



**Local Agency
Formation Commission
of Santa Clara County**
777 North First Street
Suite 410
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, JUNE 5, 2019

CALL TO ORDER

The meeting was called to order at 1:18 p.m.

1. ROLL CALL

The following commissioners were present:

- Chairperson Susan Vicklund Wilson
- Vice Chairperson Sergio Jimenez
- Commissioner Susan Ellenberg
- Commissioner Linda J. LeZotte
- Commissioner Rob Rennie (arrived at 1:23 p.m.)
- Commissioner Mike Wasserman
- Alternate Commissioner Yoriko Kishimoto (voting in place of Commissioner Sequoia Hall)
- Alternate Commissioner Russ Melton
- Alternate Commissioner Terry Trumbull

The following commissioners were absent:

- Commissioner Sequoia Hall
- Alternate Commissioner Cindy Chavez
- Alternate Commissioner Maya Esparza

The following staff members were present:

- LAFCO Assistant Executive Officer Dunia Noel
- LAFCO Analyst Lakshmi Rajagopalan
- LAFCO Clerk Emmanuel Abello
- LAFCO Counsel Mala Subramanian

2. PUBLIC COMMENTS

There were none.

2. Requested the Finance Committee to interview and evaluate applicants and recommend a consultant for consideration and approval by the full Commission.

Motion: Wasserman

Second: Kishimoto

AYES: Ellenberg, Jimenez, Kishimoto, LeZotte, Rennie, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

4. FINAL LAFCO BUDGET FOR FISCAL YEAR 2020

Ms. Noel presented the staff report.

Alternate Commissioner Melton, Finance Committee Chairperson, reported that the reserves have been increased by \$100,000 in the FY2020 Final Budget. He stated that the Committee determined at its April meeting that LAFCO is operating in a more complicated environment with increased risks for lawsuits and recommended to increase the reserves by \$50,000, and that the Committee reconvened in May to discuss conducting an organizational health check-up for LAFCO and recommended adding \$50,000 more to the reserves. He stated that LAFCO reserves would thus increase to \$250,000, and if the \$50,000 is not spent during FY2020, that amount would be used to reduce costs to LAFCO funding agencies in the following year.

In response to an inquiry by **Commissioner Rennie**, **Alternate Commissioner Melton** clarified the purpose of adding to the reserves. **Commissioner Rennie** expressed support for the Committee's work.

In response to an inquiry by **Commissioner Ellenberg**, Ms. Noel stated that the Santa Clara County Special Districts Association has a formula for apportioning LAFCO costs among independent special districts.

In response to an inquiry by **Commissioner Kishimoto**, Ms. Noel informed that the data services cost is determined by the County and the increase is due to a change in service costs, anticipated equipment upgrades or other one-time costs. **Alternate Commissioner Melton** expressed agreement and stated that the staff report in April listed the items included in that cost, such as end-user device management and enterprise content management services, among others.

This being the time and place for the public hearing, **Chairperson Vicklund Wilson** declared the public hearing open, determined that there are no speakers from the public, and closed the public hearing.

The Commission:

1. Adopted the Final Work Plan and Budget for Fiscal Year 2019-2020.
2. Found that the Final Budget for Fiscal Year 2020 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorized staff to transmit the Final Budget adopted by the Commission, including the estimated agency costs to the cities, the special districts, the County, the Cities Association and the Special Districts Association.
4. Directed the County Auditor-Controller to apportion LAFCO costs to the cities, to the special districts, and to the County, and to collect payment pursuant to Government Code §56381.

Motion: LeZotte

Second: Jimenez

AYES: Ellenberg, Jimenez, Kishimoto, LeZotte, Rennie, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

5. POLICIES FOR SELECTION AND APPOINTMENT OF PUBLIC MEMBER AND ALTERNATE PUBLIC MEMBER

Chairperson Vicklund Wilson recused herself from participating in the discussion and action on the item, and **Vice Chairperson Jimenez** presided.

Ms. Noel presented the staff report.

Commissioner Wasserman noted that voting in public is more transparent based on his experience in serving on various committees and commissions, and he proposed that the Finance Committee prepare a detailed process, including public presentation by the applicants, interviews, manner of voting and process for runoff. He noted that public voting is difficult, particularly for unsuccessful applicants.

Vice Chairperson Jimenez inquired if it is necessary to determine the process before acting on the proposed policy. **Commissioner Wasserman** indicated that there are different ways of interviewing applicants, such as sequestering candidates in a separate room so they don't have advance notice of the questions or answers that other applicants said. **Vice Chairperson Jimenez** noted the importance of openness and expressed appreciation for commissioners' comments. He urged not to delay decision on the policies as the details of how voting will occur can be determined by the Commission later on.

Commissioner LeZotte shared her personal experience of both being interviewed and conducting interviews in public, and she noted that interviewees hear each

other's answers but that is the way a public interview is. She expressed support for a public interview and voting process and acknowledged that it can be hard on interviewees. She proposed that the person receiving the majority vote would be the public member and the person who comes in second would be the alternate member. She stated that there is no need for a committee to establish a detailed process as the Commission can decide on that before the interviews, and staff can look at how it is done in other jurisdictions. She reiterated that the interviews and voting should be conducted in public.

Ms. Subramanian advised that any interview conducted by the full Commission must be done in public, but that an interview conducted by an ad-hoc committee can be done privately with its recommendation brought forward for consideration of the full Commission.

In response to an inquiry by **Vice Chairperson Jimenez**, Ms. Subramanian advised that the Cortese-Knox-Hertzberg Act only states that the other six members appoint the public and alternate public members but does not specify the process, so the Commission has to determine a process.

Commissioner Rennie expressed his preference for voting in public but suggested that the Commission not deliberate on selection among the candidates in public. He suggested that during public interviews candidates be required to stay outside so that they cannot hear the questions in advance or responses of other candidates. He also proposed that in order for members to make independent choices, each commissioner hand in a written vote for the clerk to announce the votes. He also expressed the need to determine a process for a runoff if there is a tie.

The Commission amended the LAFCO Bylaws to include Policies on Selection and Appointment of Public Member and Alternate Public Member, as proposed in the staff report.

Motion: LeZotte

Second: Ellenberg

AYES: Ellenberg, Jimenez, Kishimoto, LeZotte, Rennie, Wasserman

NOES: None

ABSTAIN: Vicklund Wilson

ABSENT: None

MOTION PASSED

Chairperson Vicklund Wilson presided at the meeting.

7. RANCHO RINCONADA RECREATION AND PARK DISTRICT SPECIAL STUDY: DRAFT REQUEST FOR PROPOSALS

Ms. Noel presented the staff report.

Anu Mandavilli, a resident of Rancho Rinconada Recreation and Park District (RRRPD), expressed the need for public outreach so the residents would be aware

of the District. She expressed concern about the Board's relationship with the community and reported that a miscommunication occurred when the sheriff who was called mistook the RRRPD board meeting as a private gathering and disbanded it. She also discussed the Board's 2-2 vote impasse and reported that the April meeting was cancelled because the Board was unable to agree on who would preside at the meeting.

Sandra Yeaton, Board Member of RRRPD and District resident, stated that the construction of the lifeguard equipment storage shed has been costly and remained unfinished after three years. She also reported on the information that she gathered from those who were involved in the construction and she provided a letter to the Commission on the issue.

Kevin Davis, General Manager of RRRPD, stated that the sheriff was called to the April RRRPD Board meeting because the audience was disrupting the Board's proceedings. He expressed support for the study so that the public will be aware of the impacts of changing the District's governance structure.

In response to an inquiry by **Commissioner LeZotte**, Ms. Noel discussed the difference between a merger and subsidiary district. **Commissioner LeZotte** proposed that a study include a third option which is similar to what LAFCO did for the South Santa Clara Valley Memorial District (SSCVMD) that was allowed to remain but was required to improve governance transparency and public accountability within a period of time. She proposed that the study list deficiencies in RRRPD's operations.

In response to an inquiry by **Alternate Commissioner Kishimoto**, Ms. Noel informed that staff will report on the proposals received, interviews conducted, consultant selected and the next steps. In response to her follow-up inquiry, Ms. Noel advised that staff and consultant will prepare a list of questions and data points which include those that Alternate Commissioner Kishimoto had suggested.

Chairperson Vicklund Wilson indicated that commissioners can participate in the process either as a member of an ad-hoc committee or participate in the interviews. Ms. Noel expressed agreement indicating that commissioners typically participate in consultant selection process for service reviews, and she noted that two commissioners can do so for the study. **Alternate Commissioner Kishimoto** expressed interest in participating in the selection of the consultant.

In response to an inquiry by **Commissioner Jimenez**, Ms. Noel advised that the types of issues raised by residents are not within the scope of the proposed study. She informed that LAFCO encourages the public and District Board Members to work with District staff to resolve the issues themselves, and in a similar situation, LAFCO recommended that the SSCVMD Board initiate a forensic audit.

A brief discussion ensued between **Commissioner Jimenez** and staff regarding the adequacy of the current scope of study to address the issues raised by RRRPD residents, the option to maintain the District, and the concern and cost of an additional study.

Commissioner Jimenez moved for approval of the study with the option to widen its scope when necessary, in order to address the issues raised by the public without the need for staff to come back to LAFCO for approval.

Commissioner Ellenberg seconded the motion and expressed the need to resolve the issues reported.

Chairperson Vicklund Wilson requested for clarification as the motion may entail additional funds, and Ms. Noel indicated that the \$25,000 is only an estimate since the exact cost of an expanded study is unknown. Ms. Subramanian advised that it is possible to expand the study since the item is on agenda, but she recommended that staff bring back the item with a more reasonable cost estimate.

Commissioner Ellenberg indicated that some of the issues raised are urgent and since LAFCO only meets every other month, she proposed approval of RFP to start the process and for staff to bring back amendments as necessary. In this regard, Ms. Subramanian advised that LAFCO may approve the RFP with A and B scopes and staff could bring back the item if the estimated cost is inaccurate.

Commissioner Ellenberg expressed agreement.

Commissioner Wasserman expressed concern about the issues raised against RRRPD, particularly since its Board is deadlocked on a 2-2 vote. He noted that conducting periodic studies to improve the district's operations is costly and stated that LAFCO reserves may be insufficient. He proposed that LAFCO hold a workshop to brainstorm and discuss what the Commission wants staff to work on. He stated that past workshops resulted in a list of items that were prioritized because there was not enough staff to work on all of them.

In response to an inquiry by **Commissioner Kishimoto**, Ms. Noel advised that the discussions are about a governance study and service review of the District but not for a forensic audit. She reported that in the service reviews, the District's financial statements will be looked at and the district will be asked to provide information if there are discrepancies, but if the District cannot explain those discrepancies then LAFCO would recommend that the District do a forensic audit. She informed that SCCVMD worked with the County Auditor-Controller to hire a consultant for a forensic audit. In response to her follow-up inquiry, Ms. Subramanian advised that each public agency has its own authority on how board vacancies are filled.

In response to an inquiry by **Commissioner Jimenez**, Ms. Noel advised that the less expensive option for LAFCO was for RRRPD Board and staff to address these

issues; however, that did not occur due to dysfunction in the District so it came to LAFCO, and a study has to be done and will have costs in terms of hiring the consultant and staff time in providing the needed information. In response to his follow-up inquiry, Ms. Subramanian advised that it is the responsibility of RRRPD to comply with the various laws and LAFCO has no obligation if they are uncompliant.

Commissioner LeZotte informed that she reread the staff report which indicates that the 2013 Service Review found that the city and the district provide overlapping services and identified different options of governance. She noted that the staff report indicates that LAFCO determined in 1982 that RRRPD should eventually not exist as an independent special district, and had set its SOI as zero. She also noted that the 2013 service review did not recommend the RRRPD to continue existing. In response to her inquiry, Ms. Noel advised that the proposed RFP was based on the 2013 service review recommendations and prior Commission discussions on the matter. **Commissioner LeZotte** then informed that LAFCO periodically conducts service reviews and noted that it is unnecessary to conduct another one for RRRPD given the 2013 service review and stated that she would not support the motion.

Alternate Commissioner Kishimoto noted that RRRPD is in a similar situation as the Saratoga Fire District and that it can continue to exist if it can deliver the services that the community needs in a fiscally responsible way, compliant with standards of a public agency.

Commissioner Ellenberg expressed agreement with Commissioner LeZotte, withdrew her second to the motion.

Commissioner Jimenez amended his motion for approval of the staff recommended action, and **Commissioner Ellenberg** seconded.

The Commission:

1. Authorized staff to issue a Request for Proposals (RFP) for a professional service firm to prepare a special study on the reorganization process and impacts of alternative governance structure options for the Rancho Rinconada Recreation and Park District.
2. Delegated authority to the LAFCO Executive officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$15,000 and to execute any necessary amendments subject to LAFCO Counsel's review and approval.

Motion: Jimenez

Second: Ellenberg

AYES: Ellenberg, Jimenez, Kishimoto, LeZotte, Rennie, Wasserman, Vicklund Wilson

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

Chairperson Vicklund Wilson indicated that the area was not annexed by Cupertino until about 10 years ago, and she expressed agreement with Commissioner Wasserman and indicated that LAFCO may take various actions including an audit and reorganization of the district, among others, if needed.

8. EXECUTIVE OFFICER’S REPORT

8.1 Town of Los Gatos Initiatives - Annexation of 23 Unincorporated Islands

Commissioner Rennie informed that Los Gatos has initiated a streamlined annexation process for islands less than 150 acres. He indicated that the Town staff held a public meeting and provided hearing notice to those affected, and that the Town Council adopted a resolution initiating the annexations on June 4th and will consider adoption of resolution ordering the annexation in two weeks. He reported that only 19 individuals attended the public meeting and 7 attended the Council hearing, and the issues raised by those opposed were minor and were addressed by the Town staff. He reported that two residents living in an island with 9 houses expressed opposition, and he indicated that it is exactly these small islands that need to be annexed because they are inefficient to serve.

Chairperson Vicklund Wilson applauded Commissioner Rennie’s island annexation efforts.

The Commission noted the report.

8.2 Orientation Session for New County Staff

The Commission noted the report.

8.3 Comment Letter to Cordoba Center Final Environmental Impact Report

The Commission noted the report.

9. CALAFCO RELATED ACTIVITIES

9.1 Report on the 2019 CALAFCO Staff Workshop (April 10 – 12)

Ms. Noel reported that the CALAFCO Staff Workshop, which was hosted by LAFCO of Santa Clara County in San Jose, was a success. She expressed

appreciation to Vice Chairperson Jimenez for attending the opening ceremony and welcoming attendees to San Jose.

9.2 2019 CALAFCO Annual Conference (October 30 – November 1)

Ms. Noel informed that CALAFCO has requested staff to coordinate a session on communications and outreach planning and that staff has provided a proposal to the Conference Planning Committee on the matter. She noted that there is a lot of interest among the LAFCOs about Santa Clara’s communications planning process and its outcome.

The Commission authorized commissioners and staff to attend the Annual Conference and directed that associated travel expenses be funded by the LAFCO Budget for Fiscal Year 2020.

Motion: Wasserman

Second: Kishimoto

AYES: Ellenberg, Jimenez, Kishimoto, Rennie, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: LeZotte

MOTION PASSED

9.3 CALAFCO Board of Directors Meetings

The Commission noted the report.

10. LEGISLATIVE REPORT

Ms. Rajagopalan presented the staff report.

Vice Chairperson Jimenez informed that AB 948 is timely as the City of San Jose is expected to come to an agreement in August to spend close to \$50 million to purchase and preserve lands in Coyote Valley. He expressed appreciation to Assembly Member Kalra for bringing statewide recognition of Coyote Valley.

In response to an inquiry by **Alternate Commissioner Kishimoto**, Ms. Rajagopalan indicated that LAFCOs oppose AB 600 as it will allow DUCS that are contiguous to the cities to pursue municipal service extension without annexation, bypassing LAFCO and promoting leap-frog service delivery. She also indicated that some of the language in the bill conflict with the current government code.

The Commission:

1. Accepted report.
2. Took a support position and authorized staff to send a letter of support on: (a) AB 1822 (Assembly Local Government Committee) Omnibus Bill, and (b) AB 948 (Kalra) Coyote Valley Conservation Program.

3. Took an opposed position and authorized staff to send a letter of opposition on AB 600 (Chu) Disadvantaged Unincorporated Communities.

Motion: Jimenez

Second: Rennie

AYES: Ellenberg, Jimenez, Kishimoto, Rennie, Wasserman, Vicklund Wilson

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

11. PENDING APPLICATIONS / UPCOMING PROJECTS

There was none.

12. COMMISSIONER REPORTS

There was none.

13. NEWSPAPER ARTICLES / NEWSLETTERS

There was none.

14. WRITTEN CORRESPONDENCE

Ms. Noel indicated that a correspondence from Doug Muirhead has been distributed at the meeting.

15. ADJOURN

The Commission adjourned at 2:43 p.m., to the next regular LAFCO meeting on August 7, 2019 at 1:15 p.m., in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

Approved on October 2, 2019.

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Susan Vicklund Wilson

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

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Emmanuel Abello

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By: _____
Emmanuel Abello, LAFCO Clerk