

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, DECEMBER 5, 2007**

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 5th day of December 2007 at 1:18 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 Blanca Alvarado, Vice Chairperson Pete Constant, and Commissioners Don Gage, John Howe and Susan Vicklund-Wilson. Alternate Commissioner Terry Trumbull is also present.

The LAFCO staff in attendance includes 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 Alvarado and the following proceedings are had, to wit:

2. PUBLIC PRESENTATION

There is no public presentation.

3. APPROVE MINUTES OF OCTOBER 3, 2007 MEETING

On the request of Commissioner Howe, there being no objection, the Chairperson orders that approval of minutes of October 3, 2007 meeting be deferred to February 2, 2008.

4. SPHERE OF INFLUENCE (SOI) UPDATES FOR FIRE DISTRICTS IN SANTA CLARA COUNTY

This being the time and place set to consider the sphere of influence (SOI) updates for fire districts in Santa Clara County, the Chairperson declares the public hearing open.

The Chairperson requests the staff report. Ms. Noel states that the item is the adoption of the SOI reports and SOI determinations prepared by LAFCO staff for the Los Altos Hills County Fire Protection District (LAHCFPD), Santa Clara County Central Fire

Protection District (SCCCFPD), Saratoga Fire Protection District, and the South Santa Clara County Fire Protection District (SSCCFPD). She informs that after the packets had been sent out, SSCCFPD requested that Determination No. 3 be revised to read, "However, the District's infrastructure needs and operations management practices are determined by the Board of Commissioners and Board of Directors." She indicates that staff concurs with this revision.

Ms. Noel recommends that the Commission reaffirm the existing SOIs and adopt the SOI determinations for these fire districts. She informs that staff has determined that these actions are exempt from CEQA under CEQA §15061(b)(3) General Rule because reaffirming the current SOIs would not have any significant impact on the environment.

The Chairperson determines that there are no requests from the public to speak on the item.

On motion of Commissioner Constant, seconded by Commissioner Wilson, it is unanimously ordered on a vote of 5-0 that the public hearing be closed.

On motion of Commissioner Constant, seconded by Commissioner Howe, it is unanimously ordered on a 5-0 vote that the SOI update report for LAHCFD, SCCCFPD, Saratoga Fire Protection District, and SSCCFPD be determined as categorically exempt from CEQA under CEQA §15061(b)(3) General Rule; that SOIs be reaffirmed for LAHCFD, SCCCFPD, Saratoga Fire Protection District, and SSCCFPD; and, that Resolution No. 2007-08 be adopted, making SOI determinations for LAHCFD, SCCCFPD, Saratoga Fire Protection District, and SSCCFPD.

5. SOI UPDATES FOR WATER AND RESOURCE CONSERVATION DISTRICTS IN SANTA CLARA COUNTY

In response to an inquiry by the Chairperson, Ms. Noel informs that this item is a noticed public hearing and that staff has prepared a Negative Declaration and Initial Study for the San Martin County Water District (SMCWD).

On motion of Commissioner Gage, seconded by Commissioner Constant, it is unanimously ordered on a 5-0 vote that the public hearing be declared open.

The Chairperson requests the staff report. Ms. Noel informs that Dudek and Associates, under staff direction, prepared the SOI report and determinations for water

and resource conservation districts. With completion of this SOI update, LAFCO now meets the statutory requirement to update SOIs of all special districts by January 1, 2008. Staff recommends that SOIs be reaffirmed for Aldercroft Heights County Water District (AHCWD), Guadalupe-Coyote Resource Conservation District (GCRCD), Loma Prieta Resource Conservation District (LPRCD) and the Santa Clara Valley Water District (SCVWD). The report also recommends that PHCWD's SOI be amended to include APNs 175-46-014 and 015, and 175-36-004 that are already receiving services from that district. The report also recommends that SMCWD's SOI be amended to include approximately 170 acres that are now receiving out-of-agency service from that district. Ms. Noel advises that each special district has reviewed the SOI determinations, and informs that all these actions, except those for SMCWD, are exempt from CEQA under §15061(b)(3) General Rule. The Initial Study and Negative Declaration prepared by Dudek and Associates have been circulated and no comments have been received. Finally, Ms. Noel indicates that staff has prepared the Negative Declaration for actions related to the SMCWD.

The Chairperson determines that there are no members of the public who wish to speak on the item. On motion of Commissioner Howe, seconded by Commissioner Gage, it is unanimously ordered on a 5-0 vote that the public hearing be closed.

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered on a 5-0 vote that the SOI Reports, including the CEQA actions, be adopted for Aldercroft Heights County Water District, Guadalupe-Coyote Resource Conservation District, Loma Prieta Resource Conservation District, Purissima Hills County Water District, San Martin County Water District and Santa Clara Valley Water District; that Resolution No. 2007-09 be adopted, adopting the SOI determinations for Santa Clara Valley Water District, Aldercroft Heights County Water District, Purissima Hills County Water District, Guadalupe-Coyote Resource Conservation District, and Loma Prieta Resource Conservation District; and that Resolution No. 2007-10 be adopted, adopting SOI determinations for San Martin County Water District.

6. POLICIES IMPLEMENTING ASSEMBLY BILL 745

This being the time and place set to consider the proposed policies implementing AB 745, the Chairperson declares the public hearing open.

The Chairperson requests the staff report. Ms. Palacherla informs that AB 745, which requires additional disclosures on expenditures relating to proposals submitted to LAFCO, will take effect on January 1, 2008. Currently, only expenditures for proposals submitted to LAFCO that have been placed on the ballot must be disclosed pursuant to rules of the Political Reform Act for local initiative measures. Under AB 745, contributions of \$100 or more must be reported once the proponents or opponents of a proposal to LAFCO spend \$1,000 or more. AB 745 also requires that the disclosures be reported to LAFCO instead of the Fair Political Practices Commission (FPPC). Ms. Palacherla indicates that the California Association of Local Agency Formation Commissions (CALAFCO) is working with the State legislature to transfer that responsibility from LAFCOs to FPPC by January 1, 2009. Until then, LAFCOs will adopt policies to implement AB 745 and accept the disclosures. She advises that a group of LAFCO attorneys developed a model policy that was adopted by the CALAFCO Board of Directors. Based on that model, staff has prepared lafco policies. The policies would require disclosure of expenditures for preparing environmental documents and financial feasibility documents; and FPPC forms will be used for filing the disclosures. Ms. Palacherla indicates that the policies and disclosure forms will be available on the LAFCO website by January 1, 2008.

The Chairperson determines that there are no members of the public who wish to speak on the item and orders that the public hearing be closed.

Commissioner Wilson informs that CALAFCO is working with the State legislature to pass the responsibility of accepting disclosures from LAFCOs to FPPC by December 2008.

On motion of Commissioner Howe, seconded by Commissioner Constant, it is unanimously ordered on a vote of 5-0 that policies be adopted to implement AB 745 regarding disclosure of contribution and expenditures related to LAFCO proposals.

7. INITIAL STUDY AND NEGATIVE DECLARATION FOR THE PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN

This being the time and place set to receive public comments on the Initial Study and Negative Declaration for the proposed incorporation of the Town of San Martin, the Chairperson declares the public hearing open.

The Chairperson requests the staff report. Ms. Noel introduces Steven Jenkins, Director for Governmental Services, Michael Brandman Associates. Michael Brandman Associates is the consulting firm selected by LAFCO to prepare the Initial Study and Negative Declaration for the proposed incorporation. Mr. Jenkins provides an overview of Brandman and Associates' experience with environmental assessments relating to incorporation of new cities. He explains that, if approved, the incorporation of San Martin would transfer general governmental jurisdiction from the County to the new town. He informs that the proponents' stated objectives of incorporation are to create local accountability, obtain local control of land use, growth and planning policies, maintain the rural residential character and small scale agricultural activities that currently exist within the Town. The incorporation would result in no change to existing public services and service levels. He notes that these objectives are very important because these provide the information that the environmental document uses to determine the environmental impacts.

Mr. Jenkins then directs attention to the map showing the proposed boundaries, stating that the area is generally bounded by Masten Avenue, Watsonville Road, Maple Avenue, and New Avenue, and is located along Highway 101 between the cities of Morgan Hill and Gilroy. He notes that the proposed incorporation will cause no changes to existing government organization, city boundaries, city limits or jurisdictions. In addition, the proponents are not proposing any change in the type or level of existing services to the area, and that no new services are being proposed. He then directs attention to a map showing the boundaries of existing service providers.

Mr. Jenkins informs that if incorporation is approved, the County General Plan and County ordinances, including zoning ordinances, would transfer over to the new city. The transfer of ordinances is by law while transfer of County General Plan is traditional to all

incorporations in the State. He informs that a new city has 30 months by which to adopt its general plan. He notes that the incorporation proposal does not change General Plan land use and zoning designation, does not change the level of services, and no development is being proposed. With respect to Williamson Act contracts, State law provides that the new town would succeed to all current contracts and provide for administrative, legal and contractual requirements. He directs attention to a map indicating the General Plan land uses and the Williamson Act parcels.

Mr. Jenkins briefly walks through the CEQA process by stating that all responsible and trustee agencies have been consulted and informed that the initial study is being prepared. As part of CFA process, all service providers in the area have been requested to provide information regarding provision of services. On November 6, the Initial Study and Notice of Intent to Adopt Negative Declaration had been circulated, furnished to the State Clearinghouse, published in a newspaper, posted on a public bulletin board, sent to relevant agencies and jurisdictions throughout the County. He informs that the 30-day public comment period ends on December 5, 2007, at 5:00 p.m., and states that the purpose of today's meeting is to accept comment. He informs that there are no mitigation measures proposed because no significant environmental impact is found. The Initial Study, however, notes that there are existing status quo environmental problems, such as nitrate and water contamination, which the incorporation would not change. Finally, Mr. Jenkins informs that the purpose of the hearing is only to receive comment relating to adequacy of the Initial Study and proposed Negative Declaration.

The Chairperson opens the public comment period for this item.

Brian Schmidt, Committee for Green Foothills, expresses agreement with concerns raised in a letter from the City of Morgan Hill regarding the boundary of the new Town and its environmental impact. He suggests that further action on the Negative Declaration be held pending the final boundaries of the proposed town. He inquires how LAFCO's agricultural mitigation and USA policies are applied to the proposed incorporation.

Chairperson Alvarado reminds speakers that comments should only be about the adequacy of the Initial Study. The Chairperson indicates that some of the questions raised

by Mr. Schmidt will also come up later. She notes that more work needs to be done about the boundary. In response to an inquiry by the Chairperson, Ms. Palacherla advises that the boundary evaluated in the Initial Study is the boundary proposed by the proponents, any deletion would be covered by the CEQA document; however, additions would need additional CEQA evaluation.

At the request of the Chairperson, Mr. Schmidt comments that the environmental study would be more adequate after the boundaries are finalized. He adds that a smaller boundary would cause fewer environmental impacts.

Jim Foran, resident of Santa Clara County, states that LAFCO's responsibility to protect agricultural lands does not change whether the LAFCO action is incorporation or annexation. He comments that there is a significant environmental impact because by incorporating these lands, they would no longer be protected by the agricultural mitigation policies. He adds that this is a significant CEQA issue that would require an EIR.

Richard van't Rood, SMNA Spokesperson, expresses support for the Initial Study and Negative Declaration, stating that the consultant prepared a thorough report.

The Chairperson determines that there are no members of the public who wish to speak on the item. On motion of Commissioner Constant, seconded by Commissioner Howe, it is unanimously ordered on a vote of 5-0 that the hearing be closed.

In response to an inquiry by the Chairperson, Ms. Palacherla states that there is a difference between incorporation of a new city and annexation into a city for CEQA purposes. The difference is that the proposed incorporation does not intend to change land use; whereas, a USA amendment or annexation generally involves changes to land use and level of services. CEQA can only consider impacts known at the time and can not speculate on land use actions of the future town council. Actions of the future town council would be subject to CEQA.

On motion of Commissioner Gage, seconded by Commissioner Constant, it is unanimously ordered on a vote of 5-0 that public comment be accepted on the Initial Study and Negative Declaration.

8. PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN

8.1 UPDATE ON THE INCORPORATION PROCESS

The Chairperson requests the staff report. Ms. Palacherla informs that the administrative draft CFA is being circulated for a two-week review to the proponents and County staff in preparation for revenue neutrality negotiations. LAFCO will facilitate the negotiations and bring the Draft CFA to the Commission in February 2008.

8.2 CONSIDERATION OF POTENTIAL MODIFICATIONS TO THE PROPOSED INCORPORATION BOUNDARIES OF THE TOWN OF SAN MARTIN

The Chairperson requests the staff report. Ms. Palacherla directs attention to a map indicating the San Martin incorporation boundary as proposed by incorporation proponents. The boundary as proposed is bounded on the north by Maple Avenue along the SOI of Morgan Hill, on the south by Masten Avenue along the SOI of Gilroy; on the east by New Avenue; and, on the west by Watsonville Road. This boundary includes about 16.35 square miles which is about the size of Gilroy and approximately four or five square miles larger than Morgan Hill. LAFCO is required to consider alternative boundaries and is allowed to modify boundaries in its review of proposals in accordance to Government Code §56668 and 56375(a) and (l), and also per LAFCO's policies. As part of the review, LAFCO must consider whether the proposed incorporation boundaries are consistent with the State law, LAFCO policies and other local policies. Ms. Palacherla states that LAFCO can minimize or eliminate conflicts with CKH Act and LAFCO policies by modifying the incorporation boundary. State law requires that boundary issues be evaluated and directs the Executive Officer to present alternative boundaries for the Commission's consideration at the public hearing.

Ms. Palacherla walks the Commission through the report. She states that after incorporation the future town will adopt the County General Plan and zoning ordinance. However, there is no guarantee that the new town will continue to use the County's General Plan and zoning ordinance for the long term. Once these lands are within the town limits, LAFCO would have no authority over the conversion of agricultural lands.

She notes that LAFCO would be concerned about the development within the town that would impact the surrounding agricultural lands. In addition, County General Plan requires buffers as separators between the cities in the South County. The purpose of buffers is to maintain community identity, avoid encroachment into agricultural lands and minimize land use conflicts. She adds that Morgan Hill and Gilroy contain unincorporated areas within their SOIs that serve as urban buffers. The proposed San Martin boundaries go all the way up to the SOIs of Gilroy and Morgan Hill.

Ms. Palacherla continues by stating that there is a large amount of agricultural land within the proposed boundaries of San Martin; approximately 2,132 acres designated as prime farmland, 257 acres as unique Farmland, and 577 acres as farmland of statewide importance. There are also lands within the proposed boundaries designated in the County General Plan as Agricultural Medium Scale. In addition, there is approximately 2,200 acres of Williamson Act lands. Much of the Williamson Act contracts are in non-renewal, however, significant amount of lands in the southwest and northern areas of the proposed San Martin boundary will remain under the contract.

Ms. Palacherla advises that LAFCO take a look at the boundaries, consider each area and determine how to reduce the impact of including these into the boundaries of the new town. She then provides an explanation for each of the alternatives.

Area 1 is located in the east and is composed mainly of ranchlands and parklands. The parklands are part of the County's Coyote Lake Harvey Bear Ranch. County Parks and Recreation Department requested that these lands be excluded from the proposed San Martin boundary. LAFCO policies also require that proposed incorporations exclude open space lands. Staff recommends exclusion of these lands from the proposed boundary.

Area 2, located along California Avenue, is an unincorporated area within Morgan Hill's SOI. This area would become an island if the incorporation boundary is approved as proposed. Staff recommends removing this area from Morgan Hill's SOI and adding it to San Martin's proposed boundary. The City of Morgan Hill has indicated support for this alternative boundary. Staff will discuss this area further with Morgan Hill.

