

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, June 8, 2005**

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes the 8th day of June 2005 at 1:21 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 John Howe, Commissioners Donald Gage, Linda J. LeZotte, Blanca Alvarado, and Terry A. Trumbull (alternate for Commissioner Susan Vicklund-Wilson).

The LAFCO staff in attendance includes Neelima Palacherla, LAFCO Executive Officer; Kathy Kretchmer, LAFCO Counsel; and Dunia Noel, LAFCO Analyst.

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

2. PUBLIC PRESENTATIONS

There are none.

3. APPROVE MINUTES OF FEBRUARY 9, 2005, MEETING

On motion of Commissioner Gage, seconded by Commissioner Trumbull, it is unanimously ordered that the February 9, 2005 minutes be approved, as submitted.

4. APPROVE MINUTES OF APRIL 13, 2005 MEETING

On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the April 13, 2005 minutes be approved, as submitted.

5. APPROVE CONSENT CALENDAR

5.1 West Valley Sanitation District 2005-01 (Cypress Way, Lands of Pratt/Amiri)

Chairperson Howe inquires whether there are any changes to the consent calendar, and there are none.

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

On motion of Commissioner Trumbull, seconded by Commissioner Gage, it is unanimously ordered that the request be approved to annex a 1.32-acre property (APN 532-26-099), located at 16330 Cypress Way in the Town of Los Gatos, to the West Valley Sanitation District and the protest proceedings be waived.

6. COUNTYWIDE WATER SERVICE REVIEW REPORT

This being the time and place regularly fixed for public hearing to consider the Countywide Water Service Review, the Chair declares the hearing open. Affidavit of Mailing and Proof of Publication on file with the LAFCO Executive Director establish that due notice has been given as required by law.

Ms Noel reminds commissioners that the Commission entered into an agreement with Dudek & Associates in April 2004 to conduct the review. A draft report has been prepared followed by a public hearing on the draft in April 2005. Comments on the draft report have been received from the Cities of San Jose, Gilroy, Sunnyvale, and Palo Alto, as well as from the League of Women Voters. Dudek & Associates has responded to the comments and made revisions to address the concerns.

Carolyn Schaffer, Project Manager for the Water Service Review, notes that the report includes government structure options for four of the special districts: Purissima Hills County Water District (PHCWD), San Martin County Water District (SMCWD), Guadalupe-Coyote Resource Conservation District (GCRCD), and Loma Prieta Resource Conservation District (LPRCD).

Ms Schaffer explains that PHCWD serves two areas outside its boundaries and that its Sphere of Influence and boundary are currently coterminous. She states that maintaining the status quo would not address out-of-agency services provided, while annexation of these areas would clean up the boundaries.

Ms Schaffer explains that SMCWD provides service to nine parcels outside its boundaries and is working on a request from Cherry Ranch Mutual Water Company (CRMWC) to add 17 parcels, because CRMWC has been ordered to disconnect its water system due to high nitrate levels. She then presents the five potential government structure options:

1. Status quo – The advantage is continuity; the disadvantages are that the service issues and public health concerns are not addressed.
2. Dissolution of SMCWD – There are no benefits; this would necessitate water supply from a private source.
3. Annexation, which would clean up boundaries, does not address larger concerns and quality.
4. Annexation of the two water districts presently served by PHCWD would solve health issues; however, 15 small water districts could be impacted.
5. Expansion of boundaries – This would give a long-term advantage in economies of scale, efficiency, and local accountability. Studies are needed regarding demand, capacity, and how this could be a growth inducement. LAFCO could consider a phased expansion.

Ms Schaffer advises that the RCDs are authorized to provide a broad range of services primarily related to land management. In the Guadalupe-Coyote RCD, status quo would maintain continuity; however, there is some duplication of service with Santa Clara Valley Water District. (SCVWD). Dissolution of the RCD, with SCVWD as successor agency, would eliminate duplication. However, it would restrict service levels such as independent oversight by the RCD. Ms Schaffer notes that a member of GCRCB Board indicated at the April LAFCO public hearing that the GCRCB would be willing to work with SCVWD.

Ms Schaffer continues by noting that status quo for LPRCD would also maintain continuity, with the disadvantage of some duplication in services. Dissolution would lead to economy and eliminate duplication while narrowing the range of service. She further notes that cities have annexed some areas without detaching from the LPRCD. Ms Schaffer advises that several new members on the LPRCD Board of Directors have new ideas for the district. After adoption of the review, Ms Schaffer explains that LAFCO staff will update the Sphere of Influence for the water districts and the two RCDs.

Commissioner LeZotte expresses appreciation for the appropriateness of changes made to the document in response to communication from affected agencies. She notes she did not receive a copy of the original letter from Gilroy, to which consultants responded. Ms Schaffer explains that personnel in Gilroy and San Jose chose to provide edits to the report rather than writing comment letters.

Commissioner Alvarado inquires about the next steps. Ms Palacherla responds that there will be an analysis of Spheres of Influence, following meetings with agencies regarding the Spheres of Influence. Updates will begin now and must be completed by the end of 2006. Commissioner Howe thanks Ms Schaffer for her presentation and requests public comment.

Libby Lucas, Los Altos resident, addresses the Commission regarding the water supply for a proposed housing development and requests that a reference to 1.2 per cent per year growth be included. She states that she believes the RCDs should not be dissolved, because they are part of the State and Federal agencies associated with the Agriculture Department. She states that the LPRCD has low overhead and that RCDs are basic to good land use planning. She expresses concern about fisheries. In addition, she states that the two RCDs cover different drainage areas.

The Chairperson determines that there are no additional public comments and closes the public hearing.

On recommendation of LAFCO Executive Officer Ms Palacherla, as noted in memorandum dated May 31, 2005, and on motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the final report be accepted and the resolution adopted making service review determinations and, further, that the project is determined to be exempt from the California Environmental Quality Act (CEQA) under § 15306 Class 6 of the CEQA Guidelines.

7. FINAL LAFCO BUDGET FOR FISCAL YEAR 2005-2006

This being the time and place regularly fixed for public hearing to consider the Final LAFCO Budget for Fiscal Year 2005-2006, the Chair declares the hearing open.

Affidavit of Mailing and Proof of Publication on file with the LAFCO Executive Officer establish that due notice has been given as required by law.

Ms Palacherla reminds commissioners that a preliminary budget was adopted in April and forwarded to cities and the County for comment. The proposed final budget includes a few minor changes from the draft as indicated in the staff report. Revenue is anticipated to be higher than previously estimated. Ms Palacherla explains that the net LAFCO operating expenses, as budgeted, would be \$503,240.00, of which one-half (\$251,621) comes from the County, one-fourth (\$125,810) from the City of San Jose, and the remaining one-fourth split among the other 14 cities in the County. In response to an inquiry from Commissioner Gage, Ms Palacherla responds that there have been no comments from the cities.

Chairperson Howe requests public comment. The Chair determines that there are no members of the public who wish to address the Commission and orders the public comment portion of the meeting closed. He further determines that there are no comments from commissioners or staff. Chairperson Howe closes the public hearing.

On recommendation of LAFCO Executive Officer Ms. Palacherla, as noted in memorandum dated June 1, 2005, and on motion of Commissioner Alvarado, seconded by Commissioner Gage, it is unanimously ordered that the Final LAFCO budget for 2005-2006 be adopted.

8. UPDATE ON ISLAND ANNEXATION EFFORTS

Ms Noel informs the commissioners that the Board of Supervisors voted on June 7, 2005 to provide incentives for cities wishing to annex unincorporated areas. She states that LAFCO staff will notify the cities about the County's offer to assist cities, State Board of Equalization's relaxed filing requirements for island annexations, and LAFCO's offer to assist cities with island annexations. In addition, staff will provide revised maps of the unincorporated islands in CD-ROM format. She continues that the Morgan Hill City Council will consider the matter on June 15, 2005 and will consider how to address LAFCO's request that the City submit a Resolution to LAFCO requesting that the Holiday Lake Estates area be included in the City's Urban Service

Area. Ms Noel informs the Commission that LAFCO staff will continue to work with the City of Morgan Hill and other cities and will keep the Commission updated on the issue.

Commissioner LeZotte inquires whether the County assistance with mapping and review costs is one-time and whether road improvement assistance will be provided in the form of a matching grant. Commissioner Gage explains that the expense will come from the County General Fund. Commissioner LeZotte reports that there is concern in Los Gatos regarding assistance with road improvement. Commissioner Alvarado notes that there is still concern about the lack of progress relative to annexation in other cities.

Commissioner Alvarado expresses support for standardization of the development standards. She additionally reminds the Commission that the Board of Supervisors will hold a land-use workshop in August and that several cities have suggested that County adoption of a Resolution of Intent by the Board of Supervisors to make County standards consistent with cities' standards as an incentive for the cities to proceed with annexations.

Ms Palacherla reports that there have been some preliminary conversations with West Valley cities including Cupertino. She notes that informational flyers will be distributed to cities next week. Commissioner Alvarado suggests that it might be helpful, after the Board of Supervisors' July recess, to poll the cities as to their intent, and Ms Palacherla agrees to do so. Commissioner Gage recommends setting up a timeline to give an idea of the average time required for annexation in order to avoid a last-minute rush. Ms Palacherla notes that LAFCO has a flow chart that shows the steps. She will apprise the cities of the time limit regarding the streamlined annexation law and the assistance offers made by the County and by LAFCO.

Commissioner LeZotte inquires about cost and what is covered, noting that smaller cities need a rough estimate of time and costs. Commissioner Trumbull asks whether Holiday Lake Estates in Morgan Hill would be eligible for subsidies and

whether the islands created after the law is passed will qualify for assistance. Kathy Kretchmer, LAFCO Legal Counsel, advises that she does not believe the date of creation would be an issue and that she will research the applicable laws.

9. UPDATE ON LAFCO' SOUTH CENTRAL SUB-REGIONAL SERVICE REVIEW

Ms Noel states that based on the LAFCO Consultant Selection Committee's recommendation, LSA Associates was retained for the Sub-regional Service Reviews and Sphere of Influence studies. She announces that Renee Sendeki, Project Manager for LSA, has been collecting information from participating agencies, and that LAFCO staff and consultants met with the South Central County Technical Advisory Committee (TAC) on June 6, 2005, to review the process. Ms Noel notes that LAFCO staff anticipates that LSA will collect data through August, in order to prepare a draft profile of each agency for review by staff and agencies. LAFCO staff will continue to update the Commission with status reports.

10. EXECUTIVE OFFICER'S REPORT

A. Update on LAFCO Clerk Position

Ms Palacherla reports that LAFCO staff continues to work with County Employee Services Agency on the classification study for the LAFCO Clerk position and it will probably not be final until the next fiscal year.

B. 2005 CALAFCO Annual Conference September 7-9, 2005

Ms Palacherla notes that Commissioner Wilson is the Program Chair for the Conference, and that she and Commissioner Wilson are on the planning committee. Santa Clara County LAFCO is co-hosting the Conference along with Monterey and Santa Cruz LAFCO. She advises that she will provide commissioners with a draft copy of the program, and she requests that the Commission authorize staff and Commissioners to attend the conference and authorize travel expenses from the LAFCO budget. Commissioner Gage requests that Rachel Gibson, Board Policy Aide, be authorized to attend the conference.

On motion of Commissioner Alvarado, seconded by Commissioner Gage, it is unanimously ordered that staff, Commissioners, and Ms Gibson be authorized to attend

the CALAFCO Annual Conference and that travel expense be authorized from the LAFCO budget.

(See further discussion on this item later in the meeting.)

11. PENDING APPLICATIONS

Ms Palacherla reports that there is one pending application, the San Jose Urban Service Area Expansion for 2005. The application is not yet complete, and staff anticipates that it will be completed in time for consideration at the August meeting.

12. WRITTEN CORRESPONDENCE

A. The Sphere, CALAFCO Newsletter

B. Letters regarding Great Oaks Water Company's Proposed Service Extension to Coyote Valley Area

There is no discussion.

13. NEWSPAPER ARTICLES

Commissioner Alvarado recommends that staff draft a letter for signature by the LAFCO chairperson regarding inaccurate information in a June 1, 2005 article in the Gilroy Dispatch entitled, "LAFCO Holds Hammer Over City" to clarify the legal mandate and role of LAFCO. Commissioner Gage states that some residents of Gilroy believe that LAFCO is impeding the City's progress regarding land use issues, and he notes that the Mayor of the City of Gilroy plans to meet with LAFCO staff. He further comments on the need for journalists to research information for their articles.

In response to an inquiry by Chairperson Howe regarding preparation of a written response to the article, Ms Kretchmer explains that the Commission cannot take action on this date, because the matter is not on the agenda as an action item. Ms Palacherla states that LAFCO staff routinely prepares a response to newspaper articles when there are inaccuracies and will provide a response to this article.

10. B. 2005 CALAFCO Annual Conference September 7-9, 2005

The Commission considers further from earlier in the meeting the CALAFCO Conference. Ms Palacherla advises the Commission that the term of Commissioner Wilson on the CALAFCO Executive Board expires in September 2005 and that

Commissioner Wilson has expressed interest in serving for another term on the Board. Ms Palacherla states that nomination papers for the position were received after the agenda was distributed for this meeting and that staff intends to place this matter on the August 10, 2005 LAFCO agenda. In addition, she states that staff would like to forward a nomination to the CALAFCO nominating committee.

In response to an inquiry from Commission Gage, Ms Palacherla clarifies that the term of Commissioner Wilson on LAFCO expires in 2007. Brief discussion ensues among LAFCO members, and there is general consensus that this subject be placed on the August agenda. Commissioner Alvarado requests clarification regarding the deadline for submission of nominations. Ms Palacherla clarifies that the deadline is August 8, 2005, which is prior to LAFCO's next meeting. Ms Kretchmer clarifies that the matter is being discussed today for informational purposes only and that it will be included on the August 10, 2005 agenda. She further advises that, if concerns arise about the nomination during the August meeting, Commissioner Wilson can withdraw the nomination.

14. ADJOURNMENT

On motion of the Chairperson, there being no objection, the meeting is adjourned at 2:12 p.m. The next regular LAFCO meeting is scheduled to be held on Wednesday, August 10, 2005 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

John Howe, Chairperson
Local Agency Formation Commission

ATTEST:

Martha Jurick, Deputy Clerk