

WEDNESDAY, FEBRUARY 14, 2001

SANTA CLARA COUNTY  
Local Agency Formation Commission

MINUTES

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**1. ROLL CALL**

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 14th day of February 2001 at 1:20 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California with the following members present: Commissioners Blanca Alvarado, Pete McHugh, Alternate to Commissioner Gage, Suzanne Jackson, Linda LeZotte, and Susan Vickland Wilson. Commissioner Don Gage is absent. LAFCO staff in attendance include Neelima Palacherla, LAFCO Executive Director; Kathy Kretchmer, LAFCO Counsel; Ginny Millar, LAFCO Surveyor; and, Colleen Oda, LAFCO Planner. The meeting is called to order by Chairperson Jackson and the following proceedings are had, to wit:

**2. PUBLIC PRESENTATIONS**

There are no public presentations.

**3. WELCOME NEW COMMISSIONER**

Chairperson Jackson welcomes Linda LeZotte, new Commissioner on LAFCO.

**4. APPOINTMENT OF NEW CHAIRPERSON AND VICE CHAIRPERSON**

Neelima Palacherla, LAFCO Executive Director, explains that LAFCO rotation schedule appointments of Chairperson and Vice Chairperson for fiscal year 2001-2002 are representatives by the County and the City of San Jose.

On motion of Commissioner McHugh, seconded by Commissioner Alvarado, it is unanimously ordered that Commissioner Gage, County Representative, be appointed Chairperson for 2001 and Commissioner LeZotte, City of San Jose Representative, be appointed Vice Chairperson for 2001.

Acting Chairperson LeZotte expresses appreciation to Commissioner Jackson for her leadership as Chairperson for the year 2000.

Chairperson Jackson turns the gavel over to Commissioner LeZotte, Acting Chairperson.

**5. APPROVE MINUTES OF DECEMBER 13, 2000**

On motion of Commissioner Wilson, seconded by Commissioner Alvarado, it is ordered on a vote of 3-0 with Commissioners LeZotte and McHugh abstaining, the December 13, 2000 minutes be approved, as submitted.

**\*6 APPROVE CONSENT CALENDAR**

On motion of Commissioner Alvarado, seconded by Commissioner McHugh, it is unanimously ordered that the consent calendar be approved.

**\*6.1 CUPERTINO SANITARY DISTRICT ANNEXATION-REGNART NO. 3**

On motion of Commissioner Alvarado, seconded by Commissioner McHugh, it is unanimously ordered that Resolution No. 01-1 be adopted approving the annexation of 2.51 acres on the north side of Regnart Road between Regnart Road and Canyon View Creek into the Cupertino Sanitary District.

**\*6.2 CUPERTINO SANITARY DISTRICT ANNEXATION-PROSPECT/HANSEN**

On motion of Commissioner Alvarado, seconded by Commissioner McHugh, it is unanimously ordered that Resolution No. 01-2 be adopted approving the annexation of 3.0 acres on the west side of Prospect Road adjacent to Blue Hills Lane into the Cupertino Sanitary District.

**7 PUBLIC HEARINGS**

**7.1 MINOR URBAN SERVICE AREA (USA) AND SPHERE OF INFLUENCE (SOI) AMENDMENT AND VISTA GRANDE AVENUE 00-01 ANNEXATION TO THE CITY OF LOS ALTOS**

This being the time and place set for public hearing to consider a request for a minor Urban Service Area (USA) and Sphere of Influence (SOI) amendment and annexation of a 0.394-acre parcel on Vista Grande Avenue into the City of Los Altos, Vice Chairperson LeZotte declares the hearing open.

The Commission considers the staff report from Ms. Palacherla dated February 5, 2001, recommending that the request for the minor USA and SOI amendment and annexation of a 0.394-acre parcel at 789 Vista Grande Avenue into the City of Los Altos along with a detachment of the parcel from the City of Mountain View be approved. Ms. Palacherla provides background information relating to the request and outlines the reasons for the recommendation.

In response to an inquiry by Commissioner McHugh relating to how the 0.394-acre parcel became a small "island," Ms. Palacherla notes that there was a statement referenced in the City's report indicating that in 1959, the parcel was annexed into the City of Mountain View for political reasons.

Receiving no further requests from the public to speak, the Acting Chairperson orders that the hearing be closed.

On motion of Commissioner McHugh, seconded by Commissioner Jackson, it is unanimously ordered that Resolution No. 01-3 be adopted approving the minor Urban Service Area (USA) and Sphere of Influence (SOI) amendment and annexation of a 0.394-acre parcel on Vista Grande Avenue into the City of Los Altos with a simultaneous detachment from the City of Mountain View. Further, that the project is categorically exempt from the provisions of CEQA.

**7.2 OUT-OF-AGENCY SEWER SERVICE, MORA DRIVE SEWER PROJECT, TOWN OF LOS ALTOS HILLS**

This being the time and place set for public hearing to consider a request for Out-Of-Agency Sewer Service, Mora Drive Sewer Project, Town of Los Altos Hills, Acting Chairperson LeZotte declares the hearing open.

The Commission considers the staff report from Ms. Palacherla dated February 12, 2001, recommending that the request for extension of sewer service to 28 properties on Mora Drive be denied. Ms. Palacherla provides an overview of the LAFCO policies as they relates to the proposal.

Ms. Palacherla refers to the overhead projection of a map and points to the 28 parcels in the proposed Mora Drive area and reports that the area is not contiguous to the boundaries of the Town of Los Altos Hills, therefore technically the annexation is not possible at this time. She further references a provision in the agreement between the Town of Los Altos Hills and the property owners and reports that a provision in the agreement requires that the property owners waive their protest rights for any future proposed annexations in the Mora Drive area. She notes that the likelihood of future sewer extension requests in the pocket area of the Town of Los Altos Hills would require comprehensive planning and points out that the Town of Los Altos Hills has not provided any information or assurance regarding specific steps towards the planning for any future annexations of the Mora Drive area. Ms. Palacherla recommends that this extension of sewer service be denied.

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Commissioner McHugh notes that Supervisor Kniss, who represents the area, has requested that consideration of the proposal be continued so she can have the necessary time to research the issues surrounding the proposal. He advises that he will propose consideration of continuance after hearing from the public. Commissioner Wilson expresses agreement with the continuation of the hearing, citing concerns that the Commission needs additional information regarding annexation, amendment to the master sewer agreement, and a letter from the City of Los Altos.

Commissioner Jackson requests that staff provide information regarding why 12 parcels that are adjacent to the proposed Mora Drive area are not included in the agreement.

Eloise Bodine, 11055 Mora Drive, advises that effluent is surfacing onto her property which Ms. Bodine states is a health issue. She expresses the importance of having a sewer line installed due to the health and safety issues regarding the failing septic system in the Mora Drive area.

Margo Seymour, 11170 Mora Drive, advises that for the last three years, residents have been going to a local laundromat to do their laundry, because the residents could not run water through the septic system. She notes that approximately eight years ago a second line was installed and every six months the residents have to switch from one field to the other. She also notes that there is an unpleasant smell from her property caused by the failing septic system.

Hal Feeney, 11030 Mora Drive, advises that the septic systems are old and are breaking down in the Mora Drive area. He addresses Commissioner Jackson's earlier question regarding the 12 parcels that are not participating in the annexation. Mr. Feeney states that some of the parcels are not participating because the property owners have already put in new septic systems at their own expense. He suggests that LAFCO review the project as an opportunity to have 28 property owners who will not oppose future annexations. He advises that he met with Supervisor Kniss recently and notes her interest in understanding all of the issues involved in the proposal and sanitation issues that exist on Mora Drive.

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Enrique J. Klein, 10710 Mora Drive, advises that the project will be entirely funded by the property owners. He also notes that approximately 40 properties could benefit from the sewer system and there are 28 property owners who are willing to participate and have signed an agreement with the Town of Los Altos Hills that when accepted by LAFCO each parcel will not oppose any annexation when such annexation is proposed.

Charles M. Bodine, 11055 Mora Drive, advises that two years ago the Mora Drive Sewer Project was brought to LAFCO and the County with information that a sewer line extension was needed and that there was effluent surfacing. Mr. Bodine states that there are others in the area that have that same problem and that there will be a cost advantage in purchasing if enough people are willing to participate. He further notes that it would be cheaper to install a sewer line than it would be to put in fixed drain fields. He expresses his frustration in that it has taken two years to get to this point.

Sid Nesh, Mark Thomas and Company, states that a great deal of effort has been undertaken to make sure that the project conforms to all of LAFCO's requirements and encourages staff support of the extension of sewer service. He points out that in the future LAFCO will have contiguous opportunities for annexations.

The Acting Chairperson notes that there are no additional requests from the public to speak.

Commissioner McHugh states that he will not be able to support the extension of sewer service based on the information received today. He notes that additional information on the specific request by Supervisor Kniss is appropriate. Commissioner McHugh refers to the staff report which reflects that there is no documentation indicating that there is a health and safety hazard created due to the sanitation situation and that this does not agree with what has been said today in the public hearing. He further states that continuing the hearing will allow for the issue to be resolved and moves that the hearing be continued to the next LAFCO meeting. Commissioner Alvarado seconds the motion.

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Commissioner Wilson offers an amendment to the motion, authorizing the LAFCO Executive Director to forward a letter to the Town of Los Altos Hills requesting additional information regarding the amendment to the master sewer agreement, the Town's annexation plans, and any relevant health issues. Commissioners McHugh and Alvarado agree to the amendment to the motion.

Commissioner Jackson advises that she has spoken with Ms. Bodine, Ms. Seymour, and Mr. Klein and suggests that letters from both the City of Los Altos and the Town of Los Altos Hills be part of the packet. Commissioner Alvarado requests that the additional information received from the Town of Los Altos Hills also be forwarded to Supervisor Kniss.

On motion of Commissioner McHugh, seconded by Commissioner Alvarado, it is unanimously ordered that the hearing on Out-of-Agency Service contract to provide sewer services by the Town of Los Altos Hills to the Mora Drive Sewer Project to serve 28 properties within the Sphere of Influence of the Town of Los Altos Hills be continued to the April 11, 2001 LAFCO meeting at 1:15 p.m.

Acting Chairperson LeZotte expresses appreciation to the members of the Mora Drive Sewer Project who testified today.

**8. PROPOSED FY 2001-2002 LAFCO BUDGET**

Ms. Palacherla reports that the Cortese-Knox-Hertzberg Act requires LAFCOs to annually adopt a budget and requires that the cities and the County share in the cost of funding the LAFCOs. Ms. Palacherla provides an overview of three requirements under the new law including budget and administration, procedural and technical requirements, and LAFCO's expanded role in ensuring orderly development.

Ms. Palacherla notes at the December 13, 2000 meeting, the Commission authorized staff to negotiate with the County for staffing and facilities and advises that a draft Memorandum of Understanding between LAFCO and the County is being prepared to be forwarded to the Board of Supervisors for approval. She further advises that she is working with the County Auditor on the apportionment of costs for LAFCO and staff.

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Ms. Palacherla refers to the Procedural and Technical Requirements noting that a number of changes to the existing procedures are required under the new law, including a web site to meet the noticing requirements, updating various forms to reflect the new disclosure requirements, setting up procedures as the Conducting Authority.

Ms. Palacherla continues her report and refers to the Expanded Role in Ensuring Orderly Development noting that LAFCOs are required to conduct additional analysis in order to carry out new responsibilities to be effective in preventing urban sprawl, protecting agricultural and open space lands and ensuring efficient service provision. She further notes that the new requirements include a review of extension of services into unincorporated areas, review of all Out of Agency contracts for extension of services, and a comprehensive analysis of proposals. In addition, LAFCO is required to do five-year Sphere of Influence updates and service reviews. She points out that with the number of requirements under the new law that additional staff is required.

Ms. Palacherla refers to the Proposed Staffing Level table attached to her staff report and advises that the LAFCO Budget Subcommittee is recommending additional staff. She discusses the current staffing levels and the proposed staffing levels for the Executive Director, LAFCO Clerk, LAFCO Counsel, LAFCO Planner, LAFCO Analyst, LAFCO Surveyor, and Consultant. Ms. Palacherla points out that the Budget Subcommittee is recommending that the half-time LAFCO Clerk position be increased to a full-time position, increase number of hours for the LAFCO Counsel on an as needed basis, a new LAFCO Analyst full time position, and a Consultant for specific projects such as map publications, SOI and service reviews.

Ms. Palacherla continues by providing a overview of the Budget Analysis referenced in her staff report. She provides an overview of each category including Hardware and Software, Office Expenses, County Overhead Costs, Geographic Information System (GIS) Administration/Maintenance, General Systems Administration, Insurance, Staff Training, Litigation Reserve and Contingency Funds.

Ms. Palacherla references the Fiscal Year 2001-2002 Proposed LAFCO Budget table and notes that the litigation reserve is \$5,000 and the Contingency Fund is 5 percent of the



total budget. She adds that the total LAFCO Budget is \$502,612, including a projected \$25,000 of Revenues from application processing for Fiscal Year 2001-2002 and reports that the Net LAFCO Operating Expenses is \$477,612.

Ms. Palacherla concludes her report by providing an overview of the apportionment of LAFCO costs to agencies. She advises that the County is required to pay one-half of the cost, the City of San Jose is required to pay a quarter of the cost, and the remaining 14 cities as a whole are required to pay a quarter of the cost. She refers to the chart in her report that indicates the estimated agency apportionments for each of the 14 cities. Ms. Palacherla also notes that the County Auditor will bill each agency that is responsible for funding LAFCO.

In response to an inquiry by Commissioner McHugh, Ms. Palacherla advises that state law requires that the apportionment among the cities of LAFCO expenses be based on the City's total revenue. Discussion ensues regarding concerns that the litigation reserve of \$5,000 may not be sufficient to cover litigation expenses. Kathy Kretchmer, LAFCO Counsel, advises that there is a provision that if LAFCO should go over budget due to a litigation issue, LAFCO could request an advance from the County. Ms. Kretchmer further advises that if LAFCO goes over budget, the expenses would be assessed in the next fiscal year and apportioned in the same manner that was indicated by Ms. Palacherla earlier.

Commissioner Jackson notes that the Budget Subcommittee reviewed the proposed budget and advises that the proposed budget is a working budget. She also notes that the Subcommittee will be reviewing the fee schedule. Commissioner Wilson comments that there will probably not be recurring costs, such as computer hardware and software. Commissioner Alvarado expresses appreciation to Commissioners Gage and Jackson for working with staff on the proposed budget. Acting Chairperson LeZotte expresses appreciation to the County for providing facilities to LAFCO. In response to an inquiry by Acting Chairperson LeZotte, Ms. Palacherla advises that the insurance category refers to LAFCO staff and not to LAFCO Commissioners.

Acting Chairperson LeZotte refers to the Contingency Funds of \$25,000 of projected revenues and inquires if there will be a cost recovery to offset the costs of a new Analyst and

increase time for the LAFCO Clerk. Ms. Palacherla advises that the last time the LAFCO fee schedule had been revised was a couple of years ago and compared to other LAFCOs, there is quite a difference in fees. She notes that there is room for cost recovery in the future. Acting Chairperson LeZotte expresses appreciation to LAFCO staff for their work on the proposed budget.

On motion of Commissioner McHugh, seconded by Commissioner Jackson, it is unanimously ordered that the proposed budget of \$502, 612 for FY 2001-2002 be approved; and that staff be authorized to transmit the proposed budget adopted by the Commission including the draft city apportionment amounts to each of the cities, the County and the Cities Association.

(Commissioner Alvarado leaves at 2:00 p.m.)

9. **CONTRIBUTIONS AND LOBBYING DISCLOSURE REQUIREMENTS**

Ms. Palacherla expresses appreciation to Ms. Kretchmer for researching and preparing the proposed contributions and lobbying disclosure requirement recommendations.

Ms. Palacherla provides an overview of each recommendation relating to contributions and lobbying disclosure requirements. She recommends that the Commission authorize staff to amend appropriate application forms with proposed statements to reflect the mandatory disclosure requirements; that the Commission not adopt any contribution disclosure requirements at this time; and that the Commission adopt proposed lobbying disclosure requirements.

Ms. Palacherla refers to the proposed policies relating to the lobbying disclosure requirements included in her staff report, dated February 8, 2001 and provides a brief overview of the proposed policies.

Commissioner McHugh requests that LAFCO Counsel provide a Counsel opinion regarding the disclosure requirement concerning proposals to be voted on by the Commission. Acting Chairperson LeZotte requests that the staff memorandum include information indicating that the memorandum was coordinated with LAFCO Counsel.

On motion of Commissioner Jackson, seconded by Commissioner Wilson, it is ordered on a vote of 3-0 with Commissioner McHugh abstaining, and Commissioner Alvarado absent that staff's recommendations be approved to authorize staff to amend appropriate application forms with proposed statements to reflect the mandatory disclosure requirements; that the Commission not adopt any contribution disclosure requirements at this time; and adoption of proposed lobbying disclosure requirements.

**10. EXECUTIVE DIRECTOR'S REPORT**

**A. One-Day Workshop for Commissioners Regarding Implementation Of Cortese-Knox-Hertzberg Act, at the Sacramento Convention Center on March 28, 2001**

Ms. Palacherla encourages Commissioners to attend the California Local Agency Formation Commission (CALAFCO) Workshop, and notes that LAFCO staff has attended an orientation on the Cortese-Knox-Hertzberg.

In response by an inquiry by Acting Chairperson LeZotte, Ms. Palacherla advises that she will forward information to Commissioners regarding the one-day workshop in Sacramento as soon as it is available.

**B. CALAFCO Clerks Conference 2001 in San Francisco**

Ms. Palacherla advises that the CALAFCO Clerks Workshop is scheduled for February 21-23, 2001 in San Francisco and requests that the Santa Clara County LAFCO Clerk be authorized to attend. She points out that the workshop will provide information on the various facets of LAFCO and implementation of AB 2838 (Cortese-Knox-Hertzberg).

On motion of Commissioner Wilson, seconded by Commissioner Jackson, it is unanimously ordered that the LAFCO Clerk be authorized to attend the CALAFCO Clerks Workshop in San Francisco on February 21-23, 2001, and that travel expenses

be funded from the LAFCO travel budget.

**C. Morgan Hill Unified School District (MHUSD) Update, (Information Only)**

Ms. Palacherla provides an update on the Morgan Hill Unified School District (MHUSD). She notes that Commissioner Alvarado requested information from the last meeting regarding the status of the MHUSD proposal. Ms. Palacherla advises that the City of Morgan Hill and MHUSD entered into an agreement for the City to provide sewer and water services to the School District in Mid-December, therefore the new law will not apply to the proposal. She also advises that the City of San Jose has filed a lawsuit relating to California Environmental Quality Act (CEQA) issues on the proposal and settlement discussions are currently taking place.

**11. ANNOUNCEMENT**

Acting Chairperson LeZotte acknowledges LAFCO Alternate Member Mary Lou Zoglin, City Representative, who is in the audience today.

**12. ADJOURNMENT**

On order of the Acting Chairperson, there being no objection, the meeting is adjourned at 2:23 p.m. to the next regular meeting to be held on Wednesday, April 11, 2001 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

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Linda LeZotte, Vice Chairperson  
Local Agency Formation Commission

ATTEST:

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Ruth Marston, LAFCO Clerk