

SANTA CLARA COUNTY
Local Agency Formation Commission

MINUTES

WEDNESDAY, FEBRUARY 13, 2002

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 13th day of February 2002 at 1:16 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: Chairperson Linda LeZotte, and Commissioners Blanca Alvarado, Donald Gage, Susan Vicklund Wilson and Mary Lou Zoglin.

The LAFCO staff in attendance include Neelima Palacherla, LAFCO Executive Officer; Kathy Kretchmer, LAFCO Counsel; Dunia Noel, LAFCO Analyst.; and, Ginny Millar, LAFCO Surveyor.

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

2. PUBLIC PRESENTATIONS

There are no public presentations.

3. APPROVE MINUTES OF DECEMBER 12, 2002 MEETING

On motion of Commissioner Wilson, seconded by Commissioner Gage, it is unanimously ordered that the minutes of the December 12, 2001 meeting be approved as submitted.

4. PUBLIC HEARINGS

4.1 OUT-OF-AGENCY EXTENSION OF SEWER AND WATER SERVICES TO MORGAN HILL BIBLE CHURCH BY THE CITY OF MORGAN HILL

Neelima Palacherla, LAFCO Executive Officer, directs attention to the staff report, dated February 4, 2002, recommending (1) denial of the request for extension of water and sewer service to Morgan Hill Bible Church (MHBC) for its existing 10,360 square foot facility and proposed expansion of 25,000 square feet; and, (2) denial of categorical exemption from CEQA.

She advises that extending services outside of the Urban Service Area (USA) would be inconsistent with the County's General Plan as well as the urban development policies adopted by the City and County in 1973. Any proposed development on the property would be subject to the County's development and zoning regulations. Citing a letter from the County Planning Office, she reports that the Office finds that the proposed 25,000 square foot development would exceed the 10,000 square foot allowable floor area for structures sized to serve only the rural unincorporated population. With regard to the existing 10,360 square foot of facilities, she states that the letter indicates that records only show the approval for 5,826 square feet. She further advises that Morgan Hill's policies provide that extension of services will only be approved if there are health and safety concerns, or if it is beneficial to the general public. The City Council approved the extension citing that religious and social support services outweigh the negative impacts of continued decentralization of services. She notes that there are no health and safety issues that require this extension, and that this extension would set a precedent for other large facilities to relocate into unincorporated rural areas, inducing growth and causing premature agricultural land conversions. She further advises that an extension of services could not be provided if annexation of the site into the City is not anticipated. She concludes by reiterating the staff recommendation to deny the request for urban services and the CEQA categorical exemption.

On the query of Commissioner Gage, Ms. Palacherla states that the City adopted a categorical exemption but LAFCO staff has determined that this project is not categorically exempt. Hence, staff recommends denial of the categorical exemption. She notes that if the request is denied, there would be no need for further CEQA analysis. However, if it is approved, there will be a need for an initial study that would lead either to a Negative Declaration (ND) or an Environmental Impact Review (EIR). In response to an inquiry by Commissioner Gage, she advises that the City planning staff recommended denial of the application and recommended that it be categorically exempt. The City Council approved extension of services to the site.

Terry Linder, Senior Planner of the City of Morgan Hill, speaks in support the extension of services to MHBC because of its proximity to existing water and sewer lines; it has no growth inducing effects; the uniqueness of the circumstances; and, its vital role in the community. She states that the City has proposed a CEQA categorical exemption because it will only involve a small back-filling project. In response to a query of Commissioner Wilson, Ms. Palacherla explains that annexation of the property will be a huge undertaking because there will be many parcels involved. In response to an inquiry by Chairperson LeZotte, she states that the City's planning office recommended that the application be denied, that the denial was overridden by the City Council, and that she is now representing the City.

In response to an inquiry by Commissioner Gage, Kathy Kretchmer, LAFCO Counsel, advises that the application must satisfy the criteria of (a) health and safety risks, or (b) anticipated annexation in order to be approved. If the application is approved without satisfying these criteria, the approval could be challenged and LAFCO could ultimately incur liability.

Rick Watson, MHBC staff, states that he will address the issue of the existing building and speaks in support of approval of the request because sewer service is safer than a septic system.

Charles Youngkin, MHBC Senior Pastor, speaks in support of approval of the application, stating that the church would be able to provide more support programs for the community.

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Keith Higgins, MHBC staff, comments that the 25,000 square foot building plan for the proposed facility has been scaled down to 10,000 square feet; the USA amendment is not feasible because there are many parcels involved; and, the requested services are not required in the proposed expansion. In response to an inquiry of Commissioner Wilson, Mr. Higgins states that MHBC is located north of the properties that are presently planted with strawberries and pumpkins.

Anne Crealock, Greenbelt Alliance, speaks for the denial of the request because the facility is outside the City's USA and cites concerns that it will encourage urban sprawl; it exceeded the building size limit; it will set a precedent; and, it is located in an agriculture exclusive zone.

Kelly Crowley, Audobon Society, comments that MHBC should plan within the City's limits if it wants urban facilities.

Craig Breon, Audobon Society, expresses support to the staff position on CEQA and states that the city's planning staff oppose the project and were overruled by a decision which was political in nature.

Dennis Kennedy, Mayor, City of Morgan Hill, speaks for the approval of the request. He states that the church building used to be the "Silver Saddle Bar and Grill", and connecting it to the sewer and water system would be safer and a better option than a septic system. He continues by stating that the City will ultimately annex the site because it is close to the City limits and will correct the misshapen city boundary.

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

Commissioner Gage states that he supports churches for the benefits they give to the communities, however, he notes that he is bound by the rules and regulations of LAFCO, and has the responsibility to follow those. He notes that when one exception is granted, other groups and people will also ask for exceptions. He states that he will not be able to support the MHBC request at this time. He states, however, that while the

annexation is in process, he will work with MHBC to operate the facility under existing rules. Commissioner Alvarado observes that this is a difficult decision for all the members of the Commission and that the rules must be applied. Commissioners Alvarado and Gage discuss the large group assembly area study and how MHBC can expand its facility up to 10,000 sq. ft.

On motion of Commissioner Alvarado, seconded by Commissioner Wilson, it is ordered unanimously that Resolution No. 02-02 be adopted, denying the request of MHBC for sewer and water services; and, denying the CEQA categorical exemption.

4.2 SPHERE OF INFLUENCE (SOI) AMENDMENT AND ANNEXATION BY WEST BAY SANITARY DISTRICT ALONG LOS TRANCOS CREEK ROAD

Ms. Palacherla directs attention to the staff report dated February 4, 2002, and to amendments dated February 13, 2002. She states that West Bay Sanitary District (WBSD) is proposing to (a) amend its Sphere of Influence (SOI) to include four parcels, three of which are unincorporated and one is in Palo Alto; and, (b) annex these parcels, in addition to 10 other parcels that are within its existing SOI.

She explains that since most of WBSD is located in San Mateo County, San Mateo LAFCO is the principal LAFCO for the district and that the application was referred to the LAFCO Santa Clara County because there are parcels are in Santa Clara County. The Commission will forward its recommendations to San Mateo LAFCO a final decision.

She reports that the staff report has been revised in view of the new information available on the SOI amendment. Staff recommends: (1) approval of the inclusion of one parcel located in Palo Alto into the SOI of WBSD; (2) denial of the inclusion of three other parcels until the results of the survey becomes available; (3) that staff be directed to request the County Environmental Health Department to conduct a field study and submit its results; and, (4) San Mateo LAFCO be authorized to use the results of that study when they become available and to proceed with SOI amendment for the three parcels without the any further review by Santa Clara County LAFCO.

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She further reports regarding the annexation, that staff is recommending: (1) approval of the 10 parcels that are already within the SOI of the WBSD; (2) denial of annexation of the 3 parcels that are outside the SOI of WBSD until the parcels are included into that SOI and the related issues are resolved; and, (3) approval of annexation of the parcel located in Palo Alto, provided that (a) there is a resolution for zero tax exchange approved by the WBSD Board of Directors, the City of Palo Alto, and the Santa Clara Board of Supervisors; and that, (b) the legal description and maps are revised and submitted, incorporating the revisions requested by the LAFCO surveyor.

In response to an inquiry by Commissioner Wilson, Ms. Palacherla states that the parcel in the Palo Alto City limits is only being annexed to WBSD for sewer services, and that the land use jurisdiction will remain with Palo Alto. In response to an inquiry of Commissioner Zoglin, Ms. Palacherla advises that staff recommends denial of the three parcels until the results of the field study becomes available, and that San Mateo LAFCO be authorized to decide on the matter without any further review by Santa Clara County LAFCO.

Ernie Selander, Selander Architects, states that he will not waste the time of the Commission since the matter is being forwarded to San Mateo LAFCO.

On motion of Commissioner Alvarado, seconded by Commissioner Wilson, it is ordered that Resolution No. 02-01 be adopted, approving the inclusion of one parcel located in Palo Alto into the SOI of WBSD; denying the annexation of three other parcels until the results of the survey is available; directing staff to request County Environmental Health Department to conduct a field study and submit its results; and, (4) authorizing San Mateo LAFCO to use the results of that study and proceed with SOI amendment without requiring that the matter be brought back for further review by Santa Clara County LAFCO.

Commissioner Wilson expresses support for the staff attendance in the two workshops.

(Commissioner Wilson leaves at 2:09 PM.)

(Commissioner Alvarado leaves at 2:10 PM.)

5. EXECUTIVE OFFICER'S REPORT

A. Report on LAFCO Workshop for Special Districts

Ms. Palacherla, referring to staff report dated February 6, 2002, notes that staff held a workshop on January 22, 2002 attended by representatives from 15 special districts to inform them of the changes in the law, the new filing requirements, the service reviews, and SOI updates. Staff is now compiling the profiles of special district and developing a map of the special districts in the County.

B. 2002 CALAFCO Staff Workshop (March 14-15, 2002)

Ms. Palacherla announces a CALAFCO Staff Workshop on March 14-15, 2002, and recommends that the staff be authorized to attend that workshop.

C. 2002 CALAFCO Clerks Workshop (April 3-5, 2002)

Ms. Palacherla reports that there will be a CALAFCO Clerks Workshop on April 3-5, 2002, and recommends that the LAFCO Clerk be authorized to attend the workshop.

On motion of Commissioner Gage, seconded by Commissioner Zoglin, it is unanimously ordered that the report on the LAFCO workshop on special districts be accepted (Item No. 5A), and staff be authorized to attend the two CALAFCO workshops (Items No. 5B and C).

6. WRITTEN CORRESPONDENCE

Ms. Palacherla reports that there is a 100 percent consent petition for annexation of a property to Cupertino Sanitary District. The new law requires that this be put as an informational item on a Commission meeting before agenda bringing it to a hearing.

7. ADJOURNMENT

On the order of the Chairperson, there being no objection, the meeting is adjourned at 2:11 p.m. to the next regular meeting to be held on Wednesday, April 10,

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2002 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Linda J. LeZotte, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk