



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

777 North First Street
Suite 410
San Jose, CA 95112

SantaClaraLAFCO.org

Commissioners

Rich Constantine
Susan Ellenberg
Sequoia Hall
Sergio Jimenez
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners

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

**REGULAR MEETING
OCTOBER 7, 2020 ▪ 1:15 PM
AGENDA**

Chairperson: Sergio Jimenez ▪ Vice-Chairperson: Susan Ellenberg

***** BY VIRTUAL TELECONFERENCE ONLY *****

Pursuant to the provisions of California Governor’s Executive Order N-29-20, issued on March 17, 2020, this meeting will be held by teleconference only. No physical location will be available for this meeting. However, members of the public will be able to access and participate in the meeting.

PUBLIC ACCESS AND PUBLIC COMMENT INSTRUCTIONS

PUBLIC ACCESS

Members of the public may access and watch a live stream of the meeting on Zoom at <https://sccgov-org.zoom.us/j/97671882590>. Alternately, the public may listen in to the meeting by dialing (669) 219-2599 and entering **Meeting ID 97671882590#** when prompted.

WRITTEN PUBLIC COMMENTS may be submitted by email to LAFCO@ceo.sccgov.org. Written comments will be distributed to the Commission as quickly as possible. Please note that documents may take up to 24 hours to be posted to the agenda on the LAFCO website.

SPOKEN PUBLIC COMMENTS will be accepted through the teleconference meeting. To address the Commission, click on the link <https://sccgovorg.zoom.us/j/-97671882590> to access the Zoom-based meeting.

1. You will be asked to enter an email address and name. We request that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
2. When the Chairperson calls for the item on which you wish to speak, click on “raise hand” icon. The Clerk will activate and unmute speakers in turn. Speakers will be notified shortly before they are called to speak.
3. When called, please limit your remarks to the time limit allotted (3 minutes).

NOTICE TO THE PUBLIC

1. Pursuant to Government Code §84308, no LAFCO commissioner shall accept, solicit, or direct a contribution of more than \$250 from any party, or his/her agent; or any participant or his /or her agent, while a LAFCO proceeding is pending, and for three months following the date a final decision is rendered by LAFCO. Prior to rendering a decision on a LAFCO proceeding, any LAFCO commissioner who received a contribution of more than \$250 within the preceding 12 months from a party or participant shall disclose that fact on the record of the proceeding. If a commissioner receives a contribution which would otherwise require disqualification returns the contribution within 30 days of knowing about the contribution and the proceeding, the commissioner shall be permitted to participate in the proceeding. A party to a LAFCO proceeding shall disclose on the record of the proceeding any contribution of more than \$250 within the preceding 12 months by the party, or his or her agent, to a LAFCO commissioner. For forms, visit the LAFCO website at www.santaclaralafco.org. No party, or his or her agent and no participant, or his or her agent, shall make a contribution of more than \$250 to any LAFCO commissioner during the proceeding or for 3 months following the date a final decision is rendered by LAFCO.
2. Pursuant to Government Code Sections 56100.1, 56300, 56700.1, 57009 and 81000 et seq., any person or combination of persons who directly or indirectly contribute(s) a total of \$1,000 or more or expend(s) a total of \$1,000 or more in support of or in opposition to specified LAFCO proposals or proceedings, which generally include proposed reorganizations or changes of organization, may be required to comply with the disclosure requirements of the Political Reform Act (See also, Section 84250 et seq.). These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. More information on the scope of the required disclosures is available at the web site of the FPPC: www.fppc.ca.gov. Questions regarding FPPC material, including FPPC forms, should be directed to the FPPC's advice line at 1-866-ASK-FPPC (1-866-275-3772).
3. Pursuant to Government Code §56300(c), LAFCO adopted lobbying disclosure requirements which require that any person or entity lobbying the Commission or 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. In addition to submitting a declaration, 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. Additionally, every applicant shall file a declaration under penalty of perjury listing all lobbyists that they have hired to influence the action taken by LAFCO on their application. For forms, visit the LAFCO website at www.santaclaralafco.org.
4. Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commissioners less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office, 777 North First Street, Suite 410, San Jose, California, during normal business hours. (Government Code §54957.5.)
5. 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) 993-4705.

1. ROLL CALL

2. PUBLIC COMMENTS

This portion of the meeting provides an opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No action may be taken on off-agenda items unless authorized by law. 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 AUGUST 5, 2020 LAFCO MEETING

ITEMS FOR ACTION / INFORMATION

4. REVISED POLICY FOR PUBLIC COMMENT AT LAFCO MEETINGS

Recommended Action: Amend the LAFCO Bylaws to include the updated policy for public comment at LAFCO meetings.

5. UPDATE FROM AD HOC COMMITTEE ON LAFCO ORGANIZATIONAL ASSESSMENT

For information only.

6. EXECUTIVE OFFICER'S REPORT

6.1 2020 APA California Award of Excellence for Communications Initiative

For information only.

6.2 Comment Letter on City of Gilroy's 2040 General Plan Draft Environmental Impact Report

For information only.

6.3 Comment Letter on Plan Bay Area 2050 Blueprint Strategies

For information only.

6.4 Presentations on LAFCO

For information only.

6.5 Comprehensive Review and Update of LAFCO Policies

For information only.

6.6 Meetings with County, San Jose and ABAG/MTC on RHNA Allocation for Unincorporated County

For information only.

6.7 Meetings with Mountain View Staff and NASA Representatives on Proposed Provision of City Recycled Water to NASA Ames Site

For information only.

6.8 Meetings on San Jose General Plan Update

For information only.

6.9 Meeting on Update of County Specific Definition of Farmland of Local Importance

For information only.

6.10 Quarterly Meeting with County Planning Staff

For information only.

6.11 Santa Clara County Special Districts Association Meeting

For information only.

6.12 Santa Clara County Association of Planning Officials Meeting

For information only.

6.13 Sustainability County Working Group Meeting

For information only.

6.14 Inter-Jurisdictional GIS Working Group Meeting

For information only.

7. CALAFCO RELATED ACTIVITIES

7.1 Report on CALAFCO Legislative Meetings

For information only.

7.2 CALAFCO Monthly Meetings for Executive Officers

For information only.

7.3 CALAFCO University Webinar Series

For information only.

8. PENDING APPLICATIONS / UPCOMING PROJECTS

9. COMMISSIONER REPORTS

10. NEWSPAPER ARTICLES / NEWSLETTERS

11. WRITTEN CORRESPONDENCE

CLOSED SESSION

12. PERFORMANCE EVALUATION

Public Employee Performance Evaluation (Government Code §54957)

Title: LAFCO Executive Officer

13. ADJOURN

Adjourn to the regular LAFCO meeting on December 2, 2020 at 1:15 PM in the Board of Supervisors' Chambers, 70 West Hedding Street, San Jose.



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ITEM # 3

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

LAFCO MEETING MINUTES WEDNESDAY, AUGUST 5, 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
- Commissioner Linda J. LeZotte
- Commissioner Mike Wasserman
- Commissioner Susan Vicklund Wilson (left at 3:07 p.m.)
- Alternate Commissioner Yoriko Kishimoto
- Alternate Commissioner Russ Melton
- Alternate Commissioner Terry Trumbull (voted in place of Commissioner Vicklund Wilson, left at 3:20 p.m.)

