



**Local Agency
Formation Commission
of Santa Clara County**
777 North First Street
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San Jose, CA 95112
SantaClaraLAFCO.org

Commissioners
Susan Ellenberg
Sequoia Hall
Sergio Jimenez
Linda J. LeZotte
Rob Rennie
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners
Cindy Chavez
Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING MINUTES WEDNESDAY, DECEMBER 5, 2018

CALL TO ORDER

The meeting was called to order at 1:15 p.m.

1. ROLL CALL

The following commissioners were present:

- Chairperson Ken Yeager
- Vice Chairperson Susan Vicklund Wilson
- Commissioner Sequoia Hall
- Commissioner Sergio Jimenez
- Commissioner Rob Rennie
- Commissioner John L. Varela
- Commissioner Mike Wasserman
- Alternate Commissioner Russ Melton
- Alternate Commissioner Terry Trumbull

The following commissioners were absent:

- Alternate Commissioner Sylvia Arenas
- Alternate Commissioner Cindy Chavez
- Alternate Commissioner Yoriko Kishimoto

The following staff members were present:

- LAFCO Executive Officer Neelima Palacherla
- LAFCO Assistant Executive Officer Dunia Noel
- LAFCO Analyst Lakshmi Rajagopalan
- LAFCO Clerk Emmanuel Abello
- LAFCO Counsel Malathy Subramanian

2. PUBLIC COMMENTS

There were none.

3. MORGAN HILL URBAN SERVICE AREA AMENDMENT 2018

Ms. Palacherla presented the staff report and recommendation. She noted that all the information provided by the City is available on the LAFCO website and all the comment letters received have been provided to the Commission in supplemental packets.

Leslie Little, Assistant City Manager, and John Baty, Principal Planner, City of Morgan Hill, made a presentation explaining the City's rationale for seeking the urban service area (USA) amendment.

In response to a request for clarification by **Commissioner Rennie** regarding the City's urban growth boundary (UGB) and the school sites in the agricultural area, City staff informed that the City's General Plan includes two public school sites in the area at the request of the Morgan Hill Unified School District (MHUSD), and noted that while expansion into the area is theoretically possible, the area is unlikely to be developed since the USA amendment process is difficult. They also stated that the City Council would consider potentially retracting the City's UGB at an upcoming meeting.

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

Rob Eastwood, Planning Manager, Santa Clara County Department of Planning and Development, discussed the implementation of the Santa Clara Valley Agricultural Plan, including the resources committed by the State, the County and various agencies for agricultural preservation and for promotion of the agricultural economy in South County.

Steve Tate, Mayor, City of Morgan Hill, requested approval of the proposal because even though it converts some agricultural lands it would preserve other agricultural lands through mitigation and provide other benefits such as reducing traffic congestion. He assured LAFCO that the proposal would be the last expansion by the city into the southeast quadrant (SEQ).

Chairperson Yeager read a comment by Brenda Petroni, a representative of the South County Catholic High School, who expressed the need for schools in the area in order to alleviate traffic congestion and educate future workforce.

Scott Higgins, South County Catholic High School member, explained the value of Catholic education, the financial support that Catholic schools provide, and the difficulties of commuting to attend Catholic schools in other cities.

Fr. Steve Kim, a priest in the Diocese of San Jose, requested approval of the proposal so there would be fewer commuters and lesser traffic congestion. He explained the benefits of a Catholic education to the local community and why 40 acres is required for the school site.

Greg Fisher, a Morgan Hill resident, requested approval stating that he would not want his family to commute.

Rev. Angelo David, pastor at the Saint Julie Billiard Catholic Parish, expressed his parishioners' support for the proposal because of the benefits it brings to the community.

Ramiro Torres, resident of Morgan Hill, expressed support for the proposal and explained that Catholic education also benefits non-Catholics and that the proposed school site is not suitable for farming.

Ted Nordby requested denial of the proposal and noted that the City's EIR has determined that the proposal would have significant negative environmental impacts.

Steve Quon requested denial to prevent urban sprawl in the SEQ and in Coyote Valley.

Chuck Berghoff, resident of Morgan Hill and a volunteer for the Catholic High School project, discussed the high demand for Catholic education, the lack of schools in South County, and the difficulties and negative environmental impacts of commuting long distances.

Mark Sochan, Gilroy resident and a representative of the South County Catholic High School, requested approval since growth in the schools has not kept up with growth in jobs and businesses in the area, and there is a need and demand for a Catholic high school in Morgan Hill.

Bill Chiala, Fountain Oaks Ranch, expressed support for the proposal as there is need for such a school in the community and stated that the location has easy freeway access. He also explained that the site is not suitable for farming.

In response to an inquiry by **Commissioner Rennie**, Mr. Chiala indicated that they farm around a school and many houses, and they abide by the regulations and that it is his experience that schools and residences do not limit farm operations.

Tim Chiala, George Chiala Farms, stated that he is currently farming the property and noted that contrary to the staff report, the area is not prime agricultural land as it is now fallow because it is prone to diseases and some of the lands are developed with residences.

In response to inquiries by **Commissioner Varela**, Mr. Chiala informed that the proposal area and the mitigation land will be lost to development if the proposal is denied. He described how the land rather than being farmed, would be subdivided into small lots for rural ranchettes.

Alternate Commissioner Trumbull disclosed his ex parte communications related to the proposal and stated that he received emails from the League of Women Voters (LWV) and Committee for Green Foothills (CGF) against the proposal and 20 other emails that were also sent to other members. He expressed his support for the staff recommendation to deny the proposed USA expansion as the proposal violates State law. He noted that LAFCO may not survive a lawsuit if somebody chooses to fight its approval. He noted that he had to leave the meeting at that point.

Sal Akhter, a Gilroy resident, expressed his support for the proposal and stated that there are stronger reasons to support a Catholic high school than the various County facilities built in San Martin, and he requested LAFCO to balance its responsibility for conservation against the needs of the community.

Monsignor Gene O'Donnell, a representative of the South County Catholic High School, informed that the Catholic high school would reduce the need to commute and provides a gift to the people of South County.

Manou Mobedshahi, a San Martin resident, stated that the Catholic school is for the benefit of children and provided an example of how Catholic education benefitted his child.

Andrew Mariani, Andy's Orchard, informed that he has farmed 60 acres near Live Oak High School and coexisted for over 40 years. He urged approval as the environmental impact of a school would be lower than a use such as a strip mall. He stated that new regulations have made it more difficult for his orchard, but also explained that there are many types of farming and other crops such as growing hap could be more compatible with a school.

Eli Zigas, representative of the San Francisco Bay Area Planning and Urban Research Association (SPUR), urged denial as the proposal is not about the school but about a larger issue of where growth is directed and stated that a vote against this is a vote to focus growth in existing urban areas. He noted that the City made zoning changes and it has proposed multiple expansions without working to limit growth.

Doug Muirhead, resident of Morgan Hill, expressed opposition to the proposal due to its long-term impact on agricultural sustainability and referenced the last Agricultural Task Force Meeting noting that farm size does not determine profitability of a farm.

Erin Gil, Grass Farm, stated that he has farmed in Coyote Valley for 50 years and expressed support for the project. He informed that the proposal area is not farmed because it is not sustainable or profitable.

John Telfer, a resident and a realtor in Morgan Hill, informed that the staff report is misleading and explained that there are no suitable sites for the Catholic high school in the city. He explained that as a community member, he wants his grandchildren to have the opportunity to study at a high quality high school.

In response to an inquiry by **Commissioner Varela**, Mr. Telfer informed that the staff report discusses the available land inventory but does not state that it is not possible to assemble them into a 40-acre school campus.

Andy Pashby, member of the Catholic high school committee, indicated that the proposed school will be a compact two-story building. He explained that the Diocese has funds for site improvements and would not rely on public funds.

Jan Guglielmo, representing the Emilio Guglielmo Winery in Morgan Hill, expressed her support for the proposal and stated that the high school would be a benefit to the community. She explained that the farmers cannot support themselves on the land, and she stated that the school site is not good farmland.

Fran Lauridsen Chiala, Fountain Oaks Ranch, expressed her support for the proposal and stated that the school would allow families the freedom to choose the type of education for their children.

Nadi Akhter, a parent and Gilroy resident, stated her support for the Catholic School and for the opportunity for choice in education and explained that Catholic education teaches spirituality and good values.

Liz Devargas-Almeida, a parent, educator, and representative of the South County Catholic High School, asked LAFCO not to have South County make up for the loss of agricultural lands in the past and she urged approval of the school and to find other lands to preserve.

Amulya Dhulipada, intern at the Greenbelt Alliance, read a statement on behalf of Kiyomi Honda Yamamoto, South Bay representative, Greenbelt Alliance, who urged denial of the proposal as it does not conform to policies and it conflicts with the Valley Agricultural Plan.

Gloria Chun Hoo, representative of the LWV, requested denial as this proposal is in violation of LAFCO's goals of promoting compact growth, protecting natural resources and promoting social and economic equity.

Bernard Vogel, San Jose resident, expressed support for the proposal as there is no school site available within the city, the proposal area is not prime farmland and it would eliminate the need to commute.

Christi Chiala Vecera, George Chiala's daughter, and a representative of the South County Catholic High School, expressed support for the proposal and informed that if it is not approved, mini mansions will be built as that land is unsuitable for farming. She stated that the school is the best use for that land.

Virginia Holtz, board member, Santa Clara Valley Open Space Authority (OSA), indicated that her agency has sent a letter to LAFCO requesting denial of the proposal. She noted that the proposal conflicts with the County General Plan, LAFCO policies and the Agricultural Plan.

Greg DelCarlo, San Martin resident, expressed support for the project as the lands will be used for education and not for commercial purposes.

Arlene Sison Handa, Morgan Hill resident and representative of St. Catherine School, urged approval of the proposal. She noted that four years of commuting to Catholic schools in San Jose or Watsonville generates 80 tons of dangerous carbon dioxide and it is a waste of time and money.

Julie Hutchinson, Morgan Hill resident and Director for External Affairs and Advocacy at the Committee for Green Foothills, stated that many organizations including the County, OSA, American Farmland Trust, LWV, San Martin Neighborhood Alliance, Greenbelt Alliance, Sierra Club and Audubon Society concur with the staff's recommendation for denial. She urged the City to work with its regional partners to modify its plan for the SEQ.

Donald Larkin, Morgan Hill City Attorney, urged LAFCO to disregard the statement made by Alternate Commissioner Trumbull that it would be illegal for the Commission to approve the project and noted that LAFCO has broad discretion to make its findings based on the evidence presented. He stated that LAFCO staff has not indicated to the City that approval would be illegal. He also noted that the City has provided evidence to support each of the findings.

Toni Bowle, Hollister resident and a representative of St. Mary School, indicated that she is representing the interests of the entire second grade at Saint Mary's and

expressed support for the proposal so she would have a choice where to send her children as she noted that Hollister high school is over-crowded.

Dave Poeschel, Open Space Chair of the Sierra Club Loma Prieta Chapter, expressed support for smart growth and LAFCO policies and urged denial of the project as there are available infill sites within the city, and the proposal conflicts with LAFCO policies and the County General Plan. He noted the need to implement the Valley Agricultural Plan.

Trina Hineser, representative of the San Martin Neighborhood Alliance, requested the denial of the proposal as she expressed concern that the MHUSD cannot keep up with Morgan Hill's growth, which also negatively impacts the San Martin community.

Chairperson Yeager read a comment by Shelly Paiva, a representative of the South County Catholic High School, who requested approval as it brings economic development, and because there is no available school site in the city.

Chairperson Yeager read a comment from Thomas Conrad, a SEQ resident, who indicated that a previously approved school site was sold to a housing developer.

Michael Blomquist, a Los Gatos resident, expressed support as the proposal would ease traffic congestion on US 101 and requested another meeting.

Jennifer Smith, Morgan Hill resident and parent, urged LAFCO to look at the big picture and allow the use of agricultural land for a school which would have a positive impact on the children.

George Chiala Jr., CEO of the George Chiala Farms, indicated that all data show that the property is unsuitable for farming and that he lost two crops. He offered his expertise if the commission has any questions.

The public hearing was closed on Commission consensus.

Commissioner Wasserman disclosed his ex parte communications related to the application and indicated that he received a few emails opposed to the project, dozens in favor, and noted that copies of these emails have been distributed to the commissioners. He also reported that he met with Morgan Hill Mayor Steve Tate and Assistant City Manager Leslie Little on November 27th. He explained that this is about the school and agricultural land and urged approval since studies indicate that good schools reduce domestic violence and gang activity, and there is a need for more schools in the area due to population growth. He expressed concern that 120 acres of farmland would be lost if the proposal is denied since both the proposal area and mitigation lands would be subdivided into smaller lots for ranchettes.

Commissioner Rennie disclosed his ex parte communications related to the proposal and indicated that he had a meeting with Julie Hutchinson, Morgan Hill resident and Committee for Green Foothills (CGF) representative, Leslie Rodriguez of California Strategies, Father Kim, Mayor Tate, Assistant Town Manager Leslie Little and Senior Planner John Baty; he received text messages from Los Gatos residents about the San Jose Mercury News article on the proposal and from Megan Medeiros, CGF Executive Director, and numerous emails that he forwarded to staff. He also reported that Bill Chiala gave him a tour of the area.

In response to **Commissioner Rennie's** inquiry as to how the City would show that this is the last boundary expansion, Mr. Baty indicated that the difficulty of the USA amendment process turns applicants away and that the City Council would be discussing retraction of the city's UGB. Ms. Little indicated that the City is listening and would be reevaluating its plans and policies in January. In response to further inquiries by **Commissioner Rennie** regarding the school site inconsistencies, Ms. Little indicated that the City wants to collaborate with MHUSD on public school sites. In response to **Commissioner Rennie's** inquiry about who would pay for the infrastructure and if the proposed development justifies the cost of bringing services to the area, Mr. Eulo stated that the proponent is responsible for connecting to existing sewer and water services and the City would collect development impact fees; and Mr. Pashby explained that the Diocese has allocated \$5 million for preconstruction costs, and that fund raising would begin after this approval.

Commissioner Varela indicated he and his family are good Catholics, discussed the value of Catholic schools and explained that Morgan Hill is not responsible for sprawl. He explained that landowners are forced to develop and sell their lands because farming is difficult and new generations do not want to farm, and the proposal area is unsuitable for farming based on public testimony. He noted that those who have spoken in support of the USA expansion outnumber those opposed, and that the City has thoroughly explained the benefits of the proposal. For these reasons, he urged approval. He disclosed his ex parte communications related to the application and reported that he has received emails that are also in the packet, that he met with Leslie Rodriguez of California Strategies, Mayor Tate and members of the Chiala family, and had a telephone call from former Morgan Hill Mayor John Sorci.

Commissioner Wilson expressed concern that the proposal would have a negative impact on public schools and city services. In response to **Commissioner Wilson's** inquiries, Steve Betando, MHUSD Superintendent, informed that the Sobrato High School has had a water problem since it was built. He indicated that the MHUSD has projected a need for a public high school on the east side based on city growth. He explained that there may be suitable school sites within the city, but they have been zoned for industrial and commercial uses. He informed that even though MHUSD has the ability to acquire property, they would like to follow the City's policies. He acknowledged receipt of LAFCO's letter requesting MHUSD to consider lands within the city's boundaries. He stated that he has discussed the impacts of the proposal but was not involved in discussions on the SEQ. In response to a follow-up inquiry by **Commissioner Wilson**, Mr. Betando indicated that the proposal's impacts on public schools is not fully known at this time. He noted initial discussions with the City on joint stadium facility but stated that there is uncertainty on the usability of SEQ lands. He reported that MHUSD has been moving classes around the city to adjust to unplanned, new housing developments, as the City is rezoning lands to residential uses.

Commissioner Wilson disclosed her ex parte communications related to the application and indicated that all her emails have been provided to staff and are included in the packet, except one that has not made it into the packet. In response to an inquiry by **Commissioner Wilson**, Mr. Eulo reported that the City has sewer and

water plans for a full build-out, that sewer spills occur only during storm events and pipeline upsizing is planned, that the Diocese will retain storm water onsite, and that the City does not ration water but has irrigation schedule to save water.

Commissioner Wilson expressed her appreciation for both public and private education. She indicated that as a LAFCO commissioner she balances competing interests but looks at CKH Act to make the decision. She informed that as a public member it is her duty to look at proposals from the public's perspective and that she voted to approve a proposal for a Catholic high school between Hale and Monterey years ago, but the school was not built and that land is now a subdivision. She explained that the proposal is a premature conversion of agricultural land and stated that the Agricultural Task Force has just begun its work and the City Council is set to discuss the retraction of the UGB at a retreat in January. She informed that it is her duty to follow the law and that she is unable to support approval.

Commissioner Hall disclosed his ex parte communications and meetings related to the proposal and indicated that he met with Mayor Tate and Morgan Hill staff and has received emails that are included in the packet. He noted that a majority of the support letters are from San Jose residents and those against are from Morgan Hill. He observed there is infill happening throughout the county. He commended Morgan Hill for their efforts at building housing and noted that Morgan Hill should plan for schools within the city. He noted that schools have a growth inducing effect and recalled his support for annexation of a mushroom farm because of complaints from a nearby school. He also noted LAFCO's approval of a Catholic high school that was never built. He acknowledged the issue of rural ranchettes on small lots which would be addressed through the Valley Agricultural Plan by acquiring development rights and providing financial benefits to landowners. He observed that there were large vacant parcels within the city and he stated that the City and school advocates might find a school site within the city that could be efficient to serve and have no impact on important farmlands. He acknowledged the parents' desire for a local school and urged the City to find alternate sites for private and public schools as the current proposal involves agricultural land conversion and is against LAFCO policies for logical and orderly boundaries.

Commissioner Jimenez also acknowledged the community's desire for a local school and expressed his understanding for the benefits of a Catholic education. He disclosed his ex parte communications relating to the application and indicated that he met with Leslie Rodriquez of California Strategies, Morgan Hill Mayor Tate, Ms. Little and Mr. Baty, spoke on the phone with Julie Hutcheson, Committee for Green Foothills; and his staff had phone communications with Alberto Velasco, a former San Jose Parks and Recreation staff; and received text messages from Megan Medeiros, CGF, and Andrea McKenzie of Santa Clara County Open Space Authority. He expressed understanding that he does not represent the City of San Jose on LAFCO but the interest of the public as a whole.

In response to an inquiry by **Commissioner Jimenez**, Ms. Subramanian informed that LAFCO and the City had reached a settlement agreement on another City EIR and agreed that the City could utilize its EIR certified prior to the General Plan EIR. She

advised that LAFCO use the findings in the staff report if it chooses to approve the proposal. In response to another inquiry, Ms. Palacherla informed that the City did not address concerns conveyed by LAFCO prior to EIR certification. In response to **Commissioner Jimenez's** inquiries, Donald Larkin, Morgan Hill City Attorney, indicated that the City responded to LAFCO's concerns on the prior EIR and noted that LAFCO cannot deny the application based on dissatisfaction with the EIR because LAFCO did not contest the EIR.

Commissioner Jimenez observed that both LAFCO staff and the City agree that the USA expansion converts prime agricultural land or adversely impacts agricultural lands. In response to **Commissioner Jimenez's** inquiry regarding considering a smaller site within the city, Ms. Little informed that there are no willing sellers and the City does not want to take back housing development allocation rights it awarded. **Commissioner Jimenez** observed that 20-25 acres might be easier to find but Fr. Kim informed that he looked and that the California Department of Education requires 44.5 acres for a full-sized high school. **Commissioner Jimenez** informed that the State requirement does not apply to private schools and Fr. Kim responded that he does not want the school to be "land-locked" like Bellarmine or St. Francis and noted that schools in Southern California are larger than 40 acres.

Commissioner Jimenez acknowledged the desires and challenges of the community and inquired if they looked for smaller sites in the city and Fr. Kim responded that they did their due diligence. Further, Mr. Baty provided a report on vacant parcels in the city and concluded that it was not feasible to find a suitable site.

In response to an inquiry from **Commissioner Jimenez**, Ms. Little stated that the City has an agricultural easement for grant application for high speed rail and has an easement managed by another county's agricultural trust. She indicated that the school has provided letters of commitment for 1:1 mitigation with the exception of roads since they are existing. Ms. Palacherla informed that LAFCO's mitigation policies call for a plan for mitigation including a draft agreement between the property owner and easement holder, and specific easement terms, which was not included in the application.

In response to **Commissioner Jimenez's** inquiry, Ms. Palacherla indicated that the proposal is in conflict with the Valley Agricultural Plan's vision for the SEQ and explained the County's policies for the area designated in the County General Plan as Medium Scale Agriculture. Ms. Little indicated that the City is interested in continuing discussions with the County on the Valley Agricultural Plan. Ms. Hutcheson explained the Agricultural Task Force's discussion to scale back non-agricultural uses and consideration of options to use the least amount of lands for ranchettes in order to keep the rest farmed. She noted that the biggest issue for small scale farmers is access to land. Mr. Chiala informed that he has farmland adjacent to the proposal area that he is unable to rent and stated that these ideas have unproven results while the proposal guarantees agricultural lands preservation.

Commissioner Rennie informed that he had many conversations with Mr. Eulo on the proposal and would like to disclose that for the record. He acknowledged that a high school inside the city could cause parking and traffic issues and informed that

city concerns should be balanced with LAFCO's mandate. He noted that the SEQ is the last remaining farmland and stated that the City must clarify that the proposal would be its last expansion in the area. He noted some of his concerns with the City's plans including the location of the UGB, location of school sites outside the UGB, and plans for extending water pipes into the SEQ. He discussed how schools conflict with farming operations and how more schools would make it more difficult to farm, leading to urban sprawl. Since school fundraising and construction is expected to take 5-6 years, he suggested that LAFCO continue the item to allow Morgan Hill to revise its plans. He suggested that the City work on amending its UGB, amending its General Plan to remove school sites in the area, and modifying its water capital plan, to show the City's intent that this is the last annexation into the area. He stated that the City should provide at least a full 1:1 mitigation for the high school and adjacent lands, and work with an organization that could hold their easements. He also stated that this would allow the Agricultural Task Force more time to do more regional planning.

Alternate Commissioner Melton disclosed his ex parte communications related to the proposal and reported that he met with Jim Cunneen of California Strategies and received numerous emails that are included in the staff report. He acknowledged the challenges that parents face. He thanked staff for a diligent staff report and expressed his agreement with the staff report. He informed that it is his experience that cities can resolve difficult issues and find creative solutions through public-private collaboration. He indicated that he represents the entire county as a LAFCO Commissioner and finds that the proper course of action is to deny the proposal.

Chairperson Yeager disclosed his ex parte communications related to the proposal and indicated that he met with Leslie Rodriquez of California Strategies, received a text message from Jim Cunneen, and that his staff met with Mayor Tate, Leslie Little and Julie Hutcheson. He expressed his frustration as this is the second time that the Commission is considering this proposal and there is not much difference. Citing the inconsistency of the proposal with various evaluation factors that LAFCO must consider, he expressed his inability to support the proposal.

A motion for approval of the proposal, conditioned upon Morgan Hill securing the easements as mitigation.

Motion: Wasserman

Second: Varela

AYES: Varela, Wasserman

NOES: Yeager, Hall, Jimenez, Rennie, Vicklund Wilson

ABSTAIN: None

ABSENT: None

MOTION FAILED

