

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, AUGUST 3, 2011**

CALL TO ORDER

Chairperson Liz Kniss called the meeting to order at 1:24 p.m.

1. ROLL CALL

The following Commissioners and Alternate Commissioners were present:

- **Chairperson Liz Kniss**
- **Commissioner Pete Constant**
- **Commissioner Margaret Abe-Koga** (*left at 2:40 p.m.*)
- **Commissioner Mike Wasserman**
- **Commissioner Susan Vicklund-Wilson**
- **Alternate Commissioner Terry Trumbull**

The following Alternate Commissioners were absent:

- **Alternate Commissioner Al Pinheiro**
- **Alternate Commissioner George Shirakawa**
- **Alternate Commissioner Sam Liccardo**

The following staff members were present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Analyst Dunia Noel**
- **LAFCO Counsel Mala Subramanian**

2. PUBLIC COMMENT

There is no public comment.

3. APPROVE THE MINUTES OF JUNE 1, 2011 LAFCO MEETING

Ms. Palacherla announced that **Commissioner Abe-Koga** has requested that the last sentence in the second paragraph on page four be revised to read as follows, "She proposed that the staff report be received and that LAFCO not accept the report's conclusion until further analysis can be done to determine whether or not the District is providing services outside of its boundary."

The Commission approved the minutes of June 1, 2011 LAFCO meeting, as corrected.

Motion: Margaret Abe-Koga

Second: Pete Constant

MOTION PASSED

AYES: Liz Kniss, Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

4. **EL CAMINO HOSPITAL DISTRICT ANNEXATION 2011**

The Commission adopted **Resolution No. 2011-03**, approving the annexation of land consisting of APN 182-50-045 and portions of APNs 182-50-036, 182-50-034, and 182-50-024 to the El Camino Hospital District. Said Resolution, by reference hereto, is made part of these minutes.

Motion: Mike Wasserman

Second: Pete Constant

MOTION PASSED

AYES: Liz Kniss, Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

5. **PROPOSED WORK PLAN FOR EL CAMINO HOSPITAL DISTRICT SERVICE REVIEW**

Ms. Palacherla presented the staff report.

Commissioners Abe-Koga, Wilson and Constant volunteered to serve on the El Camino Hospital District Service Review Ad-hoc Committee and the Consultant Selection Committee. At the request of **Chairperson Kniss**, Ms. Palacherla briefly outlined the tasks of the Committee.

Wesley Alles, Board Member, El Camino Hospital District, stated that the District will provide all information required for the service review.

Chairperson Kniss announced that she met with Mr. Alles and Mr. Caligari prior to the meeting. Commissioner Constant likewise made the same disclosure.

Greg Caligari, legal counsel, El Camino Hospital District, expressed support for the service review.

Chairperson Kniss requested Mr. Caligari to present to the Commission a case study of hospital districts in the State that are operating facilities outside of their boundaries.

In response to an inquiry by **Chairperson Kniss**, Ms. Subramanian informed that LAFCO's decision is final and can only be challenged in court. In response to a follow-up inquiry by **Chairperson Kniss**, she advised that LAFCO was recently sued by the proponents of San Martin incorporation.

The Commission approved the proposed work plan for conducting a separate, focused service review for the El Camino Hospital District; authorized staff to prepare a draft Request for Proposals for professional firms to conduct a service review, including the forensic auditing of specific financial issues for the District and authorized staff to provide the Draft RFP to affected agencies and interested parties for their review and comment; directed staff to provide the Revised Draft RFP to the Commission for consideration at the October 5, 2011 meeting; and, appointed Commissioners Margaret Abe-Koga and Susan Vicklund-Wilson to serve on the El Camino Hospital District Service Review Ad-hoc Committee and Consultant Selection Committee.

The Commission also requested Mr. Caligari to present to the Commission a case study of hospital districts in the State that are operating facilities outside of their boundaries.

Motion: Margaret Abe-Koga

Second: Pete Constant

MOTION PASSED

AYES: Liz Kniss, Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

6. **RESPONSE TO THE 2010-2011 CIVIL GRAND JURY REPORT ENTITLED, "LAFCO'S RESPONSIBILITY FOR SPECIAL DISTRICTS: OVERSEEN OR OVERLOOKED?"**

Commissioner Constant stated that the staff's proposed draft response to the Grand Jury report should have been prepared first with input from the commission and would have preferred to provide direction to staff prior to the draft response. **Chairperson Kniss** indicated that LAFCO's process is similar to the County's, where staff prepares a draft response for Board review and following review and comment by the Board, the response is revised and brought back to the Board for approval. **Chairperson Kniss** then proposed that the Commission review each response and requested comments from members.

Ms. Palacherla presented the staff report.

Regarding Finding 1, **Commissioner Constant** stated that the response should agree with the finding because LAFCO has been conducting service reviews for five years and it was only after the 2010 Countywide Fire Service Review that direction for follow-up was provided. A brief discussion ensued between **Chairperson Kniss** and **Commissioner Wasserman** and it was agreed that the response should disagree with the last part of the finding more strongly and that the response should be more direct. **Commissioner Wilson** suggested that the response include a historical context by stating that the first round of service reviews were spent on data gathering and convincing stakeholders to participate. **Commissioner Abe-Koga** expressed agreement. **Commissioner Constant** stated that he understood the finding as LAFCO stopping short of implementing the recommendations and not stopping short for fear of litigation or uncertainty about its authority and proposed that the response should be "partially disagree" rather than "totally disagree". **Commissioner Wilson** proposed that a two-member ad-hoc committee be established to fine-tune the responses and **Chairperson Kniss** recommended that Commissioners Constant and Wasserman be appointed to the Ad-hoc Committee.

Regarding Recommendation 1B, **Commissioner Constant** suggested the response state "will delegate enforcement powers to staff when appropriate" instead of "will not be implemented." **Commissioner Wilson** stated that LAFCO has very limited enforcement powers.

Regarding Recommendation 1C, a brief discussion ensued regarding how CALAFCO could promote legislation that would protect LAFCOs against litigation.

Chairperson Kniss announced that the Commission is in agreement with draft responses to recommendations 1D, 2A, 2B, 2C, and findings 2 & 3.

With regard to Finding 4, **Commissioner Constant** proposed that the response be "partially disagree" because commissioners received limited training about LAFCO. A brief discussion ensued and it was agreed that training opportunities are available, and

that in addition to CALAFCO classes and the information in agenda packets, staff has provided just-in-time training about specific projects such as San Martin incorporation and agricultural mitigation. **Chairperson Kniss** expressed concern about requiring elected officials to attend trainings. **Commissioners Constant** and **Wasserman** proposed that 15-30 minutes of training on specific projects be provided during Commission meetings.

Chairperson Kniss announced that the Commission is in agreement with draft responses to recommendations 4A and 4B.

Chairperson Kniss proposed that the Ad-hoc Committee focus on the response to Finding 1 because the draft responses to other items are acceptable to majority of members. **Commissioner Wilson** proposed that responses indicate that AB 912 has been chaptered.

The Commission established an Ad-hoc Committee composed of Commissioners Constant and Wasserman to work with staff on fine-tuning the draft response for review and approval of the full Commission at the October 5, 2011 meeting.

The Commission directed staff to submit to the Ad-hoc Committee a revised response incorporating the discussion at the meeting, and to request that the Civil Grand Jury extend the deadline for the response.

Motion: Mike Wasserman

Second: Susan Vicklund-Wilson

MOTION PASSED

AYES: Liz Kniss, Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

7. **LEGISLATIVE UPDATE AND CALAFCO'S PROPOSED REVISIONS TO GOVERNMENT CODE SECTION 56133**

Ms. Noel presented the staff report.

Chairperson Kniss commented that even though AB 912 made it easier to dissolve special districts, without support from the residents in the area it will continue to be politically difficult. At the request of the Chairperson, Ms. Noel provided additional information on SB 89 and the Chairperson noted that this development would discourage island annexations in Santa Clara County. **Commissioner Wilson** informed that Orange County has initiated a bill that could avert the unintended consequences of the new law.

In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla reported that the proposed revisions to Government Code Section 56133 would allow agencies to extend services outside of their sphere provided LAFCO finds that the extension of service was considered in the service review; there is no impact to agricultural land and does not induce growth; and that annexation is not possible. In response to a follow-up inquiry by **Commissioner Wasserman**, she advises that under the current law, agencies can only provide services outside of their sphere when there is a threat to public health and safety.

The Commission accepted the legislative update and authorized support for CALAFCO's proposed revisions to Government Code Section 56133.

Motion: Susan Vicklund-Wilson **Second:** Mike Wasserman

MOTION PASSED

AYES: Liz Kniss, Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

8. EXECUTIVE OFFICER'S REPORT

8.1 UPDATE ON LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW

Ms. Noel presented the staff report.

The Commission accepted the report.

Motion: Susan Vicklund-Wilson **Second:** Mike Wasserman

MOTION PASSED

AYES: Liz Kniss, Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

8.2 UPDATE ON IMPLEMENTATION OF LAFCO'S FIRE SERVICE REVIEW REPORT

Ms. Noel presented the staff report.

In response to an inquiry by **Commissioner Constant**, Ms. Palacherla advised that staff is meeting with the affected agencies and fire districts and will bring back more detailed information to the Commission in October, including the need for a consultant to conduct a special study for potential dissolution. In response to an inquiry by **Commissioner Wilson**, Ms. Palacherla reported that the consultant's scope of work will be specific to dissolution issues.

The Commission accepted the report.

Motion: Susan Vicklund-Wilson **Second:** Mike Wasserman

MOTION PASSED

AYES: Liz Kniss, Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

8.3 UPDATE ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY

Ms. Noel presented the staff report.

Commissioner Constant informed that the San Jose City Council has approved an agreement with the City of Campbell relating to Cambrian No. 36

The Commission accepted the report.

Motion: Susan Vicklund-Wilson **Second:** Mike Wasserman

MOTION PASSED

AYES: Liz Kniss, Pete Constant, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

Absent: Margaret Abe-Koga

9. PENDING APPLICATIONS / UPCOMING PROJECTS

The Commission noted the pending applications.

10. COMMISSIONER REPORTS

Chairperson Kniss announced that she will be attending the CALAFCO Conference on August 31st, with commissioners Constant and Wilson.

11. NEWSPAPER ARTICLES / NEWSLETTERS

There were no newspaper articles/newsletters.

12. WRITTEN CORRESPONDENCE

There was no written correspondence.

13. ADJOURN

At the request of **Commissioner Wilson**, **Chairperson Kniss** announced that a Special Meeting may be scheduled prior to September 14, 2011 if the Civil Grand Jury does not extend the deadline.

Adjourned at 3:09 p.m. to the next meeting on Wednesday, October 5, 2011 in Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Liz Kniss, Chairperson

Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk