



**LAFCO MEETING MINUTES
WEDNESDAY, APRIL 2, 2014**

CALL TO ORDER

Chairperson Susan Vicklund Wilson called the meeting to order at 1:23 p.m.

1. ROLL CALL

The following commissioners were present:

- **Chairperson Susan Vicklund Wilson**
- **Commissioner Cindy Chavez**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Mike Wasserman**
- **Commissioner Johnny Khamis**
- **Alternate Commissioner Yoriko Kishimoto** (voted in place of Commissioner Linda LeZotte)
- **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. PUBLIC COMMENTS

There were no public comments.

3. APPROVE MINUTES OF FEBRUARY 5, 2014 LAFCO MEETING

The Commission approved the minutes of February 5, 2014 LAFCO meeting.

Motion: Chavez

Second: Khamis

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

MOTION PASSED

4. CONSENT CALENDAR: WEST BAY SANITARY DISTRICT SPHERE OF INFLUENCE (SOI) AMENDMENT AND ANNEXATION (830 LOS TRANCOS ROAD)

The Commission adopted **Resolution No. 2014-02**, providing a favorable recommendation to the Local Agency Formation Commission of San Mateo County

relating to West Bay Sanitary District's Sphere of Influence amendment and annexation of a 9.43 acre parcel (APN: 182-36-031) located at 830 Los Trancos Road to the District.

Motion: Wasserman

Second: Abe-Koga

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

MOTION PASSED

5. **SAN JOSE URBAN SERVICE AREA (USA) AMENDMENT 2014 AND EVERGREEN NO. 202 REORGANIZATION**

Ms. Palacherla presented the staff report.

This being the time and place for the public hearing, **Chairperson Wilson** 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.

In response to an inquiry by **Commissioner Chavez**, Ms. Palacherla informed that the USA amendment proposal will establish the USA boundary based on new information about the correct slope line. **Alternate Commissioner Kishimoto** suggested that the large trees located in the area be considered when amending the USA boundary.

Commissioner Khamis stated that San Jose's ordinances will protect these trees once the area becomes part of the city and **Commissioner Wasserman** expressed agreement.

Commissioner Khamis moved for approval of San Jose's request and **Commissioner Chavez** seconded.

Alternate Commissioner Kishimoto moved for a substitute motion to direct San Jose to modify the proposal and keep Tree #16 outside of the proposed USA boundary. The substitute motion failed as there was no second.

The Commission adopted **Resolution No. 2014-03** conditionally approving the San Jose USA Amendment 2014 and Evergreen No. 202 reorganization.

Motion: Khamis

Second: Chavez

AYES: Chavez, Khamis, Abe-Koga, Wasserman, Wilson

NOES: Kishimoto

ABSTAIN: None

ABSENT: Hall, LeZotte

MOTION PASSED

6. **PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2015**

Ms. Palacherla presented the staff report.

This being the time and place for the public hearing, **Chairperson Wilson** 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.

In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla advised that the FY2015 budget is three percent higher than the FY2014 adopted budget due to the increase in staff cost. She clarified that the proposed budget is \$100,000 more than the actual FY2014 expenses because some anticipated expenses, such as consultant costs, did

not occur in FY2014 and are now transferred to FY2015. **Commissioner Wasserman** moved for adoption of the proposed LAFCO budget.

In response to an inquiry by **Commissioner Chavez**, Ms. Palacherla reported that the majority of LAFCO fees are based on actual staff time and cost. She informed that LAFCO's cost to agencies takes into account the revenues from fees, carryover funds and interest earnings. In response to a follow-up inquiry by **Commissioner Chavez**, Ms. Palacherla advised that the State law stipulates that the allocation of cost to cities, the county and districts be proportional to their representation on LAFCO. She stated that the special districts in Santa Clara County have agreed to an alternative method of allocating LAFCO costs amongst themselves.

The Commission: (1) adopted the Proposed LAFCO Budget for Fiscal Year 2014-2015; (2) found that the Proposed LAFCO Budget for Fiscal Year 2015 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; and (3) authorized staff to transmit the Proposed LAFCO Budget adopted by the Commission including the estimated agency costs as well as the LAFCO public hearing notice on the adoption of the Fiscal Year 2015 Final Budget to the cities, the special districts, the County, the Cities Association and the Special Districts Association.

Motion: Wasserman

Second: Abe-Koga

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

MOTION PASSED

7. **PROPOSED LAFCO BYLAWS**

Ms. Noel presented the staff report.

Commissioners Wasserman and **Khamis** welcomed the proposed use of Rosenberg's Rules of Order. **Alternate Commissioner Kishimoto** suggested that the Bylaws include a provision to discourage members from abstaining to vote unless there is a conflict of interest. At the request of the **Chairperson**, Ms. Subramanian stated that the Commission cannot prohibit its members from abstaining to vote; however, as a policy decision, abstentions can be discouraged except when there is a conflict of interest.

Commissioners Chavez and **Khamis** informed that the San Jose City Council discourages abstentions. A brief discussion ensued between **Commissioner Chavez** and Ms. Subramanian and the Commission directed staff to review how San Jose and other cities address this issue. **Commissioner Wasserman** expressed concerns about requiring that members not abstain from voting and noted that he would not like to digress from the simplicity of the Rosenberg's Rules. **Alternate Commissioner Kishimoto** suggested that as a compromise, the policy could indicate that the Commission "strongly discourage" its members from abstaining to vote. **Commissioner Wasserman** accepted the amendment to the motion. **Commissioner Khamis** expressed support for the amended motion provided that staff bring back a proposed policy at the next meeting.

The Commission adopted the Bylaws and directed staff to bring back a policy to discourage members from abstaining to vote.

Motion: Wasserman

Second: Khamis

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

MOTION PASSED

8. SARATOGA FIRE PROTECTION DISTRICT SPECIAL STUDY DRAFT REPORT

Ms. Palacherla provided a brief background on the Saratoga Fire Protection District (SFD) Special Study Draft Report and introduced the consultant for the project, Richard Berkson, Principal, Economic Planning Systems. Mr. Berkson provided a PowerPoint presentation on the Draft Report.

In response to an inquiry by **Commissioner Wasserman**, Ms. Subramanian advised that LAFCO may initiate the dissolution of SFD; however, the voters within the district may eventually decide whether or not to dissolve it. **Commissioners Khamis and Wasserman** requested that the Commission receive copies of the PowerPoint presentation in advance.

In response to an inquiry by **Commissioner Khamis**, Mr. Berkson informed that annual savings of about \$80,000 to \$150,000 may be realized by eliminating the business manager position, benefits for board members and overhead expenses. In response to another inquiry by **Commissioner Khamis**, Ms. Palacherla informed that staff provided a presentation to the Saratoga City Council in 2012.

In response to an inquiry by **Commissioner Abe-Koga**, Mr. Berkson informed that he had several conversations with Santa Clara County Central Fire Protection District (CCFD). He stated that CCFD has not taken a position on the issue but indicated that they are able to proceed with the reorganization if directed. He noted that the information in the report about staffing and resources is based on his discussions with CCFD. In response to another inquiry by **Commissioner Abe-Koga**, Mr. Berkson indicated that the Draft Report did not study the option of SFD serving the entire City of Saratoga. **Commissioner Wasserman** noted that SFD representatives have indicated no interest in serving the entire Saratoga. In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla informed that the Draft Report is available on the LAFCO website.

In response to an inquiry by **Alternate Commissioner Kishimoto**, Mr. Berkson reported that CCFD is committed to maintaining the existing fire station regardless of reorganization because its location is critical to the delivery of service in that region. In response to succeeding inquiries by **Alternate Commissioner Kishimoto**, Mr. Berkson indicated that there may be opportunities for local representation by creating an advisory committee to the CCFD governing board. He stated that, in addition to the one percent property tax, the residents also pay for the bond measure and the EWAS fees. Mr. Berkson indicated that other than LAFCO's terms and conditions, there is no guarantee that SFD savings will be spent in the area. **Alternate Commissioner Kishimoto** noted that the use of \$1.8 million should be negotiated.

Harold Toppel, Counsel, SFD, informed that should LAFCO initiate dissolution, SFD will seek a restraining order to stop the process and have a judge make the findings

rather than try to secure signatures from registered voters or property owners to protest LAFCO's decision. He informed that if a sufficient protest is not filed against dissolution, no election will be required. Mr. Toppel urged the Commission to accept the Draft Report, make it available to the public and to end further action on SFD dissolution. In response to an inquiry by **Alternate Commissioner Kishimoto**, Mr. Toppel stated that the City of Saratoga is uninterested in having SFD provide fire services to the entire city since the whole area, both the portion within SFD boundaries and the rest of Saratoga, receives the same level of service from CCFD. He added that while SFD board makes policy decisions, fire services are implemented uniformly by CCFD and the residents do not know the difference.

In response to a follow-up inquiry by **Alternate Commissioner Kishimoto**, Mr. Toppel informed that the policy decisions that SFD makes are regarding fire service to the hillside area, capital improvements and equipment issues, and operation of the EWAS. He further stated that without the SFD, residents will not have accounting reports on the cost of fire services and will not be able to attend separate SFD Board meetings. Mr. Toppel noted that SFD Board members are well known in the community and they are able to communicate with residents in the local coffee shops and not just at meetings. He further stated that whether or not contested elections are held is not a measure of accountability especially when the district is not improperly operated. **Chairperson Wilson** determined that there are no members of the public who wished to speak on the item.

Chairperson Wilson provided a brief background on why the study on SFD was initiated. She noted that even though there is \$100,000 savings, it is not significant compared to the \$5 million budget. She informed that the Commission has not heard from Saratoga residents and expressed agreement in continuing the item to the August meeting. **Chairperson Wilson** proposed that staff present the final report and recommendations on the process and options at the June meeting. **Commissioners Wasserman** and **Abe-Koga** expressed no objection to the amended motion.

Commissioner Khamis cautioned that SFD may spend more on legal representation than the savings projected from dissolution of SFD. As an example of how local communities opt to pay more in taxes in order to enjoy certain services, **Commissioner Wasserman** noted that Monte Sereno residents chose to pay more for police services from a different provider.

The Commission accepted the report, directed staff to present the Final Report at the June meeting, along with staff recommendations on the process and options.

Motion: Wasserman

Second: Abe-Koga

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall, LeZotte

MOTION PASSED

9. RESPONSES FROM AGENCIES TO RECOMMENDATIONS IN LAFCO’S SPECIAL DISTRICTS SERVICE REVIEW REPORT: PHASE 2

Ms. Noel presented the staff report.

Commissioner Chavez requested that transparency issues must be addressed immediately when found. She also requested staff to prioritize the service review recommendations to indicate their importance and urgency.

The Commission accepted the report.

Motion: Wasserman Second: Khamis

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None ABSTAIN: None ABSENT: Hall, LeZotte

MOTION PASSED

10. CALAFCO REGIONAL FORUMS

Ms. Noel presented the staff report.

A brief discussion ensued relating to the proposed CALAFCO regional forum. **Chairperson Wilson** described the importance for LAFCO members to attend CALAFCO conferences and other educational opportunities, including the regional forums. She indicated that LAFCO members must be aware of the various regional issues and perspectives because CKH Act is very broad and, for instance, water is one of the factors that LAFCO has to consider in its decisions.

The Commission supported attendance at CALAFCO regional forums.

Motion: Abe-Koga Second: Kishimoto

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None ABSTAIN: None ABSENT: Hall, LeZotte

MOTION PASSED

11. AB 2762 (ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT) CORTESE-KNOX-HERTZBERG (CKH) ACT OMNIBUS BILL

Ms. Palacherla presented the staff report.

Commissioner Wasserman expressed concern that the proposed revisions included a “state-mandated local program.” In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla advised that the changes proposed in the Omnibus Bill are mostly non-substantive and noted that the references is to a section which was inadvertently edited in the last update. She advised that it is in the bill’s analysis and is not part of the bill itself. A brief discussion ensued among **Chairperson Wilson**, **Commissioner Wasserman**, and Ms. Palacherla and it was proposed that staff be directed to confirm with CALAFCO that the bill adds no new duties to LAFCOs. At the request of **Commissioner Kishimoto**, **Commissioner Wasserman** clarified his motion to state that the item be brought back to the Commission if the bill adds new duties to LAFCO.

The Commission directed staff to confirm with CALAFCO that the Omnibus Bill does not impose a new State mandated program for LAFCOs and authorized the Chairperson to sign a letter of support upon such confirmation.

Motion: Wasserman Second: Chavez

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None ABSTAIN: None ABSENT: Hall, LeZotte

MOTION PASSED

12. EXECUTIVE OFFICER'S REPORT

No report.

13. PENDING APPLICATIONS

Ms. Palacherla advised that there is a pending application from the West Bay Sanitary District.

14. COMMISSIONER REPORT

No report.

15. NEWSPAPER ARTICLES / NEWSLETTERS

No report.

16. WRITTEN CORRESPONDENCE

Chairperson Wilson noted the correspondence included in the agenda packet.

17. CLOSED SESSION

The Commission adjourned to closed session at 3:25 p.m.

18. ADJOURN

Chairperson Wilson announced no report from the Closed Session and adjourned the meeting at 4:10 p.m. to the next regular meeting on June 4, 2014.

Approved:

Susan Vicklund Wilson, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk