



**LAFCO MEETING MINUTES
WEDNESDAY, OCTOBER 2, 2013**

CALL TO ORDER

Chairperson Mike Wasserman called the meeting to order at 1:20 p.m.

1. ROLL CALL

The following commissioners were present:

- **Chairperson Mike Wasserman**
- **Commissioner Cindy Chavez**
- **Commissioner Pete Constant** (left at 4:01 p.m.)
- **Commissioner Sequoia Hall**
- **Commissioner Margaret Abe-Koga** (left at 2:30 p.m.)
- **Commissioner Linda J. LeZotte** (left at 3:03 p.m.)
- **Commissioner Susan Vicklund Wilson**
- **Alternate Commissioner Yoriko Kishimoto**
- **Alternate Commissioner Terry Trumbull** (left at 1:45 p.m.)
- **Alternate Commissioner Cat Tucker**

The following staff members were present:

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

2. WELCOME NEW LAFCO COMMISSIONERS CINDY CHAVEZ AND ALTERNATE COMMISSIONER KEN YEAGER

Chairperson Wasserman welcomed Commissioner Cindy Chavez and Alternate Commissioner Ken Yeager.

3. *TAKEN OUT OF ORDER**

4. PUBLIC COMMENTS

There were no public comments.

5. APPROVE MINUTES OF AUGUST 7, 2013 LAFCO MEETING

The Commission approved the minutes of August 7, 2013 LAFCO meeting.

Motion: Wilson

Second: LeZotte

AYES: Chavez, Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

6. MORGAN HILL URBAN SERVICE AREA (USA) AMENDMENT 2012 MONTEREY – SOUTH OF WATSONVILLE

Ms. Palacherla presented the staff report. She informed that the City of Morgan Hill has 33 years supply of vacant residential land based on the information provided by the City in April 2013. However, the City submitted a letter on October 1, 2013 stating that there is only 6 years vacant land supply. This indicates a 530-acre reduction in vacant residential land from the inventory provided by the City in April 2013. She further informed that the City attributed the reduction in vacant land inventory to 1) recently allotted projects under the Residential Development Control System (RDCS); 2) previous inventory included streets and development projects; and 3) adoption of a new methodology for calculating vacant lands. She indicated that the City's new methodology, which reduced vacant land inventory significantly, does not consider land as vacant if 1) it has received RDCS allotment; 2) it has received zoning, development agreement or subdivision approval; or 3) its owner has indicated no intention to sell or develop. She expressed disagreement with the City's new methodology since RCDS allocation is an uncertain indication of development and the property owner's personal desire not to sell or develop the land is not objective criteria. Ms. Palacherla continued her report and stated that staff has not received a written plan or an agreement for agricultural mitigation from the City or property owner.

In response to inquiries by **Commissioners Chavez and Constant**, Ms. Palacherla informed that APNs 779-04-005, 030, 032, 033, 072, 073 and 074 are already within the city limits and the City has full jurisdiction over the area, and including these in the USA boundary may allow further expansion to the east and south of the project area. In response to an inquiry by **Commissioner Abe-Koga**, Ms. Palacherla stated that the City can annex lands that are within its USA boundary without LAFCO approval.

This being the time and place for the public hearing, **Chairperson Wasserman** declared the public hearing open.

Leslie Little, Assistant City Manager for Community Development, City of Morgan Hill, made a presentation in support of the application, explained the reasons for a reduced vacant lands inventory, and outlined the goals and unique context of the proposal. She described the City's RDCS and its voter initiative to limit population growth.

Mark Grzan, former Morgan Hill Vice Mayor and current member of the General Plan Advisory Committee (GPAC), stated that the GPAC has been informed that the City has excess vacant lands. He recommended that the GPAC and the residents review the inventory. He advised that the proposal violates the City's General Plan goals to preserve agricultural lands and build the city core. He warned that there are other areas in the City that deserve similar consideration and that the City cannot afford to serve additional territory due to its deferred maintenance costs and unfunded pension obligations.

Julie Hutcheson, Committee for Green Foothills, indicated understanding of the mushroom farm's unique situation and expressed support for Option 2. She expressed opposition against including the other parcels since it violates the General Plan policy that discourages commercial activities along Monterey Road, south of Watsonville Road, and adds development pressure on agricultural lands to the south and west. She stated that the GPAC has not been informed about any shortage in residential lands inventory supply and requested that this issue be first addressed through the General Plan update process that is underway.

Michele Beasley, Greenbelt Alliance, informed that the proposal will open up new farmlands to development and does not qualify as infill. She questioned the recent reduction in the City's vacant lands inventory. She suggested that this proposal should be discussed by GPAC and the residents before it comes to LAFCO.

Jim Conklin, Executive Director, South County Business Council (SCBC), enumerated SCBC's member organizations and expressed concerns about the City's tax revenues. He stated that local entities understand the land use issues better and that the city would provide good stewardship of the lands. He questioned the original vacant lands inventory and referenced examples of flaws documented by his organization. He requested the Commission to approve the proposal.

David Whitaker, Lead Pastor, Morgan Hill Bible Church (MHBC), requested support for the proposal and stated that the facility is being used by many community organizations. He indicated that LAFCO's decision would have a huge bearing on how the church serves the community.

Mark Rauser, Director for Administration, MHBC, indicated that this proposal was made since the application for an out-of-agency water and sewer services was denied by LAFCO over 10 years ago. He stated that they have worked with the City on its commitment for smart growth. He indicated that the church provides a buffer between urban and agricultural lands, and requested support for the proposal.

Bob Isaacs, a retired police officer and member of MHBC, expressed concern that the facility has no fire hydrant and delayed police response time. He read a letter from the Morgan Hill Police Chief indicating a faster response time from that agency, and a letter from South Santa Clara County Fire District Fire Chief stating that a USA amendment has no impact on that agency.

Gordon Jacoby, SCBC member, indicated that the April 2013 vacant land inventory was flawed and he stated that while there are properties zoned for mixed use in the downtown area, they are expensive to develop and the market is not ready. He stated that other desirable properties are not zoned for a density that is affordable to build. He expressed concerns about the city's ability to meet its housing element requirements without the added lands.

Gloria Ballard, MH Engineering, stated that the area is an urban pocket and noted the difficulty in operating a mushroom farm near a school and residential area. She informed that the mushroom farm employs 104 people and Mr. Hordness wants to relocate his farm. She informed that the water well was condemned by the State and that another well must be developed in order to stay in operation.

Don Hordness, owner, Royal Oaks Mushrooms, stated that his farm has been zoned out of agriculture due to the surrounding urban development and that he cannot comply with new regulations in his current location. He reiterated his interest in farming and requested approval of the proposal so that he can continue to farm.

Chairperson Wasserman determined that there are no members of the public who wished to speak on the item and ordered the public hearing closed.

Commissioner Wilson moved to deny the request for USA amendment and accept staff recommendations #2 through #6. She expressed concern that the expansion would result in premature conversion of agricultural lands. She stated that the project has been pending for a long time, and that she is concerned about the last-minute vacant lands document from Morgan Hill and questioned its consistency with LAFCO criteria. She stated that the City, by allowing development nearby, is responsible for the difficulties of the mushroom farm. **Commissioner LeZotte** expressed agreement and seconded the motion. She also agreed with Mr. Grzan and Ms. Hutchison that the proposal should be discussed through the General Plan update process. She noted that land that has received entitlements through RDCS should not be removed from the inventory and stated that the project is premature given the amount of vacant land within the City.

Alternate Commissioner Tucker stated that she is not in support of the motion as she believes that this area is a logical place to grow given the development along Watsonville Road and Santa Teresa Boulevard. Additionally, she noted that the grants provided for expansion of Butterfield Boulevard are indication that growth is anticipated in this area.

Commissioner Hall proposed to amend the motion by approving staff recommended Option 2 which adds APNs 779-040-056, 001, 003 and 004 to the City's USA boundary, in recognition of Royal Oaks Mushroom Farm's unique situation. He stated his understanding for the needs of the MHBC but noted the potential for sprawl and impacts to surrounding agricultural lands, which if converted can never be recovered. **Commissioners Wilson and LeZotte** accepted the amended motion.

In response to an inquiry by **Commissioner Chavez**, Ms. Palacherla advised that recommendations #2 through #5 do not stop Morgan Hill from seeking future USA expansions; however, the City should address these issues before coming back to LAFCO. In response to a follow-up inquiry by **Commissioner Chavez**, Ms. Palacherla informed that the purpose of recommendation #6 is to strengthen the USA policies and to reflect recent changes in State law. She advised that stakeholders, including the City of Morgan Hill, will have opportunity to provide input. In response to another inquiry by **Commissioner Chavez**, Ms. Palacherla explained that cities can annex lands within their USA boundary without LAFCO approval once the lands are within their USA boundaries and that extending boundaries will make more lands contiguous to the city and its USA boundaries. She noted that there are areas in the county that are within the city limits but are outside of USA boundaries.

Commissioner Constant stated that this proposal is an opportunity for LAFCO to correct illogical boundaries created in the past. He suggested that Morgan Hill be allowed to clean its boundaries by keeping large agricultural lands and allowing development in small areas like the mushroom farm. He recognized the City's efforts to manage growth

proactively. He expressed concerns that recommendations #2 through #5 could become mandates when approved, suggested that the review of USA policies be taken up as a separate agenda item at the next meeting, and expressed opposition to the motion. **Commissioner Wilson** proposed to vote on recommendations #2 through #6 one item at a time and **Commissioner LeZotte** expressed agreement to vote separately on each recommendation.

Chairperson Wasserman suggested that the report include an option for the Commission to approve the project. He commended the service reviews that LAFCO has recently completed. He expressed agreement with Commissioner Constant that the recommendations could become mandates in the future. He commended Morgan Hill for its RDCS and indicated that the proposal is a logical extension of the city boundary. He stated that he is not in support of the motion.

The Commission adopted **Resolution No. 2013-04** approving the expansion of the Urban Service Area of Morgan Hill to include APNs 779-040-056, 001, 003 and 004, and to exclude the Santa Clara Valley Water District Parcel (APN 779-04-067) from the City limits and USA so it will serve as a natural buffer to limit impacts to adjacent agricultural lands and to limit growth inducing impacts on adjacent unincorporated lands. Said Resolution, by reference hereto, is made part of these minutes.

Motion: Wilson

Second: LeZotte

AYES: Chavez, Hall, LeZotte, Wilson

NOES: Constant, Tucker, Wasserman

ABSTAIN: None

ABSENT: None

MOTION PASSED

Commissioner Hall inquired on the status of agricultural mitigation for the parcels that were excluded. Ms. Palacherla informed that staff has not received an agreement or written commitment from the City or the applicant. Ms. Little informed that the City is working with the property owner to provide mitigation. In response to an inquiry by **Chairperson Wasserman**, Ms. Subramanian advised that the City could bring back the excluded parcels along with proposed mitigation to LAFCO in a separate application. In response to an inquiry by **Commissioner Hall**, Mr. Hordness stated that the farming community must be involved in deciding how the mitigation will occur. He observed that there will be no mitigation any time soon since Morgan Hill has no mitigation policy and since it may take between five to seven years to develop the land vacated by the mushroom farm. **Commissioner Hall** expressed agreement to vote on recommendations #2 through #6 separately.

A motion for the Commission to request that the City of Morgan Hill, through its current General Plan Update process, consider the vast availability of vacant lands within its existing boundary and address comprehensively the necessity, timing and location of future expansions such that an expansion does not adversely impact surrounding agricultural lands or open space lands, and such that it results in orderly growth that facilitates efficient service delivery.

Motion: Wilson

Second: Hall AYES: Hall, Kishimoto, Wilson

NOES: Chavez, Constant, Tucker, Wasserman

ABSTAIN: None

ABSENT: None

MOTION FAILED

The Commission requested that the City of Morgan Hill, through its General Plan Update process, examine its inventory of vacant land and develop targeted strategies that encourage better utilization of vacant lands within its boundary.

Motion: Wilson Second: Hall AYES: Chavez, Hall, Kishimoto, Wilson

NOES: Constant, Tucker, Wasserman ABSTAIN: None ABSENT: None

MOTION PASSED

A motion to request that the City of Morgan Hill submit a report to LAFCO on the progress it has achieved with regard to Recommendations #2 and #3, prior to submitting the next USA expansion proposal to LAFCO.

Motion: Wilson Second: Hall AYES: Hall, Kishimoto, Wilson
NOES: Chavez, Constant, Tucker, Wasserman

ABSTAIN: None ABSENT: None

MOTION FAILED

A motion to request that the City of Morgan Hill withhold submitting applications for USA expansion proposals to LAFCO until after the completion of its General Plan Update process and until it has significantly reduced its vacant land inventory to five or fewer years.

Motion: Wilson Second: Hall AYES: Hall, Kishimoto, Wilson
NOES: Chavez, Constant, Tucker, Wasserman

ABSTAIN: None ABSENT: None

MOTION FAILED

Chairperson Wasserman noted Morgan Hill’s request to participate in the review of LAFCO USA policies. **Commissioner Constant** proposed to amend the motion to allow the Commission to provide specific direction on revisions to staff. **Commissioners Wilson** and **Hall** decided to go forward with the original motion.

The Commission directed LAFCO staff to review LAFCO’s Urban Service Area Policies and propose revisions as necessary, for Commission consideration.

Motion: Wilson Second: Hall AYES: Chavez, Hall, Kishimoto, Tucker, Wilson

NOES: Constant, Wasserman ABSTAIN: None ABSENT: None

MOTION PASSED

In response to an inquiry by **Commissioner Wilson**, Ms. Subramanian noted that since there is no formal policy in place for reconsideration of a motion, the maker of the motion and the second could request for reconsideration. She added that reconsideration is allowed when new information is presented that was not possible to be presented at the time of the Commission decision. **Commissioner Constant** informed that Robert’s Rule of Order provides that any member of the prevailing side can request

reconsideration. Ms. Subramanian advised that the Commission may have to decide whether or not to follow Robert's Rule of Order. In response to an inquiry by **Chairperson Wasserman**, Ms. Subramanian advised that the Commission may determine what is new information. **Commissioner Hall** informed that he is not requesting for reconsideration and explained that he made the inquiry to encourage Morgan Hill to develop its agricultural mitigation policy consistent with LAFCO policies.

At the request of **Chairperson Wasserman**, Commissioners Chavez, Constant, Hall, Wasserman and Wilson, and Alternate Commissioner Tucker disclosed the names of individuals that they met with regard to this proposal and indicated whether or not they visited the site. Alternate Commissioner Kishimoto did not meet with any stakeholder.

***3. TAKEN OUT OF ORDER - COMMISSIONER SUSAN VICKLUND WILSON: RECIPIENT OF THE 2013 CALAFCO LIFETIME ACHIEVEMENT AWARD**

Commissioner Constant, voting delegate to the CALAFCO Annual Conference, informed that he accepted the 2013 CALAFCO Lifetime Achievement Award on behalf of Commissioner Wilson. He informed that Commissioner Wilson has served LAFCO for over 18 years and served on CALAFCO Executive Board and Legislative Committee.

7. SPECIAL DISTRICTS SERVICE REVIEW DRAFT REPORT: PHASE 2

Dunia Noel, LAFCO Analyst, provided a brief update on the project. Jennifer Stephenson and Oxana Wolfson, Policy Consulting Associates, consultants for the project, presented the summary of the Draft Report, including the key findings, governance options and sphere of influence recommendations for each of the nine districts.

This being the time and place for the public hearing, **Chairperson Wasserman** declared the public hearing open, determined that there are no members of the public who wished to speak on the item and ordered the public hearing closed.

The Commission directed staff to revise the Report as necessary to address comments received through October 9th and set December 4, 2013 as the date for the public hearing to consider adoption of the Final Report.

Motion: Wilson

Second: Kishimoto

AYES: Chavez, Constant, Hall, Kishimoto, Tucker, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

8. REVISIONS OF THE AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN LAFCO OF SANTA CLARA COUNTY AND THE COUNTY OF SANTA CLARA

Ms. Subramanian presented the staff report.

Alternate Commissioner Kishimoto proposed that, in addition to the Finance Committee, the other members of the Commission be polled on the performance

evaluation of LAFCO Executive Officer. Ms. Subramanian indicated that a plan, timeline and process for evaluation could include that. In response to a follow up inquiry by **Alternate Commissioner Kishimoto**, Ms. Subramanian advised that this may be made part of the motion.

The Commission approved revisions to the Amended and Restated Memorandum of Understanding between LAFCO of Santa Clara County and the County of Santa Clara and directed staff to prepare a plan and timeline for conducting performance evaluation of the LAFCO Executive Officer, in coordination with the County Executive's Office, and the process include a poll of the full Commission.

Motion: Kishimoto

Second: Wilson

MOTION PASSED

AYES: Chavez, Constant, Hall, Kishimoto, Tucker, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

9. AGENCY RESPONSES TO RECOMMENDATION IN LAFCO'S SPECIAL DISTRICTS SERVICE REVIEW REPORT: PHASE 1

The Commission accepted the report.

10. UPDATE ON SPECIAL STUDY ON THE IMPACTS OF THE POTENTIAL DISSOLUTION OF THE SARATOGA FIRE PROTECTION DISTRICT AND ANNEXATION OF ITS TERRITORY TO SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

In response to an inquiry by **Alternate Commissioner Kishimoto**, Ms. Palacherla advised that the residents of the District are not taxed specifically for the Saratoga Fire Protection District. She informed that the District revenue is from a percentage of the property tax.

On Commission consensus, there being no objection, the report was accepted.

11. EXECUTIVE OFFICER'S REPORT

The Commission noted the report.

12. PENDING APPLICATIONS / UPCOMING PROJECTS

The Commission noted the report.

13. COMMISSIONER REPORTS

There was no report.

14. NEWSPAPER ARTICLES / NEWSLETTERS

The Commission noted the CALAFCO Newsletter.

15. WRITTEN CORRESPONDENCE

There was none.

16. **CONFERENCE WITH THE LEGAL COUNSEL**

On Commission consensus, there being no objection, it was ordered that the item be continued to the next Commission meeting on December 4, 2013.

17. **ADJOURN**

The meeting was adjourned at 4:03 p.m. to the next meeting on Wednesday, December 4, 2013 in the Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Mike Wasserman, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk