

**LOCAL AGENCY FORMATION COMMISSION OF  
SANTA CLARA COUNTY  
MINUTES  
WEDNESDAY, APRIL 16, 2008**

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**1. ROLL CALL**

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 16th day of April 2008 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 Pete Constant, Vice Chairperson Susan Vicklund-Wilson, and Commissioners Blanca Alvarado, Don Gage and John Howe. Alternate Commissioners Al Pinheiro and Terry Trumbull are also present.

The LAFCO staff in attendance includes Neelima Palacherla, LAFCO Executive Officer; and Dunia Noel, LAFCO Analyst. Kathy Kretchmer, LAFCO Counsel is present; however, she steps down during discussion of items on the agenda relating to San Martin incorporation.

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

**2. PUBLIC PRESENTATIONS**

There are no public presentations.

**3. APPROVE MINUTES OF FEBRUARY 6, 2008 MEETING**

On motion of Commissioner Howe, seconded by Commissioner Gage, it is unanimously ordered on a vote of 5-0 that the minutes of February 6, 2008 meeting be approved, as submitted.

**4. PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN**

**4.1 WITHDRAWAL OF LEGAL COUNSEL FROM REPRESENTATION OF LAFCO ON THE SAN MARTIN INCORPORATION PROPOSAL**

Commissioner Howe inquires whether items on the agenda relating to the incorporation of San Martin should be continued in the absence of legal counsel. Chairperson Constant indicates that the Commission has that option and inquires from staff on the date of the next meeting. Ms. Palacherla advises that the next scheduled meeting is a special meeting for the incorporation proposal on May 7, 2008. Commissioner

Gage recommends that San Martin items be continued to that date. In response to an inquiry by the Chairperson, Ms. Palacherla advises that the Office of the County Counsel has notified LAFCO that it has withdrawn from representation of LAFCO on matters related to the San Martin incorporation proposal; however, the office continues to advise the Commission on other issues.

Commissioner Howe proposes to seek advice from the Kathy Kretchmer relating to continuation of certain items on the agenda, and the Chairperson agrees.

*Ms. Kretchmer joins the meeting at 1:32 p.m.*

In response, Ms. Kretchmer informs that the question is very generic and advises that an item on the agenda is typically continued to the next meeting and, at that meeting, it may be continued further to another date. Ms. Kretchmer advises that it should be indicated that if there is no quorum at the May 7, 2008 meeting, an item would be continued further to the next scheduled meeting on June 4, 2008. In response to an inquiry by Commissioner Wilson, Ms. Kretchmer advises that continued items do not need to be re-noticed.

*Ms. Kretchmer returns to the audience at 1:34 p.m.*

Commissioner Wilson notes that there is a need to retain an alternate legal counsel for the San Martin incorporation proposal in view of the withdrawal of representation by the County Counsel. She then moves that the Commission establish a two-member subcommittee authorized to hire an alternate legal counsel and that, in the event that the two commissioners differ in opinion as to the choice of the alternate LAFCO counsel, the full Commission will choose the alternate legal counsel at the May 7, 2008 meeting. Commissioner Wilson volunteers to be a member of that subcommittee. Commissioner Alvarado seconds the motion. Chairperson Constant expresses interest in participating on the subcommittee and proposes to amend the motion to state that the two members of the subcommittee are Chairperson Constant and Vice-Chairperson Wilson. Commissioners Wilson and Alvarado accept the amendment to the motion.

It is unanimously ordered on a vote of 5-0 that a subcommittee composed of Chairperson Constant and Vice Chairperson Wilson be formed to hire alternate legal

counsel for the San Martin incorporation proposal; and in the event that the subcommittee is unable to reach a decision, the full Commission will make the hiring decision at the May 7, 2008 meeting.

#### **4.2 ANALYSIS OF POTENTIAL CONFLICT OF INTEREST FOR THE LAFCO EXECUTIVE OFFICER**

Chairperson Constant invites members to discuss whether or not to continue this item to the next meeting because the Commission has no legal counsel. Commissioner Howe proposes that the new legal counsel review the issue of a conflict of interest for the Executive Officer. In response to the inquiry by Commissioner Wilson, Commissioner Howe informs that he feels there is no conflict of interest at this time; however, it could be possible in the future. Commissioner Wilson informs that it is the Commission that has to determine that a conflict of interest exists and, if there is, the Commission may seek the services of an executive officer from another LAFCO for the San Martin incorporation proposal.

Commissioner Howe requests reconsideration of the action taken on item 4.1 to direct the new alternate legal counsel to make a determination on whether or not the Executive Officer has a conflict of interest. The Chairperson and Commissioner Wilson respond that it is best to take separate actions on these two separate items.

In response to a suggestion from Commissioner Wilson to continue certain San Martin items on the agenda and discuss other items, the Chairperson recommends discussion of the potential conflict of interest for the Executive Officer before proceeding to the item on San Martin incorporation schedule. Chairperson Constant then comments that there is a difference between a legal conflict of interest and the appearance of a conflict of interest. Commissioner Alvarado informs that she does not see any conflict of interest for the Executive Officer, either perceived or actual. Having served as LAFCO Commissioner for many years, she has not seen Ms. Palacherla, as LAFCO Executive Officer, in roles other than that of a LAFCO executive officer, in the same way that she sees herself as a LAFCO Commissioner when attending LAFCO meetings and not as a member of the Board of Supervisors. She informs that a legal opinion would not change her actual and realistic perception of Ms. Palacherla as a LAFCO Executive Officer and

finds no need to refer this item any further to the LAFCO counsel. She then moves to declare that the Commission finds no conflict of interest for the Executive Officer with regard to the proposed incorporation of San Martin.

Commissioner Gage expresses agreement with Commissioner Alvarado stating that he conferred with Ann Ravel, County Counsel, who finds no conflict of interest for the Executive Officer. He then informs that the LAFCO Executive Officer, while being paid by the County, has no conflict of interest because she is operating independently and has no monetary gain relative to the proposed incorporation.

Commissioner Howe reiterates his proposal to reconsider the action taken under Item 4.1 to direct the alternate LAFCO counsel to review the potential conflict of interest for the Executive Officer. Commissioner Wilson expresses disagreement stating that the action on that item was already taken. She adds that being in LAFCO for over 12 years, she concurs with Commissioners Alvarado and Gage that the Executive Officer has no conflict of interest with regard to the San Martin incorporation proposal. Commissioner Wilson then seconds the motion.

Chairperson Constant expresses agreement that there is no legal conflict of interest. Commissioner Howe informs that while he too believes that the Executive Officer has no conflict of interest, he proposes that this determination be reviewed by the alternate LAFCO counsel. Commissioner Gage proposes that the alternate LAFCO counsel be requested to review all past actions and monitor future actions of the Commission for potential conflict of interest. Chairperson Constant expresses agreement.

Chairperson opens the public comment period for this item.

Charles Logan, member of the San Martin Neighborhood Alliance (SMNA) and a landowner in the incorporation area, states that SMNA has raised this question and that the Executive Officer herself had acknowledged that a potential for a conflict of interest exists. He indicates that no one has stated that it exists; however, it needs to be reviewed because certain information has been excluded. SMNA is not requesting the hiring of an alternate executive officer; however, there is need for a fair, impartial and reasonable evaluation of the proposal and a need to ensure that the Executive Officer remains neutral.

While the Commission has a choice of whether or not to hire an alternate executive officer for the San Martin incorporation, SMNA is comfortable working with the Executive Officer. He adds that SMNA has looked at LAFCO guidelines and notes that there could be a potential for a conflict of interest.

Chairperson Constant informs that as soon as alternate LAFCO counsel is hired, the Commission can seek advice on this matter. Commissioner Alvarado indicates that the concern was raised because the Executive Officer is an employee of the County.

Ms. Palacherla expresses appreciation for the Commissioners' confidence in her ability to remain objective relative to the San Martin proposal; however, she points out that it would be unfortunate if this issue and a need to hire an alternate executive officer for San Martin is brought back later in the process because that would cause a further delay and shift the focus from policy issues to staffing issues. She then recommends that the Commission consider and resolve this issue.

Commissioner Gage acknowledges Ms. Palacherla's concerns and notes that the issues raised by the proponents are addressed. He notes that while the Executive Officer is administratively reporting to the County, she is not receiving policy direction from the County. He then informs that the proponents have asked for this and should be responsible for the delay and additional costs.

Commissioner Howe informs that his vote against the motion on the table should not be misconstrued as a vote of no confidence against the Executive Officer. He explains that his voting is against the position of not reconsidering the action taken under Item 4.1. In response to this, Chairperson Constant explains that the motion is to declare that the Commission finds that the LAFCO Executive Officer has no conflict of interest relating to the San Martin proposal at this time. Commissioner Alvarado expresses agreement.

The Chairperson calls the question. It is unanimously ordered on a vote of 5-0 that the Commission declare that the Executive Officer has no conflict of interest relating to the proposed incorporation of San Martin.

**4.3 PUBLIC HEARING ON THE REVISED INITIAL STUDY AND NEGATIVE DECLARATION FOR THE PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN**

The Chairperson indicates that the Commission should not act on items 4.3, 4.4 and 4.5 in the absence of legal counsel and requests a motion to continue these items.

Commissioner Howe moves to continue items 4.3, 4.4 and 4.5 to the meeting on May 7, 2008 and, if the alternate LAFCO counsel is not hired at that time, to further continue these items to the June 4, 2008 meeting. Commissioner Alvarado seconds the motion.

Commissioner Gage comments that he is in a delicate position as a County Supervisor to ensure that the incorporation does not fiscally impact the County. He informs that there is about \$220 million in deficit this fiscal year and the County would have to cut approximately \$1 billion from its \$3.5 billion budget next fiscal year. He then proposes that revenue neutrality negotiations be reopened. Ms. Palacherla advises that the proponents and the County have different opinions about how revenue neutrality should be calculated and how the impact to the County would be depicted in the CFA. She proposes that the alternate LAFCO counsel advise the Commission on how the State law provisions on revenue neutrality be interpreted and, based on that opinion, the Commission could decide on what process would be appropriate, i.e., either to reopen the revenue neutrality negotiations or begin the preparation of terms and conditions. Commissioner Gage calls on the subcommittee hiring the alternate LAFCO counsel to be mindful of the incorporation schedule. The Chairperson and Commissioner Wilson indicate that they will make it a priority.

Commissioner Wilson proposes to amend the motion to state that items 4.3, 4.4 and 4.5 of the agenda be continued to the next meeting and to take up Item 4.6 at this meeting unless there are legal issues relating to it. Commissioners Howe and Alvarado accept the amendment to the motion.

The Chairperson then informs that these two items, noticed for public hearing, are to be continued to the next meeting on May 7, 2008 and inquires if there are any members of the public who would like to speak to whether or not these items should be continued. The Chairperson determines that there are no members of the public who wish to speak for or against the continuance and announces that those who turned in speaker cards for these two items will be called at the next meeting.

The Chairperson calls the question. It is unanimously ordered on a vote of 5-0 that items 4.3 and 4.4 on the agenda be continued to the May 7, 2008 meeting; and to further continue these two items to the next regular meeting on June 4, 2008 if necessary.

**4.4 PUBLIC HEARING ON DRAFT COMPREHENSIVE FISCAL ANALYSIS AND PLAN FOR SERVICES FOR THE PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN**

On motion of Commissioner Howe, seconded by Commissioner Alvarado, it is unanimously ordered on a vote of 5-0 that items 4.3 and 4.4 on the agenda be continued to the May 7, 2008 meeting; and to further continue these two items to the next regular meeting on June 4, 2008 if necessary.

**4.5 REVISED SCHEDULE FOR THE PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN**

The Chairperson requests the staff report. Ms. Palacherla advises that due to the recent turn of events, the incorporation issue will not be ready for the November 2008 ballot. She then proposes a revised timeline for incorporation, stating that in order to complete the incorporation process by June 30, 2009, the incorporation may go on the ballot for the April 2009 election. In order to do that, a LAFCO hearing must be held by September or October 2008. She informs that the postponement of the election to April 2009 will result in increase of both the staffing and election costs, stating that April 2009 election would cost four times more than the November 2008 election. By Fall 2008, the status of a bill extending the Vehicle License Fee law would be known.

Commissioner Alvarado comments that it is important that the residents of the future town understand LAFCO wants to ensure that the process is fair and transparent. While revenue neutrality is important in ensuring that the County is fiscally protected, much greater importance must be placed on whether or not the future town could support itself. She expresses support for the community to have its own elected body and employees, however, she states that these have costs. Commissioner Alvarado continues by stating that while this currently appears as a revenue neutrality issue, the real issue is the ability of the future town to support itself. She comments that the Commission and staff have always been fair in accommodating the proponents' interests, stating that

Commissioners had waived the need for an indemnification agreement. The Commission has also agreed that proponents pay staff costs after their fundraising. She clarifies that the reason for continuing the hearings for the Initial Study/Negative Declaration and Public Hearing Draft CFA is because the Commission has no legal counsel. She indicates that when the legal counsel issue is settled, the real issue becomes the sustainability of the future town of San Martin. She observes that, without prejudice to the process, the draft CFA indicates that the fiscal outlook of the proposed town is not promising.

Commissioner Alvarado continues this concern is further exacerbated because cities and counties in the State are having a hard time meeting their budgets, with recent news that Vallejo is on the verge of bankruptcy. She informs San Martin residents that she is not against the incorporation; however, the law governing the process must be followed, and that the fiscal realities affecting cities and counties in the State must be taken into account.

Commissioner Gage comments that the proponents for the incorporation feel that the documents they provided have not been included and that there are some errors in the CFA, particularly with regard to the County's Road Fund savings and General Fund deficit. He comments that the proponents must have a fair shot. He adds that residents of San Martin, like those in other cities of the County, must have the opportunity to elect their leaders who would be responsible to run the town. The 6,000 residents of San Martin have the right to decide whether they will incorporate or not.

The Chairperson requests Commissioners to focus their comments on the incorporation schedule.

Commissioner Alvarado requests staff to provide at the next meeting comments on Morgan Hill's staff report, particularly the last paragraph referencing areas 4 and 5.

Commissioner Gage requests staff to continuously apprise the Commission on the schedule until the end of this process.

The Chairperson opens the public comment period for this item.

David Piccardo, a certified public accountant and resident of San Martin, informs that those San Martin residents opposed to incorporation who have been silent want to be involved because incorporation has now become a serious issue. He requests that all

incorporation costs must be looked at because it is an expensive process. Chairperson Constant informs that the revised schedule would give opportunity for more public input.

Commissioner Wilson moves to adopt the revised incorporation schedule as proposed with direction to staff to continuously review and update the incorporation schedule. Commissioner Howe proposes to amend the motion to state that the incorporation schedule be added as a regular item on the agenda. Commissioner Wilson accepts the amendment and Commissioner Howe seconds the motion.

It is unanimously ordered on a vote of 5-0 that the revised incorporation schedule be adopted as proposed, and that the incorporation schedule be included as a regular item on the LAFCO agenda to allow the Commission to review and update it as necessary.

#### **4.6 INVOICES FOR LAFCO STAFF COSTS**

The Chairperson requests the staff report. Ms. Palacherla directs attention to the invoices relating to staff time spent on the San Martin incorporation. She notes that for March 2008, the legal counsel for time spent on revenue neutrality issues is not included. She states that the Fee Agreement between LAFCO and the proponents requires the proponents to pay LAFCO fees prior to the public hearing. She indicates that when the agreement was signed, the hearing for the incorporation was scheduled for May 2007. She informs that significant costs have been incurred since the start of the project and, with the revision of the incorporation schedule, cost will exceed the projected \$100,000. She then recommends that the Commission reconsider the Fee Agreement or set a due date for the payment. In response to the inquiry by Commissioner Gage, Ms. Palacherla advises that the Fee Agreement signed in June 2007 directs LAFCO to provide an invoice to the proponents 30 days prior to the first public hearing and that LAFCO must receive the payment in full prior to that hearing. In response to a follow-up inquiry by Commissioner Gage, Ms. Palacherla advises that the public hearing will not occur until the next fiscal year. Commissioner Gage notes that LAFCO should receive part of the payment after SMNA's fund raising event on May 22, 2008.

The Chairperson opens the public comment period for this item.

Richard Van't Rood, SMNA Spokesperson, informs that a smaller fundraiser will be held on April 26, 2008 and a major one on May 22, 2008; however, it would be difficult to raise \$100,000 due to the uncertainty in incorporation process because of the delay from LAFCO counsel withdrawal and a recent vote by Santa Clara County Board of Supervisors to oppose incorporation. In response to an inquiry by Commissioner Gage, Mr. Van't Rood indicates that SMNA will remit to LAFCO some payment in April and some in May 2008. Commissioner Gage states that the proponents should pay part of the billed amount after each of the fund raising events because they may never be able to pay when the cost gets bigger. Mr. Van't Rood expresses agreement, adding that SMNA is willing to pay all the reasonable costs. Commissioner Gage requests SMNA to establish the dates in April and May 2008 by which payments are to be received by LAFCO. Mr. Van't Rood estimates that the proceeds from the two fundraisers would be sufficient to pay half of the currently invoiced staff cost of \$86,146.38. Commissioner Gage requests the proponents to make this payment.

In response to an inquiry by the Chairperson, Commissioner Gage states that the Fee Agreement requires the proponents to pay before the public hearing. The Chairperson notes that the Agreement does not establish a specific deadline. Commissioner Gage then proposes to require the proponents to pay 50 percent of the invoiced cost by May 22, 2008. Mr. Van't Rood expresses concern, stating that the Fee Agreement requires payment prior to a hearing and, presently, there is no revenue neutrality agreement, no determination of feasibility, and there is negative press that the County is opposed to incorporation. At the request of Commissioner Gage, Mr. Van't Rood informs that it is difficult to commit an amount at this time; however, SMNA will organize a fundraiser that could generate between \$20,000 to \$30,000 and another fundraiser in early Fall 2008.

Commissioner Wilson, expressing concern about Mr. Van't Rood's statement that the proponents will pay reasonable staff cost, proposes to establish a mechanism for resolving disputes relating to payment of LAFCO fees. She states that invoices must be considered at the time that they are issued. In response to an inquiry by Commissioner Wilson, Ms. Palacherla advises that the proponents have voiced general concerns about

the invoices at the February 6, 2008 meeting; however, staff has not received any specific comments about items on the invoices. She indicates that staff will confer with the proponents to address billing issues and advises that the Commission establish a specific date by which payment should be received before proceeding with the incorporation process. In response to this, Chairperson Constant indicates that it may be difficult to enforce a payment date without the concurrence of both sides because it is not stipulated in the existing fee agreement; a situation that should be considered when preparing future contracts. The Chairperson then requests staff and proponents to reach agreement on the bill and recommends that invoices must be reviewed at the time they are issued.

In response to another inquiry by Commissioner Wilson, Ms. Palacherla advises that the delay in payment of LAFCO fees may not immediately impact the LAFCO budget because revenues from the incorporation proposal have been conservatively estimated.

Commissioner Howe requests Mr. Van't Rood to send a letter to the Commission informing about the schedule of fund raising events, the amount that has been raised, the amount that would be paid to LAFCO, and the specific dates by which the payments are to be made. Mr. Van't Rood expresses agreement. Commissioner Howe proposes that the Commission revisit this item at the June 4, 2008 meeting to see if the payments have actually been made.

Commissioner Alvarado comments that there has been an assurance of funds when the process started and now there is an indication that SMNA disputes the amount being billed and is reluctant to assure payment of these fees. In response to an inquiry by Commissioner Alvarado, Mr. Van't Rood informs that the proponents paid over \$100,000 for the cost of consultants from the fundraisers last year. Commissioner Alvarado then expresses agreement with Commissioner Howe's proposal to review this item on June 4, 2008.

Commissioner Wilson states that if Commissioner Howe's suggestion is the motion, she proposes that it be amended to include direction to staff to go over the bills with the proponents to resolve whatever disputes and to bring to the Commission those billing disputes that are not resolved. Commissioner Howe indicates that his suggestion is the

motion and the direction to staff is included in that motion. Mr. Van't Rood informs that he is not fully confident that the billing issues could be resolved with staff. Commissioner Howe restates his motion to request the proponents to send a letter to the Commission relating to the schedule of fundraisers, the amounts that would be raised, the amount to be paid to LAFCO, and the specific dates by which payments are to be made; that this item be reviewed at the June 4, 2008 meeting; and that the proponents and staff review and resolve issues relating to the invoices and bring to the Commission those issues that have not been resolved.

Ms. Palacherla advises that additional staff costs could be incurred for preparing the legal description and mapping for CEQA, as well as increased elections cost in April 2008. State law requires the future town to pay for the cost of the election if voters approve the incorporation; therefore, the election cost of about \$200,000 should be added to the town's budget on the CFA.

The Chairperson calls on the next speaker from the public on this item.

Roger Costa, a landowner in San Martin area, requests that the Commission ensure that the proponents pay all the incorporation costs given the burden on taxpayers and the budget difficulties of local governments. He calls on the Commission to make an informed decision by considering how a city of 6,000 people can support itself. He states that the ability of the proponents to pay for LAFCO fees is an indicator of how viable the future city would be.

The Chairperson confirms that there are no more speakers from the public for this item.

The Chairperson calls the question. It is unanimously ordered on a vote of 5-0 that the proponents submit a letter to the Commission relating to the schedule of fund raising events, the estimated amounts to be raised, the amount that would be paid to LAFCO, and the specific dates by which payments are to be made; that the Commission be apprised on the payments made at the June 4, 2008 meeting; and, that staff and proponents go over the bills to resolve any issue, and to bring to the Commission billing disputes that could not be resolved.

*Kathy Kretchmer joins LAFCO staff at 2:24 p.m.*

**5. PUBLIC HEARING ON THE WEST VALLEY SANITATION DISTRICT ANNEXATION 2008-1 (CANON ROAD)**

This being the time and place set to consider the petition by the landowners for annexation to West Valley Sanitation District (WVSD), the Chairperson declares the public hearing open.

The Chairperson requests the staff report. Ms. Palacherla directs attention to the staff report and informs that a petition from property owners for annexation to WVSD has been submitted. However, all property owners have not consented to the annexation. She informs that staff has evaluated the proposal and finds that it complies with LAFCO policies and criteria in State law governing annexations and therefore recommends approval. She adds that the CEQA recommendation is a categorical exemption as indicated in the CEQA report. Following LAFCO approval, staff will conduct a protest proceeding to allow property owners and registered voters in the annexation area to submit protest against the annexation. If more than 50 percent protest is received, the annexation is terminated; if less than 25 percent protest is received, the annexation is approved; if 25 to 50 percent protest is received, an election will be conducted. In June 2001, the Commission delegated authority to the LAFCO Executive Officer to hold a protest proceeding in accordance with the Cortese-Knox-Hertzberg Act and the LAFCO conducting authority policies.

The Chairperson opens the public comment period for this item.

Gordon Yamate, the applicant, informs that there is opposition to the proposal and requests to reserve time for rebuttal or to answer any questions.

Kevin Flynn, representing Jacklyn Flynn, owner of two parcels being annexed, informs that Mrs. Flynn opposes the annexation because of her concerns about the location of the sewer line, the number of homes that would be built when the Yamate property is developed, and the impact on her property.

At the request of the Chairperson, Ms. Palacherla advises that there are two possible locations for connections to the sewer line; the first is to connect to a sewer main on Bainter Avenue through a private easement on APN 510-25-070; the other option is to

connect to a sewer main along Redberry Avenue using a private property easement. In response to Mr. Flynn's question relating to the number of new homes that may be built on the Yamate property, Ms. Palacherla explains that the County has jurisdiction over land use and zoning in the area and that the property will be developed in accordance with the County's General Plan/zoning designation. She adds that the sewer connection may allow the property owners to maximize development of their property, subject to the County's standards. Chairperson Constant indicates to Mr. Flynn that staff will meet with him if he has further questions.

Mr. Yamate informs that the proposed sewer line will not go through the Flynn property and will not impact that property. He adds that the number of homes to be built will be discussed at a hearing before another body.

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered that the CEQA recommendation be adopted; that annexation to WVSD be approved, and that the LAFCO Executive Officer be directed to conduct protest proceedings in accordance with LAFCO policies and the CKH Act.

**6. PUBLIC HEARING ON THE PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2009**

This being the time and place set to consider the proposed LAFCO budget for Fiscal Year (FY) 2008-2009, the Chairperson declares the public hearing open.

The Chairperson requests the staff report. Ms. Palacherla informs that the Commission formed a Budget Subcommittee on February 6, 2008 composed of Commissioners Gage and Howe to draft the FY 2008-09 LAFCO budget for consideration by the full Commission. The Subcommittee met twice, discussed several issues relating to the budget and recommends that: (1) the current legal services agreement between LAFCO and the County be extended for an additional year, ending on June 30, 2009, and that staff develop a process to seek proposals from outside attorneys for provision of legal services within this year; (2) LAFCO policies on "Travel and Expense Reimbursement" referring to meeting per diem/stipend be clarified to state that "LAFCO meetings" include meetings authorized by the Commission, such as policy or budget sub-committee meetings; (3) the LAFCO Executive Officer position be made a full time position in order

to address the increase in current and long term work load; (4) LAFCO staff work with the County to explore the appropriate method of compensation for the new duties that the LAFCO Clerk has taken on in independently managing the LAFCO website among other duties; (5) LAFCO staff should explore staff training and professional development opportunities in local government (e.g., Management Talent Exchange Program); and (6) LAFCO application fees be revised to more accurately reflect the increase in processing costs. Ms. Palacherla indicates that these items are included in the proposed budget and, if not, staff will follow-through and bring them to the full Commission for consideration. The proposed budget is about 10 percent higher than the previous year's budget; however, the net operating expenses are lower than the current year. The reason for this being the high amount of savings that could be rolled over to the next fiscal year, offsetting the costs to the County and the cities.

Commissioner Gage moves for approval. Commissioner Howe seconds the motion and comments that the solicitation for outside legal services does not prevent the County from submitting a proposal.

In response to the inquiry by Commissioner Wilson, Commissioner Gage informs that FY 2008-09 LAFCO budget will take into account the cost of hiring an alternate LAFCO counsel for the proposed incorporation of San Martin, as well as the revenues expected from the proponents. Ms. Palacherla advises that in accordance with the law, the final budget has to be adopted before June 15, 2008. Until then, the Commission may revise the budget when more information about current costs is received, including the revenues expected from San Martin to reimburse LAFCO staff time costs. Since the current budget does not take into account revenues from SMNA, the fees when received, will help offset future costs. In response to Commissioner Wilson, Commissioner Howe comments that the Budget Subcommittee has increased the reserves from \$60,000 two years ago to roughly \$100,000 this fiscal year. In response to this, Ms. Palacherla informs that a session about budget at the CALAFCO Staff Workshop recommended that LAFCO budget reserves be set between 15 to 25 percent.

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

The Chairperson calls the question. It is unanimously ordered on a vote of 5-0 that the Draft LAFCO budget for FY 2008-09 be adopted; that the Draft FY 2008-09 LAFCO Budget is adequate to allow the Commission to fulfill its statutory responsibilities; that staff be authorized to transmit the Draft Budget and the estimated costs for each agency to each of the cities, the County and the Cities Association; and that staff be directed to send a notice of hearing on the final LAFCO budget scheduled for June 4, 2008.

#### **7. COMMISSIONERS' REPORTS**

Commissioner Gage announces that the Cities Selection Committee has reappointed Commissioner Howe as Cities Representative and Alternate Commissioner Al Pinheiro as Alternate Cities Representative.

#### **8. EXECUTIVE OFFICER'S REPORT**

The Chairperson requests the staff report. Ms. Palacherla reports that Santa Clara LAFCO hosted the CALAFCO Staff Workshop in San Jose on April 2-4, 2008. The three-day workshop was successful, had the highest attendance on record, and received very good evaluations. On April 2, 2008, staff arranged a Mobile Workshop that took attendees to tour the unincorporated island of Buena Vista, to Ideas, a retrofitted green building with zero energy and zero emissions, and to the Google Café 150 that receives produce from within 150 miles. A simultaneous session that morning was "LAFCO 101" for new LAFCO staff. In the afternoon, Chairperson Constant and Vice-Chairperson Wilson welcomed the participants. It was followed by case studies in LAFCO innovations; roundtables for attorneys, executive officers, analysts, and clerks. On April 3, 2008, the workshop started with breakout sessions on groundwater over-drafting, environmental justice and improving application process; and a DiSC personal profile system session by CALAFCO Executive Director Bill Chiat; followed by a lunch with Don Weden, a retired Santa Clara County Principal Planner, addressing the gathering on the climate, economic and social changes taking place and LAFCOs relevance in addressing these issues; this was followed by concurrent sessions on the Brown Act, Municipal Service Reviews, and

LAFCO's roles in the special districts and cities annexations. On April 4, 2008, there were concurrent sessions on geographic information system (GIS), processing LAFCO applications, digital records system and website management. There were also sessions relating to developing and understanding budgets and climate change. These were followed by a legislative session and the CALAFCO business meeting.

Commissioner Wilson informs that she heard positive comments from CALAFCO about the workshop and adds that this is one of the best attended CALAFCO workshops.

**9. PENDING APPLICATION**

There is no pending application.

**10. WRITTEN CORRESPONDENCE**

There is no written correspondence.

**12. NEWSPAPER ARTICLES**

There are no newspaper articles.

**13. ADJOURNMENT**

At the request of Commissioner Wilson, the Chairperson clarifies that there is a meeting on May 7, 2008 to discuss the San Martin incorporation and a regular meeting on June 4, 2008.

On the order of the Chairperson, there being no objection, the meeting is adjourned at 2:46 p.m.

The next scheduled LAFCO meeting on Wednesday, May 7, 2008 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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Pete Constant, Chairperson  
Local Agency Formation Commission

ATTEST:

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Emmanuel Abello, LAFCO Clerk