The following commissioners were absent:

- Alternate Commissioner Cindy Chavez
- Alternate Commissioner Maya Esparza

The following staff members were present:

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

compensation, and in conducting a performance evaluation of the Executive Officer. She noted that they did not find this level of involvement of the County at other LAFCOs.

Commissioner Wasserman briefly described the steps in the current performance evaluation process of the Executive Officer and indicated that the Commission conducts the evaluation in closed session and the Deputy County Executive only conveys the evaluation results to the employee. In response to his inquiry, Ms. Kaneko stated that she was aware of the process and observed that performance evaluation is more meaningful and effective when done by those who work directly with the individual.

Commissioner Wasserman once again outlined the current EO evaluation process and noted that comments from closed session are transcribed by LAFCO Counsel and forwarded to the Deputy County Executive. Ms. Subramanian confirmed the process and noted an additional step where she and the Chair meet with the EO immediately following the closed session to relay the Commission's comments.

Commissioner Wasserman noted that it is a unique process and indicated that LAFCO is a subdivision of the County and currently has independence in the work it does such as in conducting studies and hiring of consultants. Ms. Palacherla clarified that per State law LAFCO is an independent local agency and LAFCOs are required to hire their own staff or contract with another agency for staffing. She stated that Santa Clara LAFCO chose to contract with the County for staffing, services and facilities, and that decision was implemented through a Memorandum of Understanding (MOU) following the enactment of the Cortese-Knox-Hertzberg Reorganization (CKH) Act of 2000. She informed that prior to 2000, LAFCO was part of the County and was funded entirely by the County but the CKH Act required LAFCO to be funded by all the agencies represented on it. She noted that LAFCO's MOU with the County describes the services that the County provides to LAFCO and LAFCO's relationship with the County regarding staffing and services, and she noted that this information is the context for further discussion of the Report. **Commissioner Vicklund Wilson** expressed agreement and indicated that LAFCO was part of the County when she was first appointed, and that LAFCO separated from the County following the enactment of CKH Act of 2000.

In response to an inquiry by **Commissioner Constantine**, Ms. Kaneko informed that a number of factors were considered in selecting the comparator group, including the frequency of sphere of influence updates, service reviews, meetings and occurrences in news reports. In response to his follow-up inquiry, Ms. Kaneko advised that the number of news articles on LAFCO indicates how much it is involved in the community, the amount of attention it receives and the number of controversial issues it is dealing with, among others, as these impact workload.

Alternate Commissioner Kishimoto noted that this a comprehensive and thoughtful study of LAFCO. In response to inquiries by **Alternate Commissioner Kishimoto**, Ms. Kaneko stated that even though LAFCO has a small staff, it is

common among LAFCOs and an industry trend to have assistant executive officers who are experienced analysts and who are resource to their executive officers. Ms. Kaneko stated that some LAFCOs conduct more frequent municipal service reviews (MSRs) to address urgent issues like consolidation of districts that have become insolvent due to present economic conditions. She indicated that she does not have information on how the County has dealt with the disparity in the Executive Officer's compensation.

Commissioner Hall commended the consultant for developing a methodology to compare Santa Clara LAFCO with other LAFCOs and noted that this has been thoroughly discussed by the Finance Committee. He informed that LAFCO must move forward rather than discuss the past and he stressed the importance of the Assistant Executive Officer position as part of succession planning and in ensuring organizational stability in a small agency. He noted that the current MOU provides a County process for hiring a new executive officer and he indicated his preference for an entirely LAFCO process which includes using an independent recruiter.

A brief discussion ensued on the inquiry by **Commissioner Constantine** regarding the metrics for the comparator agency analysis and Ms. Kaneko and EO Palacherla clarified and indicated that more detailed information on the topic can be found in the agenda materials for the April 2020 LAFCO meeting and that both the Finance Committee and the full commission have considered the matter previously in multiple meetings.

In response to an inquiry by **Commissioner LeZotte**, Ms. Palacherla indicated that the Executive Officer's compensation issue was brought to the County's attention previously pursuant to the terms of the MOU without any resultant changes. She indicated that when the County again notified LAFCO that union bargaining contracts were expiring last year, the Finance Committee recommended a comprehensive study before taking it back to the County. **Commissioner LeZotte** recalled these events and expressed agreement.

A brief discussion ensued, and it was determined that the Finance Committee recommendations will be taken up in separate actions.

The Commission received the Comprehensive Organizational Review and Assessment Study Final Report.

Motion: Ellenberg

Second: Wasserman

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

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

A discussion ensued regarding the proposal by **Commissioner Constantine** to add a 5th staff position for another analyst as soon as possible when the senior analyst becomes Assistant Executive Officer. In response to an inquiry by **Commissioner Constantine**, Ms. Kaneko indicated that the Assistant Executive Officer's role

includes both oversight and project delivery, and that it is common among comparator LAFCOs to have that staff work the responsibilities of two positions as it is in the case of Santa Clara LAFCO's Assistant Executive Officer/Analyst and LAFCO Office Specialist. A further discussion ensued on the staffing analysis in the Report and **Commissioner Wasserman** noted that the Finance Committee recommendation is to not expand staffing. **Commissioner LeZotte** reiterated the Finance Committee's recommendations. and it was agreed that the Commission would follow the Finance Committee's recommendation to consider potential addition in the future but not now given the current state of the economy.

Commissioner LeZotte proposed to amend the motion to appoint the Chair, Vice-Chair and members of the Finance Committee to the Sub-Committee. **Commissioner Vicklund Wilson** accepted the amendment to the motion and requested that the question be called.

Commissioner Wasserman thanked the Finance Committee, and Ms. Kaneko for their work and noted that a five-member Sub-Committee might not be permissible under the Brown Act. He expressed agreement with Commissioner Hall on the potential financial impact to small special districts and noted that while compensation should be in the middle of the pack, there may be fiscal impacts, depending on whether these will be paid this year or over time.

A brief discussion ensued on the composition of the Sub-Committee and whether it should be established to be subject to the Brown Act or not.

Commissioner Ellenberg proposed that a smaller, non-Brown Act group will be more effective if there is to be more extensive conversation with County Administration regarding these changes to LAFCO staffing. **Commissioner Hall** expressed agreement.

Chairperson Jimenez called the question.

A motion to appoint the Chairperson, Vice Chairperson and the three Finance Committee members to the Subcommittee.

Motion: Vicklund Wilson

Second: LeZotte

AYES: Constantine, LeZotte, Vicklund Wilson

NOES: Ellenberg, Hall, Wasserman, Jimenez

ABSTAIN: None

ABSENT: None

MOTION FAILED

Commissioner Ellenberg moved to appoint the Chairperson, Vice Chairperson and one representative from the Finance Committee as members of the Organizational Assessment Ad-Hoc Committee.

The Commission approved the following recommendations by the Finance Committee to:

2. Maintain the current 4 full-time equivalent staffing level for LAFCO, with an option for the Commission to consider the potential addition of 1 full-time equivalent in the future.
3. Implement the market salary adjustment for the LAFCO Executive Officer, as recommended in the Study.
4. Revise the LAFCO Executive Officer performance evaluation process to provide the Commission more autonomy in the evaluation/salary setting process, as recommended in the Study.
5. Create a LAFCO Assistant Executive Officer classification and implement the associated salary range for the new classification; and reclassify one current LAFCO Analyst to the new classification, as recommended in the Study.
6. Retitle and revise the current LAFCO Analyst classification to create a 3-level LAFCO Analyst (Associate/I/II) classification series and reclassify one current LAFCO Analyst to LAFCO Analyst II, as recommended in the Study.
7. Retitle and revise the current LAFCO Office Specialist classification to a LAFCO Clerk / Office Manager classification and implement the market salary adjustment for the position, as recommended in the Study.
8. Ensure that the current LAFCO Office Specialist is working in-class and not out-of-class in terms of responsibilities and tasks.
9. Review and revise the current LAFCO-County MOU to make class and compensation changes necessary to support LAFCO operations as recommended in the Study, and to continue a productive relationship with the County.
10. Create the Organizational Assessment Ad-Hoc Committee composed of Chairperson Jimenez, Vice-Chairperson Ellenberg and one representative from the Finance Committee to meet with appropriate County representatives and discuss the implementation of the above recommendations including the amendment of the LAFCO-County MOU.

Motion: Ellenberg Second: Hall

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

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

Alternate Commissioner Trumbull is now voting in place of Commissioner Vicklund Wilson who has left the meeting. **Chairperson Jimenez** determined that there will still be a quorum even after Alternate Commissioner Trumbull leaves the meeting.

Commissioner LeZotte nominated Finance Committee Chairperson Melton, to serve on the Ad-Hoc Committee along with Chairperson Jimenez and Vice Chairperson Ellenberg.

Motion: LeZotte Second: Hall

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

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

5. UPDATE ON RANCHO RINCONADA RECREATION AND PARK DISTRICT SPECIAL STUDY & AMENDMENT OF CONSULTANT SERVICE AGREEMENT

Chairperson Jimenez determined that there are no members of the public who would like to speak on the item.

The Commission:

1. Accepted the status report.
2. Authorized the LAFCO Executive Officer to amend the Berkson Associates service agreement, subject to LAFCO Counsel's review and approval, in order to (a) extend the agreement to June 30, 2021, and (b) include an additional \$5,000 in the contract, for a total contract amount not to exceed \$20,000.

Motion: Wasserman Second: Ellenberg

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

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

6. ADOPTION OF AMENDED CONFLICT OF INTEREST CODE

Chairperson Jimenez determined that there are no members of the public who would like to speak on the item.

The Commission adopted Resolution No. 2020-02 adopting LAFCO's amended Conflict of Interest Code.

Motion: Wasserman Second: Hall

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

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

7. LEGISLATIVE REPORT

7.1 LAFCO Position Letter on SB 414 (Caballero) Small System Water Authority Act of 2020

Chairperson Jimenez determined that there are no members of the public who would like to speak on the item.

The Commission took an opposed position on SB 414 (Caballero) and directed staff to send letters of opposition to the author and the Assembly Appropriations Committee.

Motion: Wasserman

Second: Ellenberg

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

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

7.2 Report on CALAFCO Legislative Committee Meetings

The Commission noted the report.

8. FY 2019-2020 ANNUAL REPORT

Ms. Palacherla presented the FY 2019-2020 Annual Report. She announced that the Commission's Public Communications and Outreach initiative has received an Award of Excellence from the American Planning Association (California) under the Public Communications category. She described how LAFCO's work ensures that quality of life is not sacrificed despite the pressure of growth and noted that as we deal with the challenges of climate change and the pandemic, LAFCO will continue to play a critical role in shaping a better future. She recognized staff's work and expressed appreciation to the commissioners for their leadership and guidance, and for making LAFCO's work possible. She also expressed appreciation to LAFCO's member agencies –the County, the cities and the special districts, for their support.

Chairperson Jimenez expressed the Commission's appreciation for the work that staff do that makes Santa Clara LAFCO continue to shine statewide.

The Commission accepted the FY 2019-2020 Annual Report.

Motion: Hall

Second: Wasserman

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

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

9. CALAFCO RELATED ACTIVITIES

9.1 Nominations to the 2020/2021 CALAFCO Board of Directors

Ms. Rajagopalan presented the report.

In response to inquiry by **Chairperson Jimenez**, Ms. Palacherla indicated that the Commission will have to approve the nomination at this meeting. In response to inquiry by **Alternate Commissioner Trumbull**, Ms. Palacherla informed that the open positions are those for County and Special District members.

The Commission took no action.

9.2 Designate Voting Delegate

In response to the inquiry by **Chairperson Jimenez**, Ms. Palacherla provided a brief background and informed that Commissioner Vicklund Wilson has offered to serve as the voting delegate.

The Commission appointed Commission Susan Vicklund Wilson as the voting delegate.

Motion: Wasserman

Second: Hall

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

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

9.3 Designate Voting Delegate

The Commission noted the report.

9.4 CALAFCO Webinar Series

The Commission noted the report.

9.5 CALAFCO Quarterly Report

The Commission noted the report.

10. EXECUTIVE OFFICER'S REPORT

10.1 Presentations on LAFCO

The Commission noted the report.

10.2 Inquiry from Homeowner in the Holiday Lake Estates Neighborhood on Sewer Connection

The Commission noted the report.

10.3 Update on High Speed Rail Project

The Commission noted the report.

10.4 Santa Clara County Special Districts Association Meeting

The Commission noted the report.

10.5 Santa Clara County Association of Planning Officials Meeting

The Commission noted the report.

10.6 Inter-Jurisdictional GIS Working Group Meeting

The Commission noted the report.

11. PENDING APPLICATIONS / UPCOMING PROJECTS

There are none.

12. COMMISSIONER REPORTS

There were none.

13. NEWSPAPER ARTICLES / NEWSLETTERS

There were none.

14. WRITTEN CORRESPONDENCE

There was none.

15. ADJOURN

The Commission adjourned at 3:23 p.m., to the next regular LAFCO meeting on October 7, 2020 at 1:15 p.m., by teleconference.

Approved on _____.

Sergio Jimenez, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk



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ITEM # 4

Alternate Commissioners
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Yoriko Kishimoto
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: October 7, 2020

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Lakshmi Rajagopalan, Analyst**

**SUBJECT: REVISED POLICY FOR PUBLIC COMMENT AT LAFCO
MEETINGS**

STAFF RECOMMENDATION

Amend the LAFCO Bylaws to include the updated policy for public comment at LAFCO meetings.

BACKGROUND

At the August 5, 2020 meeting, the Commission briefly discussed how much time should be allotted for public speakers during LAFCO meetings. The Commission directed staff to agendize the item for a future LAFCO meeting and bring back a recommendation on the time provided for public comments at LAFCO meetings for further discussion and consideration.

LAFCO’s current Bylaws include policies that provide an opportunity for members of the public to address the Commission on matters not on the agenda, and within the jurisdiction of the Commission with a time limit of up to three minutes.

Staff reviewed relevant policies from other public agencies and found that in most cases, the policies allow the Chair the discretion to decide the time allotted on a case-by-case basis. Staff has prepared draft policies (**Attachment A**) for the Commission’s consideration and adoption.

The proposed policy allows the Chair or the Commission the flexibility to adjust the amount of time allotted to speakers under the public comments item of the meeting agenda or on other agenda items.

NEXT STEPS

Upon the Commission’s adoption of the proposed new Policies, staff will amend the LAFCO Bylaws to include the new Policies and the updated Bylaws will be posted on the LAFCO website.

ATTACHMENTS

Attachment A: Revised Policies on Public Comment at LAFCO Meetings

Include the proposed policies in the LAFCO Bylaws, under the existing section titled “3. Conduct of Meetings”

Note: Proposed policy revisions are underlined in red

3. CONDUCT OF MEETINGS

3.1. MEETINGS

- a. Regular Commission meetings are held on the first Wednesday of February, April, June, August, October, and December at 1:15 P.M., in the Board Meeting Chambers at 70 West Hedding Street, San Jose, California, or in another designated location.
- b. The Commission shall establish a schedule of meetings for the following calendar year at its regular meeting in December.
- c. Commission meetings are open to the public and the Commission welcomes public participation and input. Members of the public may provide written comment or attend LAFCO meetings to provide comment. Speakers are limited to three minutes. The Chair or the Commission by majority vote may further limit the time when appropriate.

3.3. ORDER OF BUSINESS

The order of business at Commission meetings shall typically include the following items, unless otherwise directed by the Commission.

- Roll Call
- Public Comment – An opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No action may be taken on off-agenda items unless authorized by law. Speakers are limited to three minutes. The Chair or the Commission by majority vote may further limit the time when appropriate. All statements that require a response will be referred to staff for reply in writing.
- Consideration of Minutes
- Consent Calendar – Consent calendar consists of those items recommended for approval, not requiring public hearing, and in the opinion of the staff, not involving major issues or problems. A commissioner, staff or member of the public, may request that an item be removed from the Consent Calendar for public discussion.
- Public Hearings
- Items for Action/Discussion
- Executive Officer’s report

AGENDA ITEM # 4
Attachment A

- Pending Applications/Upcoming Projects
- Commissioner Reports – An opportunity for commissioners to comment on items not listed on the agenda, provided that the subject is within the jurisdiction of the Commission. No action or discussion by a quorum of the Commission may be taken on off-agenda items unless authorized by law.
- Newspaper Articles/Newsletters
- Written Correspondence
- Adjournment



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ITEM # 5

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LAFCO MEETING: October 7, 2020
TO: LAFCO
FROM: Russ Melton, Ad Hoc Committee Chair
SUBJECT: UPDATE FROM THE AD HOC COMMITTEE ON LAFCO ORGANIZATIONAL ASSESSMENT

FOR INFORMATION ONLY

The Ad Hoc Committee on LAFCO Organizational Assessment (Committee), has held two meetings to date on LAFCO’s Comprehensive Organizational Review and Assessment Study: Final Report and the resulting LAFCO recommendations. The Committee has also received feedback from County Administration on appropriate next steps, and from the County Employment Management Association (CEMA) on the available options. The Committee at its most recent meeting considered this information and determined that the Committee will request that the County consider and evaluate LAFCO’s recommendations through the Executive Management Initiated Classification Study process, which is comprehensive in nature. LAFCO Legal Counsel is in the process of drafting such a request. Ad Hoc Committee Chair Melton will submit the request to County Administration, on behalf of the Committee.

Background

In order to address various organizational issues, and to support performance management, employee development and succession planning efforts, LAFCO retained Koff & Associates to conduct a Comprehensive Organizational Review and Assessment Study of LAFCO (Study).

At its August 5, 2020 meeting, LAFCO voted unanimously to receive the Study and to pursue certain recommendations relative to LAFCO staff positions, classification, and compensation. LAFCO appointed an Ad Hoc Committee composed of LAFCO Chair Sergio Jimenez, Vice-Chair Susan Ellenberg, and Finance Committee Chair Russ Melton, to work with the County.

The Committee met on August 27, 2020 and designated Alternate Commissioner Melton as the Committee Chair. The Committee accepted Commissioner Ellenberg’s offer to request the County’s assistance with the Commission’s recommendations through a County Board referral to the County Administration.

However, it was subsequently brought to Commissioner Ellenberg’s attention that per the County Employment Management Association (CEMA) agreement, LAFCO staff should contact CEMA with a request that CEMA submit a study request to the County

Employee Services Agency. Therefore, the Ad Hoc Committee directed staff on September 8, 2020 to consult with CEMA on the process and report back to the Committee. EO Palacherla contacted a CEMA Representative to consult on the correct process. During their initial conversation, EO Palacherla provided an overview of the Study, including its purpose, process, and recommendations. The CEMA representative outlined three separate and distinct processes that may apply, depending on the specific LAFCO recommendations, namely:

- (1) CEMA Classification Study process,
- (2) SEIU Local 521 Classification Study process, and
- (3) Executive Management Initiated Classification Study process.

Each of the above processes have their own specific requirements and timelines. The CEMA representative further explained that CEMA is only directly involved in the CEMA Classification Study process. As a final part of the Executive Management Initiated Classification Study process, the County would ask CEMA for their concurrence.

The Ad Hoc Committee met again on September 24, 2020 and discussed the suitability and feasibility of these options and determined that the Executive Management Initiated Classification Study process was the best option as it allows for a comprehensive consideration of the Study and all of LAFCO's recommendations. LAFCO Counsel is in the process of preparing a draft letter to the County for the Committee's review and approval requesting an Executive Management Initiated study.

The Committee will continue to inform LAFCO of the results and next steps.



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of Santa Clara County**
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SantaClaraLAFCO.org

Commissioners
Rich Constantine
Susan Ellenberg
Sequoia Hall
Sergio Jimenez
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

ITEM # 6

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

LAFCO MEETING: October 7, 2020

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer
Lakshmi Rajagopalan, Analyst**

SUBJECT: EXECUTIVE OFFICER’S REPORT

6.1 2020 APA CALIFORNIA AWARD OF EXCELLENCE FOR COMMUNICATIONS INITIATIVE

For Information Only.

Santa Clara LAFCO’s Communications & Outreach Plan received the 2020 APA California Communications Initiative Award of Excellence. The Plan is the first ever communications initiative by any LAFCO in the state and is a comprehensive and proactive strategy for outreach and communications to help Santa Clara LAFCO better fulfill its role and address the common unfamiliarity with and misperception of LAFCO’s purpose. Prepared through an in-depth yearlong process and with insights from commissioners, staff, and diverse stakeholders, the Plan presents strategies and tools to expand understanding of LAFCO’s role and responsibility in promoting sustainable growth and good governance in Santa Clara County. LAFCO and its consultants were recognized as award winners in the 2020 APA California Virtual Conference’s award ceremony held on September 16, 2020.

In June 2020, the Plan also received the Northern California APA Section Award of Excellence for Communications Initiative and was highlighted for its “fresh ideas that are transferable to other communities & for furthering a more inclusive, accessible and equitable planning future.”

We give special thanks to LAFCO’s consultants, specifically New Agency, Covive LLC, and Acre Policy, for their excellent work on this very important project.

6.2 COMMENT LETTER ON CITY OF GILROY’S 2040 GENERAL PLAN DRAFT ENVIRONMENTAL IMPACT REPORT

For Information Only.

LAFCO, as a Responsible Agency, submitted comment letters on the City of Gilroy’s 2040 General Plan Draft Environmental Impact Report in August 2020. LAFCO’s

comment letters requested that the City: (1) adopt the environmentally superior alternative, Alternative 2: Reduced Urban Growth Boundary; (2) discuss LAFCO's definition of prime agricultural land and LAFCO's Agricultural Mitigation policies in the Regulatory Setting; (3) include an analysis on the 2040 General Plan's consistency with Plan Bay Area and on achieving the greenhouse gas emissions reductions targets for the region; and (4) conduct adequate analysis on the City's ability to provide utilities and public services to the 2040 General Plan Planning Area. Please see comment letters (**Attachment A**) for further details.

6.3 COMMENT LETTER ON PLAN BAY AREA 2050 BLUEPRINT STRATEGIES

For Information Only.

In August 2020, LAFCO submitted a comment letter on the Plan Bay Area 2050 Blueprint Strategies. LAFCO's comment letter requested that the strategies allocate housing/growth to cities near jobs, transit, and existing infrastructure, rather than to unincorporated lands outside cities' Urban Service Areas (USAs) and to include strategies that support city annexation of the developed unincorporated areas within USAs (i.e. islands), in order to further the goals of Plan Bay Area 2050. Please see comment letter (**Attachment B**) for further details.

6.4 PRESENTATIONS ON LAFCO

For Information Only.

On September 23, 2020, EO Palacherla gave a presentation on LAFCO to the County Planning Commission as part of a special study session, underscoring the overlap between LAFCO's and the County's goals and policies, including the long-standing Countywide Urban Development Policies that remain the cornerstone of LAFCO policy and County General Plan policies. The comprehensive presentation included information about LAFCO's history, mandate, policies, the role of Commissioners and staff, the factors that LAFCO considers when reviewing applications, its island annexation program, its service reviews program, and major LAFCO activities. LAFCO staff also mailed Planning Commissioners a copy of the What is LAFCO? Brochure and a copy of LAFCO's County and Cities Boundaries Map

County Planning Commissioners stated that the presentation was particularly helpful as they begin to think about the upcoming review and update of the County General Plan and in understanding LAFCO's role in preserving farmland.

On August 17, 2020, Executive Officer Palacherla met with Jonathan Cowan, El Camino Healthcare District's Director of Government & Community Relations, in order to provide a brief presentation on LAFCO and discuss issues of mutual interest to the District and LAFCO.

6.5 COMPREHENSIVE REVIEW AND UPDATE OF LAFCO POLICIES

For Information Only.

LAFCO staff and its consultant continue to review and update LAFCO policies. The purpose of the comprehensive review and update is to strengthen the policies in order to enable LAFCO to better meet its legislative mandate and to better align and clarify consistency of the policies with the Cortese Knox Hertzberg Local Government Reorganization Act. Staff hope to be able to bring the updated policies to the Commission for their consideration and adoption soon.

6.6 MEETINGS WITH COUNTY, SAN JOSE, AND ABAG ON RHNA ALLOCATION FOR UNINCORPORATED COUNTY

For Information Only.

On September 18, 2020, EO Palacherla, County Planning staff, and City of San Jose staff met with ABAG staff to discuss concerns about the potential Regional Housing Needs Assessment (RHNA) allocation for the unincorporated Santa Clara County and to identify potential options to address those concerns.

LAFCO and County staff recently learned that under the current RHNA methodology being considered, unincorporated Santa Clara County could potentially receive an over 16 fold increase in its housing needs allocation (from the prior cycle allocation of 280 housing units to a proposed allocation of 4,700 housing units). The high numbers for the unincorporated County are an unintended consequence of using a modified Plan Bay Area 2050 Blueprint baseline in developing the RHNA methodology. Other counties such as Solano, Sonoma and Napa are also facing similar issues.

This unprecedented increase in housing allocation to the unincorporated county is a concern as the Santa Clara County General Plan policies and the Countywide Urban Development Policies do not allow urban development in rural areas, outside city urban service areas. These policies are interlocking with LAFCO policies and many of the growth policies of cities in Santa Clara County, including San Jose.

ABAG staff has indicated that a likely approach to address this concern may be to shift a portion of the County's allocation to the cities in the County. County Planning staff is leading an effort to reach a consensus with the cities on the best and most equitable path for a reallocation that would reduce the allocation for the unincorporated county. If the County and the cities all agree to a reallocation methodology, then ABAG would submit the change to the State Department of Housing and Community Development (HCD) for their approval.

6.7 MEETINGS WITH MOUNTAIN VIEW STAFF AND NASA REPRESENTATIVES ON PROPOSED PROVISION OF CITY RECYCLED WATER TO NASA AMES SITE

For Information Only.

On August 28, 2020, LAFCO staff met with City of Mountain View Public Works staff to discuss the City's plans to provide recycled water to the NASA Ames area at Moffett Field, which is largely located outside of Mountain View's city limits and Urban Service Area, but within Mountain View's Sphere of Influence. State law requires that a city first seek and receive LAFCO's approval before extending services outside of its boundaries.

As a follow-up to the August meeting, LAFCO staff met with City of Mountain View Public Works staff and representatives from NASA on September 16, 2020 in order to learn about the types of services that are currently provided to the NASA Ames area and about NASA's long-range plans for the area, including the future need for additional municipal services. LAFCO staff discussed State law and the applicable LAFCO policies that apply to the proposed extension of city recycled water to the area and the factors that LAFCO is required to consider for such proposals. LAFCO staff anticipates receiving an application from the City of Mountain View by year's end.

6.8 MEETINGS ON SAN JOSE GENERAL PLAN UPDATE

For Information Only.

On August 11, 2020, EO Palacherla and Asst. EO Noel met with Green Foothills staff to discuss plans for the Coyote Valley area. On August 28, 2020 EO Palacherla and Asst. EO Noel also met with San Jose Planning staff to discuss San Jose's general plan review and update which is underway and potential changes in San Jose's General Plan policies concerning the Coyote Valley area.

6.9 MEETING ON UPDATE OF COUNTY SPECIFIC DEFINITION OF FARMLAND OF LOCAL IMPORTANCE

For Information Only.

On September 9, 2020, Analyst Rajagopalan attended the virtual stakeholder meeting hosted by County Planning to discuss and provide feedback on the proposed changes to the County-specific definition of Farmland of Local Importance (FLI).

The County of Santa Clara is working with the State Department of Conservation to update the County-specific definition of FLI as used by the State's Farmland Mapping and Monitoring Program (FMMP). The proposed update is a small change to how farmland is classified by FMMP and would broaden and generalize the definition to include additional farmland types that once were mapped in the three primary designations (i.e. Prime Farmland, Farmland of Statewide Importance, and Unique Farmland), but currently are not. The proposed change would increase the

number of properties eligible for the benefits of participating in the Farmland Security Zone (FSZ) program, which the County intends to adopt later this year.

6.10 QUARTERLY MEETING WITH COUNTY PLANNING STAFF

For Information Only.

Beginning in December 2018, LAFCO staff and County Planning Department staff began having quarterly meetings to discuss issues of common interest or concern. At the September 21, 2020 quarterly meeting, LAFCO staff and County staff discussed the following: (1) Regional Housing Needs Assessment (RHNA) allocation to Santa Clara County unincorporated area; (2) changes in State requirements regarding Small Water Systems; (3) proposed Metta Tam Tu Buddhist Temple development; (4) County Planning and Morgan Hill Planning staffs' ongoing discussions on long-term plans for lands outside of the Urban Service Area; and (5) Stanford's Municipal Service Study.

6.11 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING

For Information Only.

On September 14, 2020, EO Palacherla attended the quarterly meeting of the Santa Clara County Special Districts Association (SDA) which was held by teleconference. Ms. Palacherla provided updates on LAFCO activities and offered to make presentations on LAFCO to interested staff and board of directors of Special Districts.

The meeting included a presentation from guest speaker the Honorable State Senator Jim Beall. State Senator Beall discussed the various legislation that he has authored, including SB 940 which allows San Jose to swap density between Coyote Valley and infill locations within the City, and legislation supporting the Anderson Dam Seismic Retrofit Project. Meeting attendees including various district staff and board members, field staff for various state legislators, and a representative of the California Special Districts Association, provided reports and shared information on current projects or issues of interest. The next meeting of the SDA is scheduled for December 7, 2020.

6.12 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS MEETING

For Information Only.

EO Palacherla attended the September 2, 2020 meeting of the Santa Clara County Association of Planning Officials (SCCAPO). The meeting focused primarily on coordination efforts between SCCAPO, the Planning Collaborative (recently formed by the Cities Association to address housing and homelessness challenges), and ABAG's staff on the Regional Housing Needs Assessment (RHNA) process. Lastly,

attendees provided updates on planning and development related issues in their individual jurisdictions.

6.13 SUSTAINABILITY COUNTY WORKING GROUP MEETING

For Information Only.

On August 26, 2020, Analyst Rajagopalan attended the Sustainability County Working Group (SCWG). The meeting focused on the Sustainability Master Plan (SMP), including the SMP website and dashboard, the implementation of the Priority Area Actions, and the roles and responsibilities of the DST/SCWG members. Analyst Rajagopalan provided feedback on LAFCO's role in the Priority Area Actions.

6.14 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING

For Information Only.

Analyst Rajagopalan attended the September 9, 2020 Inter-Jurisdictional GIS Working Group Meeting which was hosted virtually. This group includes various County departments that use and maintain GIS data, particularly LAFCO related data. The group received an update on the progress related to testing and successfully moving existing data to the new GIS coordinate system used by the County. Attendees also provided individual updates to the group on relevant GIS matters.

ATTACHMENTS

- | | |
|---------------|---|
| Attachment A: | Comment Letters on City of Gilroy's 2040 General Plan Draft Environmental Impact Report (dated August 10, 2020 and August 12, 2020) |
| Attachment B: | Comment Letter on Plan Bay Area 2050 Blueprint Strategies |



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Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

August 10, 2020

VIA E-MAIL [PlanningDivision@cityofgilroy.org]

Cindy McCormick
City of Gilroy Planning Division
7351 Rosanna Street
Gilroy, CA 95020

RE: City of Gilroy 2040 General Plan Draft Environmental Impact Report

Thank you for providing the Local Agency Formation Commission (LAFCO) of Santa Clara County with an opportunity to review and provide comments on the City of Gilroy 2040 General Plan Draft Environmental Impact Report (General Plan DEIR).

Thank you for clarifying that Santa Clara LAFCO is a Responsible Agency under the California Environmental Quality Act (CEQA) with regard to Urban Service Area (USA) amendment applications by the City, applications which, the DEIR states, Gilroy intends to submit to LAFCO based on CEQA documents tiered from the General Plan EIR. (DEIR, p. ES-8.)

In its role as a responsible agency, Santa Clara LAFCO submits the following comments on the DEIR, comments which it anticipates supplementing in short order.

LAFCO Requests that the City Adopt the Environmentally Superior Alternative, Alternative 2: Reduced Urban Growth Boundary

Thank you for evaluating a project alternative that plans for anticipated future growth within the existing City limits and City USA. This alternative (Alternative 2: Reduced Urban Growth Boundary) reduces the amount of developable land by 1,177 acres and as a result, environmental impacts would not occur on that acreage. The DEIR identifies Alternative 2: Reduced Urban Growth Boundary as the Environmentally Superior Alternative to the proposed General Plan but opines that this Alternative can be rejected because it does not fully achieve the project objectives of the General Plan 2040 Project.

However, it appears that based on review of the proposed basis for rejecting the Environmentally Superior Alternative, it does not find Alternative 2 infeasible- it simply favors a project that supports development outside the City's existing limits. LAFCO disagrees that growth outside of City limits is a reasonable project objective of the General Plan 2040 and requests that the City adopt Alternative 2 and

implement policies and programs to address its growth goals within the City limits/ USA.

LAFCO encourages the City to accommodate its projected growth in as compact and efficient manner as possible as this approach to planning for growth will help prevent sprawl, promote efficient service provision, ensure more efficient use of existing urbanized areas, and protect open space and agricultural lands; and help to minimize climate change risks consistent with the goals of the regional Sustainable Communities Strategies - Plan Bay Area 2040.

The DEIR Provides Inadequate Analysis of the Ability of Utilities and Public Services to Serve General Plan 2040

The DEIR states that the City intends to tier from the EIR for those projects that require LAFCO approval. Use of the tiering procedure does not, however, permit the City to defer an analysis of reasonably foreseeable significant environmental impacts to a later stage of review to avoid addressing those impacts in the General Plan EIR. (CEQA Guidelines §15152(b).) While tiering allows the City to defer analysis of some of the details of later phases of long-term projects until it comes up for approval, CEQA's information disclosure requirements are not satisfied by simply asserting that information will be provided in the future. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 431.)

A significant environmental impact is ripe for evaluation in a first-tier EIR when it is a reasonably foreseeable consequence of the action proposed for approval and the agency has "sufficient reliable data to permit preparation of a meaningful and accurate report on the impact." (*Los Angeles Unified Sch. Dist. v City of Los Angeles* (1997) 58 CA4th 1019, 1028.) When the first-tier EIR does not provide a detailed evaluation of project-level impacts, EIRs on subsequent projects will ordinarily have to provide an independent analysis of the significant environmental impacts specific to those later projects. (*In re Bay-Delta Programmatic Env't'l Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1173.)

Here, the DEIR's analysis of the adequacy of utilities and public services to serve the growth anticipated in General Plan 2040 improperly defers the analysis of reasonably foreseeable significant environmental impacts, and thus improperly avoid addressing those impacts in the EIR. For instance, the DEIR relies on a 2004 Water System Master Plan for discussion of water capacity deficiencies, which it appears to concede is a dated document as it states that it will have to be updated after the General Plan 2040 is adopted. (DEIR, p. 3-311.) But this is the definition of improper deferment of analysis of the reasonably foreseeable consequences of the actions proposed for approval in a first-tier document.

LAFCO anticipates providing the City with supplemental comments on the DEIR in the near future and looks forward to working with the City to ensure that a fully adequate EIR is produced.

Thank you again for providing us with the opportunity to comment on this important project. If you have any questions regarding these comments, please contact Dunia Noel, Assistant Executive Officer at dunia.noel@ceo.sccgov.org.

Sincerely,

A handwritten signature in cursive script that reads "NPalacherla".

Neelima Palacherla
LAFCO Executive Officer

Cc: LAFCO Members s



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Executive Officer

Neelima Palacherla

August 12, 2020

VIA E-MAIL [PlanningDivision@cityofgilroy.org]

Cindy McCormick
City of Gilroy Planning Division
7351 Rosanna Street
Gilroy, CA 95020

RE: City of Gilroy 2040 General Plan Draft Environmental Impact Report

In its role as a Responsible Agency, on August 10, 2020, Santa Clara LAFCO provided comments to the City of Gilroy regarding its 2040 Draft Environmental Impact Report (DEIR). As indicated in that letter, the following presents LAFCO's additional comments on the DEIR which are offered to help ensure that a fully adequate EIR is produced.

Agricultural Resources

Please discuss LAFCO's definition of "prime agricultural land" and LAFCO's Agricultural Mitigation Policies in the "Regulatory Setting."

In 2007, Santa Clara LAFCO adopted Agricultural Mitigation Policies to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands. As such, Santa Clara LAFCO policies call for local agencies to first avoid creating adverse impacts to agricultural lands from the outset, such as steering development away from agricultural lands to avoid their conversion to other uses. This most efficiently occurs at the time a city or county is updating its general plan and the issue can be viewed at a regional level and not based on an individual proposal. If avoidance is not possible, Santa Clara LAFCO policies call for local agencies to minimize the adverse impacts by considering alternatives in the location, siting and scale of a project; utilizing design features such as agricultural buffers, and /or adopting regulations such as Right to Farm ordinances, in order to minimize conversion and impacts on / conflicts with, agricultural operations or uses. Only when all efforts to avoid and minimize conversion of agricultural lands have been exhausted do Santa Clara LAFCO policies call for mitigation.

Under Government Code §56064 of the CKH Act, “prime agricultural land means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- b. Land that qualifies for rating 80 through 100 Storie Index Rating.
- c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
- d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.”

The DEIR states that under buildout conditions, development within the Urban Growth Boundary could result in the conversion of up to 1,119 acres of important farmland (prime farmland and farmland of statewide importance) and that this loss is considered a significant, adverse environmental impact. The DEIR states that “even with implementation of the city’s general plan policies and agricultural land mitigation policy that includes purchase of replacement agricultural lands or permanent conservation easement requirements, the loss of important farmland is still considered significant and unavoidable.”

However, Table S-1 does not include this information. Please include this information about impacts and the measures to mitigate this impact in Table S-1

Please also clarify whether future developers will need to comply with the city’s Agricultural Mitigation Policy, including but not limited to “Section 1.02 Agricultural Mitigation Requirements.” If such mitigation is not required, please explain why.

Greenhouse Gas Emissions

Within this section, please include an analysis of the Gilroy 2040 General Plan’s consistency with Plan Bay Area, the long-range Regional Transportation Plan and Sustainable Community Strategy for the nine-county San Francisco Bay Area. Plan Bay Area provides a land use vision, that if implemented, would achieve the greenhouse gas emissions reductions targets for the region.

Police and Fire Protection Facilities

In reviewing the DEIR's discussion of the potential impacts of the Project on police and fire facilities and services that could lead to physical impacts on the environment, the DEIR bases its analysis on the assumption that "at 2040 General Plan buildout the population of Gilroy would be approximately 73,430 persons...." "at buildout the population of Gilroy is estimated to be 73,430 persons." (DEIR, pp. 3-356; 3-362.) However, the Project Description states, on DEIR page 2-14, Table 2.2-2, that the projected population under full buildout of the 2040 General Plan is 75,684. This inconsistency means that the DEIR's Police and Fire Protection Facilities analysis is based on a lower population (2,254 persons lower) than is detailed in the Project Description, and also relied on in other sections of the DEIR, such as the water facilities analysis (see DEIR p. 3-442). This error must be corrected, and new analysis provided so that substantial evidence supports the EIR's conclusions regarding the potential impacts of the Project on police and fire facilities and services that could lead to physical impacts on the environment.

Fire Protection Facilities

The DEIR's analysis of the potential impacts of the Project on fire facilities and services that could lead to physical impacts on the environment concludes that development under buildout of the 2040 General Plan could trigger the need for construction of new facilities. (DEIR, p. 3-262.) However, the DEIR concludes that the impacts would be less than significant because "it can be expected that construction and operation of future new or modified fire prevention facilities would have similar impacts as would construction and operations of other types of new development within the proposed Urban Growth Boundary." (DEIR, p. 3-363.) But, if this is the case, then why does the DEIR conclude that impacts are less than significant and fail to identify and recommend adoption of proposed mitigation measures to mitigate the impacts of this new development. The EIR must be revised to detail and recommend those mitigation measures that must be adopted to reduce significant impacts, rather than, incorrectly, stating that the impact would be less than significant and no additional mitigation is required.

The DEIR references a document 2019 Master Plan Update City of Gilroy Fire Department, but it is unclear if this plan has been adopted given that the only citation provided is to "Citygate Associates, 2019, Volume 2." (DEIR, 3-362.) Please clarify and identify what adopted 2019 Master Plan policies will reduce the impacts to Fire Protection Facilities of development under the 2040 General Plan. If the Plan has not been adopted the EIR must be revised appropriately.

Water Service Facilities

This section of the DEIR contains the following significance threshold "potentially significant if inconsistent with city's Water System Master Plan." (DEIR, p. 3-442.) However, CEQA does not allow a lead agency to treat a plan, here the Water

System Master Plan, as the baseline for its environmental analysis of the impacts of the 2040 General Plan buildout on water services facilities. (*See Environmental Planning & Info. Council v County of El Dorado* (1982) 131 Cal.App.3d 350 [EIR on proposed new plan must address existing level of physical development as baseline for impact analysis, not existing plan, even if new plan would allow less growth than existing plan].) Accordingly, this section of the DEIR must be revised to present an analysis of the Project’s potential impacts on water service facilities based on the existing level of water facilities development.

Wastewater Facilities

This section of the DEIR states that the development under the 2040 General Plan would trigger the “need for new or expanded wastewater collection and treatment facilities, the construction of which would cause significant environmental effects.” (DEIR, p. 3-449.) The DEIR further states that construction of these facilities “would have similar impacts as would construction and operation of other types of new development within Gilroy,” and “mitigation measures referenced in other sections of this EIR that serve to avoid or reduce potential impacts from new development would also avoid or reduce impacts of expanded or new sewer system and wastewater facilities.” (Id.) However, the DEIR then concludes “therefore, impact would be less than significant and no additional mitigation is required.” (Id.) This is incorrect. The DEIR states that there **are** mitigation measures necessary to avoid or reduce impacts of expanded or new sewer system and wastewater facilities, but neither identifies these measures, nor recommends their adoption in order to reduce significant impacts related to the construction and operation of expanded and/or new sewer system and wastewater facilities. The EIR must be revised to detail and recommend those mitigation measures that must be adopted to reduce significant impacts, rather than, incorrectly, stating that the “impact would be less than significant and no additional mitigation is required.”

Thank you again for providing us with the opportunity to provide additional comments on this important project. If you have any questions regarding these comments, please contact Dunia Noel, Assistant Executive Officer at dunia.noel@ceo.sccgov.org.

Sincerely,



Neelima Palacherla
LAFCO Executive Officer

Cc: LAFCO Members



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Executive Officer
Neelima Palacherla

August 10, 2020

VIA EMAIL: dvautin@bayareametro.gov
info@planbayarea.org

Mr. Dave Vautin
Metropolitan Transportation Commission
375 Beale Street
San Francisco, CA 94105

Subject: Comments on Plan Bay Area 2050 Blueprint Strategies

Dear Mr. Vautin,

Thank you for providing Santa Clara LAFCO the opportunity to comment on the Plan Bay Area 2050 Blueprint Strategies. The Plan identifies Guiding Principles and Strategies that address the topics of transportation, the regional economy, housing, and the environment. Several of the actions identified by the Plan focus on the construction of housing that is both affordable and near transit, developing infrastructure to provide greater mobility, protecting communities from the impacts of climate change, and providing economic opportunities for all Bay Area residents.

The Local Agency Formation Commission (LAFCO) is a state mandated independent local agency established in every county to regulate the boundaries of cities and special districts. The development patterns identified in the Plan align with the mission of LAFCOs which is to discourage urban sprawl, promote efficient service delivery, and protect agricultural and open space lands.

Allocate Growth to Cities, Not to Unincorporated Santa Clara County

A set of fundamental growth management policies known as the Countywide Urban Development Policies guide the timing and location of urban development in the Santa Clara County. These policies, jointly adopted by the County, LAFCO and the 15 cities, require urban development to be located within cities, and for unincorporated lands outside Urban Service Areas (USA) to remain rural. Accordingly, the County limits development outside USAs to rural land uses and densities that do not require urban services. In turn, the cities plan for orderly urban development within LAFCO-adopted USA boundaries. USAs include lands currently urbanized and annexed to cities and provided with urban services, as well as unincorporated lands that a city intends to annex in order to develop those lands and provide them with urban services. Over the years, this systematic approach to managing urban growth has helped create sustainable communities and landscapes in Santa Clara County.

In light of this, Santa Clara LAFCO encourages ABAG to consider these fundamental policies in developing its Regional Housing Needs Allocation methodology for Santa Clara County. That is, we encourage directing housing / growth allocation to cities near jobs, transit, and existing

infrastructure, rather than to the unincorporated lands outside cities' USAs. This will help reduce sprawl and promote compact development, reduce traffic demand generated by outward growth, reduce emissions and pollution from vehicles, reduce longer commute distances, and encourage urban densities supportive of transit solutions, while preventing the introduction of urban uses into rural areas and the premature and/or unwarranted development of farmlands and open space.

City Annexation and Development of Unincorporated Islands

As part of our focus on curbing sprawl and promoting efficient services delivery, Santa Clara LAFCO encourages cities to annex the many unincorporated islands that are scattered through the cities in the county. Supporting annexation of these developed, urban unincorporated islands consistent with the LAFCO designated USA will vest land use authority in the agency best able to provide municipal service, remove multi-agency coordination in planning for housing, and streamline facilitating ties to transit.

In Santa Clara County, a few of the unincorporated islands are near existing transit hubs and near or within Priority Development Areas. Encouraging development in these islands to occur in cities would allow for greater cohesion of transit, municipal services, and land use plans under a single jurisdiction and afford regional and local agencies better opportunities to allocate finite resources in a more efficient manner. Additionally, cities can better coordinate supply and capacity in determining density and location of affordable housing within these islands in order to meet the City's RHNA allocation.

Santa Clara LAFCO encourages MTC and ABAG to consider including strategies that support city annexation of the developed, unincorporated areas within USAs in order to further the goals of Plan Bay Area 2050. One strategy could be grant funding to LAFCOs and cities as part of Plan Bay Area 2050. LAFCOs and cities have limited budgets and staffing resources to pursue these island annexations, particularly in cases where additional study relative to service issues and land use planning is required prior to annexation. With grant funding made available for annexation plans for unincorporated areas in or near PDAs, LAFCO and cities could coordinate the annexation process, creating service plans, and outreach to residents about the benefits of annexation. The grants to support these annexations would have long lasting benefits for residents, cities, and counties.

Please do not hesitate to contact me, should you have any questions or wish to discuss these comments further. Santa Clara LAFCO looks forward to reviewing all future documents related to Plan Bay Area 2050 and on behalf of the Commission, thank you again for the opportunity to comment.

Sincerely,



Neelima Palacherla
Executive Officer

CC: LAFCO Members
Jacqueline Onciano, Santa Clara County Planning Director



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

ITEM # 7

LAFCO MEETING: October 7, 2020
TO: LAFCO
**FROM: Neelima Palacherla, Executive Officer
Lakshmi Rajagopalan, Analyst**
SUBJECT: CALAFCO RELATED ACTIVITES

7.1 REPORT ON CALAFCO LEGISLATIVE MEETINGS

For Information Only

EO Palacherla participated in the CALAFCO Legislative Committee meeting held on August 14, 2020 by tele-conference. The CALAFCO Executive Director provided an update on the status of bills that CALAFCO is tracking and the priorities for the next legislative year.

The first meeting of the Legislative Committee for this coming year will be a brief conference call set for October 2, 2020 in order to prepare for the next legislative year.

7.2 CALAFCO MONTHLY MEETINGS FOR EXECUTIVE OFFICERS

For Information Only.

EO Palacherla attends monthly Zoom meetings hosted by CALAFCO for LAFCO Executive Officers statewide. These calls provide updates on CALAFCO activities and how other LAFCOs are operating during the pandemic. Attendees share information on the resources and innovative tools that they are using to support LAFCO operations during the emergency. The meetings are also a forum to discuss issues of shared interest, such as best practices for virtual public hearings.

7.3 CALAFCO UNIVERSITY WEBINAR SERIES

For Information Only

In light of the pandemic, CALAFCO redesigned CALAFCO U to be virtual. CALAFCO U offered three LAFCO 101 webinars in August that explored the basics of LAFCO. The webinars, including one for commissioners entitled “Being a LAFCO Commissioner – What Does it Really Mean?”, are available on-demand on the CALAFCO website under Member Resources.