Area 3, the Crowner Subdivision, is a small area between Monterey Road and the Railroad, and has sanitation and water issues. Since the proposed incorporation does not intend to provide urban services, Morgan Hill will be the closest service provider. Staff is proposing to remove this area from the proposed San Martin boundary and add it into Morgan Hill's SOI. Staff will discuss this area with Morgan Hill.

Area 4, an area north of Middle Avenue, is designated in the County General Plan as Medium Scale Agriculture. State law and LAFCO policies discourage inclusion of agricultural lands and require LAFCO to direct growth away from agricultural lands and minimize impact on adjacent agricultural lands. County policies support creation of urban buffers as separators between cities in South County.

In response to an inquiry of the Chairperson, Ms. Palacherla informs that this area has about 1,000 acres designated as Medium Scale Agriculture. Staff is proposing to exclude this from the proposed city limits but it could be included in the town's SOI.

Area 5, located in southwest portion of the proposed town, is composed of large parcels of agricultural lands. This area has portions designated as Medium Scale Agriculture by the County General Plan and as prime farmland designated by the State Department of Conservation, and has a high concentration of lands under Williamson Act contracts. Ms. Palacherla reiterates LAFCO policies discouraging inclusion of agricultural lands, reduction of impact to adjacent agricultural lands, and the County's policy on community separators. She recommends to removal of this area from the proposed town limits and include it in San Martin's SOI.

Area 6 is the open space conservation easement area of the Cordevalle Golf Course. Ms. Palacherla advises that since LAFCO policies discourage inclusion of open space in incorporation boundaries and since the easement is owned by the County, staff will determine the impact of including a portion of this area in the proposed boundaries of San Martin and excluding the open space portion. Staff will work with the South County Fire Protection District to discuss issues relating to wild land fire protection services for this area.

Area 7, an area west of Cordevalle, is designated by the County GP as Agriculture Medium Scale and has issues similar to areas 4 and 5. In response to an inquiry by the Chairperson, Ms. Palacherla advises that staff will determine the acreage of the area.

Ms. Palacherla indicates that these are preliminary recommendations regarding potential modifications to the proposed boundary and staff will work with the proponents and other agencies to further evaluate these alternatives.

In response to an inquiry by the Chairperson, Ms. Palacherla states that the CFA being prepared covers the boundaries as proposed; however, the consultant is also evaluating the fiscal impact of the alternatives. In response to a follow-up inquiry by the Chairperson, Ms. Palacherla indicates that the consultant would still be on schedule as the analysis of alternatives is part of the contract. In response to an inquiry by Commissioner Wilson, Ms. Palacherla indicates that additional environmental study for Area 2 will be needed.

Commissioner Gage expresses agreement with staff proposal to exclude Areas 1 and 3 from the proposed boundaries and to include Area 2. However, he expresses concerns with excluding Areas 4 and 5 because although Area 4 is zoned agricultural, its actual land use is rural-residential. He states that people living in these small parcels identify with San Martin and will be disenfranchised if they are unable to vote in San Martin. He proposes that staff reconsider Area 4. In addition, Commissioner Gage states that Area 5 is likewise rural residential, stating that the Board of Supervisors has recently approved a 19-lot subdivision on a 100-acre property. He reiterates that residents in the area identify themselves with San Martin and would be disenfranchised if they are excluded. The Chairperson indicates that these potential modifications are for further study. Commissioner Gage responds that he is expressing his concerns because these modifications need to be studied. He continues by stating that areas 6 and 7 should also be studied. The Chairperson restates Commissioner Gage's concern relating to disenfranchisement of residents excluded from San Martin. Commissioner Gage continues that urban buffers could become no man's land because residents cannot vote in San Martin and are subject to County policies. These areas become pockets that, in the future,

LAFCO would pressure San Martin to annex. He continues that urban buffers do not make a difference and states that there are already greenbelts in San Jose and Coyote Valley. He suggests that the San Martin boundary be drawn in a way to avoid potential problem in the future of being unable to annex some properties because of agricultural lands between these properties and the town's boundary.

At the request of the Chairperson, Ms. Palacherla clarifies the difference between islands and unincorporated areas. She explains that islands are developed unincorporated lands within a City's urban service area surrounded by cities. On the other hand, there is much unincorporated land around Morgan Hill, Gilroy and San Jose which are meant to remain in rural use.

In response to an inquiry by Commissioner Howe, Ms. Palacherla advises that according to preliminary staff analysis, Area 2 should be included in the proposed incorporation boundaries. Staff will work with Morgan Hill in order to evaluate environmental impacts of changing that city's SOI. She adds that the reason staff is recommending inclusion of this area is to avoid creating an island and also because this area better relates geographically with San Martin. In response to a follow-up inquiry by Commissioner Howe, Ms. Palacherla advises that the completed Initial Study and Negative Declaration does not include Area 2. After further analysis, if staff's final recommendation is to include Area 2, the appropriate CEQA analysis would be conducted.

The Chairperson opens the public comment period for this item.

Joe Rosa, resident of Masten Avenue, San Martin, expresses agreement with the comments made by Commissioner Gage. He requests that Area 5 be included in the proposed boundary because it will be fairly represented by San Martin. He informs that when he gathered voter signatures for incorporation petitions at least seven out of ten voters in the area are in favor of the incorporation. He adds that Area 5 should be part of the incorporation boundary because it sets a very clear boundary line. He states that it is more difficult to deal with the County and notes that the reduction of incorporation area will weaken San Martin's tax base.

Brian Schmidt, Committee for Green Foothills, expresses support for the staff proposal. He notes that inclusion of areas 4 and 5 could be controversial. Both areas are part of larger unincorporated areas. He proposes that further discussions take place relating to the impact to agriculture. The desire of residents to be part of San Martin is not a sufficient reason to include agricultural lands in the boundary. He inquires how the USA and agricultural mitigation policies would be implemented in the incorporation process because that would address the environmental questions. He cautions that EPS, the consultant for CFA, is the same company that came up with rosy fiscal projections for Coyote Valley.

Richard van't Rood, Spokesperson, San Martin Neighborhood Alliance, states that the initial boundaries had been discussed by proponents with staff before the petition was filed. The proponents wanted to include Area 2; however, it was not possible because it is in Morgan Hill's SOI. He concurs with excluding Area 3 because it is more associated with Morgan Hill than San Martin. That area was included in the proposed boundaries because of suggestion from staff. He likewise expresses concurrence with excluding Area 1 stating that this area was proposed to be included because of the way Morgan Hill's SOI boundary was drawn. He states that the ranchlands to south in Area 1 should be excluded because fire protection issues. He notes that Area 6 should likewise be excluded because of similar issues. He states that these are the recommendations that SMNA either made or concurred with. However, he objects to excluding areas 4 and 5 stating that he did not have the opportunity to work with staff on this issue. The proponents submitted a letter to LAFCO on October 5, 2007 expressing concerns with alternative boundaries. He informs that the Commission should have a copy of that letter. Most of the properties in areas 4 and 5 are already divided into rural residential lots and the agricultural designation is no longer consistent with the existing development and land use. The proponents and staff toured the area at an early stage in the process. He expresses concern that the timing and accuracy of the revenue neutrality negotiations maybe impacted because these two areas have roads that need to be maintained and they generate sales and property taxes. He notes that it may take a lot of work to redo the CFA and that could derail the

incorporation effort. He informs that the environmental report has recommended a Negative Declaration for incorporating the entire area and the only reason to take out areas 4 and 5 would be for a policy reason. He reiterates that these two areas are much more rural residential than agricultural because they have been cut up into small lots. The proponents objected to the incorporation policies, especially the vague definition of prime agricultural lands. He proposes that exclusions from the proposed boundaries should not be based on designation of land because the entire San Martin looks the same.

Michele Beasley, Greenbelt Alliance, states that the SMNA has the purest of intentions in incorporating to maintain their community's rural character. She notes that CEQA cannot speculate on what the future San Martin City Council would do although the city council would have to deal with significant development pressures because the town is located along CalTrain and Highway 101. Greenbelt Alliance is concerned that the inclusion of farmlands will lead to the premature conversion of the fertile and viable resource and supports staff proposal to exclude certain areas, especially parklands, ranchlands, and the agricultural lands. These provide separators between San Martin and the cities of Morgan Hill and Gilroy. Exclusion of these areas will be in keeping with the community's desire to preserve the rural character of the community, as well as LAFCO's policies. LAFCO has adopted the agricultural mitigation policies; however, the expansive boundaries drawn by the proponents would include hundreds of acres of farmlands that would not be mitigated. She proposes that the boundary lines be finalized before the environmental assessment is completed. She states that Greenbelt Alliance is supporting the staff modifications and is advocating for a tighter boundary.

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

The Chairperson states that the intention of the proponents to preserve the rural characteristic of San Martin is a great service to Santa Clara County, especially in view of the plan to develop Coyote Valley. She expresses the desire to visit areas 4 and 5 because these are unique and special areas categorized by the State as prime farmland or farmland of statewide importance. The Commission is looking at these two areas from a policy perspective based on the policies for incorporation adopted two months ago. She informs

that it may not require two months for the Commission to study these two areas, and that staff has indicated that the consultant is able to conduct the financial analysis in a timely manner. The concern about the impact of these exclusions on the new town's ability to pay for services is valid; however, LAFCO's decision must be consistent with its policies. The future town council may have the strongest interest to preserve the rural character of San Martin; however, other things could transpire and there is no guarantee that the General Plan will not be changed. The Chairperson expresses the desire to know more about this incorporation proposal in order to make the best informed decision.

Commissioner Wilson expresses concurrence with the Chairperson's comments stating that the proponents and the Commission have different perspectives on the incorporation. She states that as a resident of Morgan Hill, she is familiar with areas 4 and 5. She proposes that these two areas be studied further in order to carve out rural residential portions from agricultural areas. She notes that this is just a study of the proposed boundaries and to make changes as appropriate. She expresses concurrence with the exclusion of areas 1 and 3, and the inclusion of Area 2; however, inclusion of areas 4, 5, 6 and 7 should be studied.

Commissioner Gage moves to exclude areas 1 and 3, include Area 2, include areas 4 and 5, subject to further study, and to study the inclusion of areas 6 and 7. Commissioner Howe seconds the motion.

At the request of the Chairperson, Commissioner Gage restates his motion. Commissioner Wilson states that she is unable to support the motion that includes areas 4 and 5 in the proposed boundaries. At the request of Commissioner Wilson, Commissioner Gage states that his motion is direction for staff to continue study of areas 4 and 5 because certain portions are not agricultural. He explains that the motion is to include areas 4 and 5 at this time, and to direct staff to study them further.

Commissioner Wilson proposes to amend the motion to treat areas 4, 5, 6 and 7 as the same and designate for further study. In response to an inquiry by Commissioner Gage, Commissioner Wilson clarifies that her amendment to the motion is to subject areas 4, 5, 6 and 7 to further study to determine whether they should be included or excluded

from the proposed boundary. Commissioner Gage states that he is amenable to the proposed amendment as long as areas 4, 5, 6 and 7 continue to be part of the proposed boundary until they are removed. At the request of Commissioner Gage, the Chairperson informs that these boundary modifications would not interfere with the CFA timeline. Commissioner Gage continues that the reason for including areas 4 and 5 at this time is to see what the CFA findings are with these areas included so that it would be known what the CFA findings would be if these areas are taken out .

In response to an inquiry by the Chairperson, Ms. Palacherla advises that State law requires the Commission to look at alternative boundaries, as well as the financial and environmental impacts of the alternative boundaries. She further advises that state law does not allow LAFCO to make decisions dictated by fiscal impacts. She adds that the CFA will have to look at the financial impacts of all alternative boundaries and the Commission would have the ability to decide what to do with the proposal. In response to a follow up inquiry by the Chairperson, Ms. Palacherla advises that the timeline for incorporation and the CFA has taken into account the evaluation of alternative boundaries as required by law.

In response to an inquiry by Commissioner Howe, Ms. Palacherla indicates that the timetable does not include the CEQA study for inclusion of Area 2; however, the incorporation schedule will not be affected. In response to an inquiry by the Chairperson, Ms. Palacherla states that timeline also takes into account the time needed to coordinate with the City of Morgan Hill.

The Chairperson states that under the law, the financial analysis should not be the driving force in determining whether or not to approve the incorporation. In the meantime, the Commission is required by law to look at alternative boundaries. At the request of the Chairperson, Commissioner Gage states that alternative boundaries may impact financial reports and there may not be enough time for that. Areas 4 and 5 are rural residential for the most part, and the future town council, like in any jurisdiction, can decide not to implement agricultural mitigation policies. He states that San Martin residents want to control development in the area instead of the County. Chairperson

Alvarado comments that signatories of the petition for incorporation who are also going to vote in the election have signed on the basis of a certain kind of town. Commissioner Gage notes that the future town cannot control development in areas 4 and 5 if these are outside its boundary. He states that San Martin is on septic system and has no facilities for services such as sewer system to support large urban development.

Chairperson Alvarado states that she is unable to support the motion because its impact is unclear. Commissioner Wilson states that the motion is confusing and suggests that areas 4 and 5 should be studied further so as to allow the Commission to perform its statutory mandate of reviewing alternative boundaries. In addition to its agricultural mitigation policies, the Commission must also look at the premature conversion of agricultural lands, and further study must be on agricultural lands being incorporated.

The Chairperson calls the question.

It is unanimously ordered on a vote of 5-0 that areas 1 and 3 be excluded from the proposed boundaries, Area 2 be included, and areas 4, 5, 6 and 7 be subject to further study.

Commissioner Constant leaves at 2:50 p.m.

8.2 INVOICES FOR LAFCO STAFF COSTS

The Commission takes note of the invoices for LAFCO staff costs.

9. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2008

On motion of Commissioner Gage, seconded by Commissioner Howe, it is ordered on a vote of 3-0, with Commissioner Wilson abstaining and Commissioner Constant absent, that Commissioner Constant be appointed the Chairperson and Commissioner Wilson the Vice-Chairperson for 2008.

Commissioner Howe comments that he will be termed out before his turn as Chairperson. Commissioner Wilson expresses that she is willing to serve as Chairperson out of order in 2010 to enable Commissioner Howe to serve as Chairperson in 2009.

10. 2008 SCHEDULE OF LAFCO MEETINGS

Commissioner Howe proposes to remove the July 2, 2007 meeting from the 2008 schedule of LAFCO meetings. Chairperson Alvarado and Commissioner Gage express

agreement. Commissioner Wilson suggested that since July 2 would not be acceptable, another meeting date must be set in July because of San Martin incorporation.

Commissioner Gage notes that it is better to hold the meeting on July 2 rather than later on that month. Ms. Palacherla advises that a meeting may be needed in order to bring the incorporation to the November 2008 elections. Chairperson Alvarado and Commissioner Gage suggest that the meeting be held on July 2 as proposed.

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered on a vote of 4-0, with Commissioner Constant absent, that the 2008 schedule of LAFCO meeting be approved, as proposed.

11. COMMISSIONERS' REPORTS

There are no reports from the Commissioners.

12. WRITTEN CORRESPONDENCE

There is no written correspondence.

13. NEWSPAPER ARTICLES

The Chairperson takes note of the October 24, 2007 Metroactive article entitled, "What Grows Around, Comes Around," relating to cafeterias of local high tech companies like Google, eBay, HP and Yahoo using local farm produce. The Chairperson indicates she will inquire about the food service at the County jail. Commissioner Gage indicates that grocery chains like Raley's would not buy locally even as local produce, like corn, are superior. Commissioners Alvarado and Gage agree that fruits produced by LJB Farms in San Martin are better-quality.

14. PENDING APPLICATIONS / UPCOMING PROJECTS

The Commission takes note of two pending applications, namely, West Valley Sanitation District 2007-01 and San Jose Urban Service Area Amendment 2007.

15. ADJOURN

On the order of the Chairperson, there being no objection, the meeting is adjourned at 2:58 p.m.

The next regular LAFCO meeting is scheduled to be held on Wednesday, February 6, 2008 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Blanca Alvarado, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk