through an interview process. He has also been an active participant on LAFCO, regularly attending LAFCO meetings and some CALAFCO conferences.

Option 2. Use a formal recruitment process to fill the public member and alternate public member positions

LAFCO may advertise in the newspaper and/or ask each commissioner to recruit for the position of the LAFCO public member and alternate public member. Information regarding the positions would be prepared and available to commissioners for distribution. A filing period will be established. Interested candidates would be required to submit a resume and participate in a group interview to be jointly conducted by the city and county members of the commission using questions prepared beforehand. Selection would be made at the end of the interview.

LAFCO Meeting: February 2, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: Executive Officer's Report
Agenda Item # 6

6.1: Budget Subcommittee for Fiscal Year 2011-2012

Recommendation

Establish a Budget Subcommittee composed of two commissioners to work with staff to develop and recommend the proposed FY 2011-2012 LAFCO budget for consideration by the full Commission.

The time commitment from commissioners serving on this subcommittee would be limited to 2-3 meetings between the months of February and May.

6.2: Update on the 2011 Countywide Water Service Review

For Information Only

LAFCO staff is in the process of finalizing a service agreement with the consulting team of Baracco and Associates, The Shibatani Group, and Policy Consulting Associates to prepare the 2011 Countywide Water Service Review. The team was selected through a RFP and interview process. LAFCO staff met with the consultants on January 27th in order to finalize the various details of the project. Staff expects to have a signed contract within the week. A Technical Advisory Committee, that includes Commissioner Vicklund-Wilson, will meet on February 16, 2011 to officially kick-off the project. A newsletter outlining the project scope, process and schedule will be provided to all affected agencies, interested parties, and LAFCO Commissioners in late February. Subsequently, the consultants will begin gathering data from the affected agencies and organizations and interviewing directors, managers, and department heads involved in the provision of water service and resource conservation. The Countywide Water Service Review and SOI Updates will be completed by December 2011. LAFCO staff will continue to provide the Commission with updates on this project as it progresses.

6.3: Update on the 2010 Countywide Fire Service Review

For Information Only

The 2010 Countywide Fire Service Review, adopted by LAFCO on December 15, 2010, is now available on the LAFCO website (www.santaclara.lafco.ca.gov) under the "What's

New?" An updated map of cities and fire districts in Santa Clara County is also available at that location. LAFCO staff will inform the affected agencies and interested parties by email that the Report and map are now available. A hard copy of the report and map are also on file and available in the LAFCO Office.

As directed by LAFCO, staff has begun to gather information on the issue of providing fire protection service to the underserved areas in the county and on the issue of evaluating options for the Saratoga Fire Protection District and the Los Altos Hills County Fire District. LAFCO staff anticipates providing the Commission with more information at the April meeting.

6.4: CALAFCO Staff Workshop

Recommendation

Authorize staff to attend the Workshop and authorize travel expenses funded by the LAFCO budget.

The CALAFCO Annual Staff Workshop is scheduled for April 6-8 at the Marriott Hotel in Ventura. Ventura LAFCO will host the conference. Santa Clara LAFCO staff is volunteering on the Workshop Planning Committee and will coordinate and assist with certain workshop sessions.

The Mercury News

MercuryNews.com

Unaffordable land stunts new generation of small farmers in California

By Julia Scott
julia.scott@bayareanewsgroup.com

Posted: 01/23/2011 08:26:41 PM PST

Updated: 01/24/2011 09:31:02 AM PST

This story was produced in partnership with KALW 91.7 FM. Tune in to KALW's Crosscurrents at 5 p.m. Monday to hear from California's emerging farmers, or listen to the podcast at <http://kalwnews.org>.

PESCADERO -- In 2005, would-be farmers Nancy Vail and Jered Lawson spotted an old barn along Highway 1 that would make a good produce stand, along with 13 acres of prime coastal property, available for \$1.25 million. They jumped at the chance to buy it.

"We were incredibly lucky," Vail said. "It's a lot of money, but it's actually pretty good."

Indeed, Vail and Lawson, who operate Pie Ranch, a nonprofit educational farm on the edge of the Pacific Ocean, were lucky to find land to farm.

They are part of a new and growing generation of farmers who aspire to deliver locally grown organic food to their communities but can't usually afford the land to do so.

Access to land is the main impediment to beginning farmers and ranchers today, said Reggie Knox, Central Coast coordinator for California FarmLink, a nonprofit that works to preserve family farming and

conserve farmland in California.

"Small farmers like to be close to urban areas," said Knox, who has a long waiting list of people who are looking for affordable farmland. "Land values are going up around all the urban areas, so it's harder to get into land."

Owning coastal farmland, or fertile farmland

almost anywhere in California, is a pipe dream today for nearly everyone but well-established corporate farmers and dot-com millionaires, experts say.

Across the U.S., development pressure claims an acre of farmland or ranch land every minute, although that pace may have slowed since the economic crisis, according to the American Farmland Trust. If trends continue, California is expected to lose 1.2 million more acres of farmland by 2040.

But even though the amount of California farmland in production has been falling for decades, and the average California farmer is now 58 years old, the latest agricultural census reveals another trend: The number of small farms -- 49 acres or less -- in the state has grown by more than 4,000 since 2002.

Many of these operations are founded by people in their 20s and 30s for whom earning a profit may be secondary to their real goal of producing wholesome, seasonal food and teaching others about farming.

"We see young people coming from urban areas with a desire to make a connection from the farm to the fork," said professor Scott Vernon of Cal Poly San Luis Obispo's College of Agriculture, Food and Environmental Sciences. "They're not intending to be big farmers or make a living out of it. In many ways it's gardening -- but they don't even know how to

Advertisement



SAVE up to **64%**

Plus, get
3 FREE Gifts



Special Code: 45069ZWN

To Order: www.OmahaSteaks.com/print71 or call 1-877-605-0496

Print Powered By Format Dynamics

The Mercury News

MercuryNews.com

garden."

Vernon said student enrollment in Cal Poly's farming program has spiked in recent years, as have admissions to similar community college programs across the state. An organic farming apprenticeship program at UC Santa Cruz receives more than 200 applications every six months but admits only a fraction of those who apply.

Most farm program graduates won't be as fortunate as the founders of Pie Ranch, who turned to the Peninsula Open Space Trust to help them buy the first 13-acre parcel and the old barn. The farm produces many ingredients found in a pie, such as eggs to strawberries. It connects high school kids to the land and sells produce in the old barn.

The Peninsula Open Space Trust applied a conservation easement to the land to prevent development. Pending a capital campaign, Pie Ranch will soon own the land outright.

The other 14-acre slice of Pie Ranch came from a friend who helped Vail and Lawson cofound the farm. Then she let them buy her out with the help of some other loans for \$500,000.

"This is part of a larger vision of a sustainable agriculture corridor from San Francisco down through Santa Cruz," Vail said. "We need to have more farmers, and they need to be able to access land and make a living and pull it off. We can't be the only ones doing that."

Even leasing land in California can be prohibitively expensive.

TLC Ranch, located in Aromas east of Watsonville, went out of business in November after six years of selling free-range farm-raised eggs and pork to California's Central Coast community. In a final letter


to customers, co-founders Rebecca Thistlethwaite and Jim Dunlop said the astronomical price to lease their ranch land -- 48 acres at a cost of \$800 an acre per year -- was a major factor in their decision to pack it in.

Thistlethwaite and Dunlop founded TLC Ranch, which stands for Tastes Like Chicken, six years ago. Their products were a huge success, but it wasn't enough. If the couple made a mistake, it was the fact that they both came from modest backgrounds and didn't have any land wealth, Thistlethwaite said.

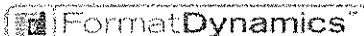
"Pretty much every farmer at the farmers market has some sort of resources that were not available to us," Thistlethwaite said. "Some of them did buy farmland 30 years ago, back in the day when you could buy land on a middle-income-type salary. No one's able to do it today unless their parents bought them the farm."

Contact Julia Scott at 650-348-4340.

Advertisement



Send flowers for any occasion
Bouquets \$19.99
from **\$19.99** +s/h
ProFlowers
Order ONLY at
proflowers.com/happy
or call 1-877-888-0688

Print Powered By  FormatDynamics

Uploaded: Wednesday, January 19, 2011, 9:00 AM

Select FILE --> PRINT to print this story.

MountainView VOICE

Palo Alto, other cities explore merging services

City managers of Mountain View, Los Altos and Sunnyvale also want to study consolidating public safety communication, fire prevention and other services

by Gennady Sheyner
Palo Alto Online Staff

Palo Alto, Mountain View, Los Altos and Sunnyvale city managers are considering merging their emergency-dispatch centers, record-management facilities and fire-prevention services to save money during lean times.

But possible consolidations are of specific services, not a wholesale merger of fire, police or other departments.

The Palo Alto City Council Tuesday night will consider a resolution instructing City Manager James Keene to explore sharing equipment and emergency services with Palo Alto's Peninsula neighbors. The other three cities are expected to consider similar resolutions, Keene said Wednesday in an interview with the Weekly.

The push toward consolidation of some services gathered steam last year as Palo Alto, Mountain View and Los Altos all began to upgrade their respective dispatch systems, Keene said. He said the city managers agreed to purchase the same communication systems, use the same kind of software and broadcast on the same megahertz cycle.

Once the upgrades are completed, a communication center from each city will have the ability to coordinate dispatch across city lines. Keene said the effort could also reduce overtime costs by enabling cities to help each other cope with particularly busy periods.

"We'll have the opportunity to potentially back each other up," Keene said. "We're all on the same system, even if not on the same space."

Then the city managers decided to take it one step further. Keene said he began to have regular conversations with Kevin Duggan and Doug Schmitz, the city managers of Mountain View and Los Altos, respectively. Sunnyvale City Manager Gary Luebbers later joined the discussions.

"Once we had that, what I thought and what the other city managers thought was that in these times we've got to be exploring any opportunities we have for shared services," Keene said. "Should we take it to the next level and at least potentially start to look at bricks-and-mortar consolidation?"

Talk of merged emergency operations isn't new to Palo Alto. In the last two years, as the city's tax revenues plunged, Keene and the council have occasionally talked about regionalization as a possible way to cut costs.

The proposed resolution, Keene said, is a way to "publicly announce" that consolidation of services is an option that is now being seriously explored.

The resolution states that each of the four cities currently has its own public safety communications center and that the cities "wish to further explore the possibility and feasibility" of consolidating these centers.

The resolution also states that the city managers had also discussed consolidating centralized records management, evidence facilities, office or field equipment, emergency planning, arson investigation and fire prevention. The council resolution would endorse this exploration of coordination opportunities.

The resolution also directs Keene to include in next year's budget funds for an "independent study of a joint public safety communications center."

Keene's report also notes that the cities already cooperate on a variety of services, including SWAT teams, solid-waste facilities and animal services. Keene said the managers' decision to pursue more consolidation came "partly because we're in the same geographical area and partly because we have experience sharing different services."

He also emphasized that the proposed resolution is not binding.

"We just wanted to start the conversation," Keene said.

The Mercury News

MercuryNews.com

The support of Campbell City Council members provides a boost for residents of Cambrian 36

By Casey Jay
 cjay@community-newspapers.com

Posted: 01/20/2011 08:00:46 PM PST

Updated: 01/21/2011 10:02:44 AM PST

Residents of the highly publicized Cambrian 36 neighborhood were given an optimistic boost at a study session immediately following Tuesday's Campbell City Council meeting.

The unincorporated county pocket bordered by both Campbell and San Jose has been at the center of long and often heated discussion, and during the 45-minute session on Jan. 18 the members of the new Campbell council gave their first collective statements on the issue.

The study session was not only noteworthy for its topic but for its time and location. The session was held after the council meeting instead of prior to the meeting as generally scheduled, and rather than moving it to the separate conference room normally used, council, city staff and the public audience all remained in the main chamber to accommodate a slightly larger audience.

The study session began with a brief background on the circumstances surrounding the unincorporated area, then Mayor Jason Baker decided to let members of the public speak before the council. President of the Campbell Village

Neighborhood Association and Cambrian 36 resident Mike Krisman was the only one to speak at the podium.

Krisman told the city council staff that he and fellow residents of the unincorporated pocket remain unanimous in their desire to be a part of Campbell. He added that they were in attendance at the council meeting and study session to show their continued interest and support in the developments toward

that end.

Following Krisman's statement, members of the city council took turns sharing their thoughts on the issue. Councilman Jeff Cristina said he is completely supportive of the effort to annex Cambrian 36 into the Orchard City.

"My sister lives there," Cristina said. "I always thought she lived in Campbell."

Vice Mayor Mike Kotowski also supported Campbell's annexation of Cambrian 36. Kotowski chaired a committee back in 1981 to bring the San Tomas area into Campbell. He said it was a difficult process at the time as well, but the city is glad to have it now.

Baker summarized the council's comments as being unanimously in favor of bringing the Cambrian 36 pocket into the city.

"We'd like to make this work if we can," Baker said. "It's not about one city being better than another city. It's about community identity."

Krisman and other Cambrian 36 residents present at the study session were pleased to hear the council's message.

"We got an extremely positive study session,"

Advertisement



DIRECTV has more of what you want to watch!

Switch today! 1-888-778-0985



Offer ends 2/28/11. Credit card required (except in MA & FL). New approved customers only. (E-mail required). Taxes, handling & delivery fee may apply. Applicable use tax adjustment may apply on the retail value of the installation. Call for details.

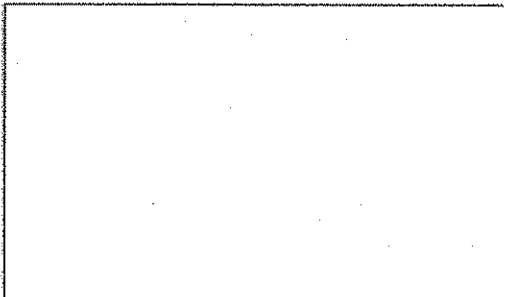
Print Powered By FormatDynamics

The Mercury News

MercuryNews.com

Krisman said. "We're very glad to see that the Campbell council is unanimous in supporting us and on giving direction to Campbell staff to pursue it."

While Krisman said nothing new was discussed or decided,



going through the formal process and holding a public forum was important for everyone involved in the issue.

"They had to give their staff parameters and direction," he said.

The mayor concluded that both San Jose and Campbell want the issue resolved on revenue-neutral terms, and added that the area known as the San Jose "sliver" should be included in the final annexation decision. While there are several

alternatives on the table, Campbell's council members all also agreed that any de-annexation of current Campbell property as part of a deal would not be a preferred option.

The city staffs of both Campbell and San Jose are already at work on coming up with a solution for the area. San Jose's planning, building and code enforcement staff met with Campbell's city manager and community development director the week of Jan. 10 to discuss potential means for annexation, and another meeting is planned the week of Jan. 24.

Items on the agenda at the city council meeting prior to the study session included the awarding of a certificate of appreciation to recently retired Campbell postmaster Joe Cole, a presentation by a representative of the Santa Clara County First 5 Program, acceptance of a two-year extension approval for construction on Virginia Avenue and acceptance of the comprehensive annual financial report.

Advertisement



SAVE up to **64%**

Plus, get

3 FREE Gifts



Special Code: 45069ZWN

To Order: www.OmahaSteaks.com/print71 or call 1-877-605-0496

Print Powered By FormatDynamics