1. **Call to Order and Pledge of Allegiance**

Vice Chair Marchand called the meeting to order at 4:31 p.m. The Pledge of Allegiance was recited.

2. **Roll Call.**

Roll was called. A quorum was present of the following commissioners:

**County Members:** Nate Miley and Scott Haggerty (both arrived at 4:34, during item 3)

**City Members:** John Marchand, Jerry Thorne and alternate David Haubert

**Special District Members:** Ayn Wieskamp and Ralph Johnson

**Public Members:** Alternate Tom Pico

**Not Present:** Sblend Sblendorio, Public Member; Georgean Vonheeder-Leopold, alternate Special District Member and Wilma Chan, alternate County Member

**Staff present:** Mona Palacios, Executive Officer; Andrew Massey, Legal Counsel, Nathaniel Taylor, LAFCo Planner; and Sandy Hou, Clerk

3. **Welcome to Returning Commissioner Haggerty**

Vice Chair Marchand noted that Commissioner Haggerty had been reappointed to another term on LAFCo.

4. **Appreciation to Tim Sbranti**

On behalf of the Commission, Vice Chair Marchand presented a plaque of appreciation to former Commissioner Tim Sbranti, acknowledging his service on LAFCo from February 2011 – November 2014. Mr. Sbranti thanked the Commission and shared brief comments regarding his service on LAFCo.

5. **Public Comment**

Commission Vice Chair Marchand invited members in the audience to address the Commission on any matter not listed on the agenda and within the jurisdiction of the Commission. There were no comments.

6. **Approval/Correction of Minutes – March 12, 2015**

Upon motion by Commissioner Thorne and second by Commissioner Wieskamp, the minutes of the March 12, 2015 regular meeting were approved.

**AYES:** 7 (Haggerty, Johnson, Marchand, Miley, Pico, Thorne, Wieskamp)

**NOES:** 0

**ABSENT:** 1 (Sblendorio)

**ABSTAIN:** 0

7. **City of Pleasanton Update on Study Regarding Water and Sewer Services for Unincorporated Happy Valley Properties**

Pleasanton City Manager Nelson Fialho reported on the status of the city’s comprehensive study to identify how water and sewer services will be provided to residents in the unincorporated Happy Valley area, the study being a condition of approval of the Hall out-of-area service agreement approved by the Commission in September 2014.
Mr. Fialho provided maps of the Happy Valley area to the Commissioners to help familiarize them with the location and size of the area (655 acres, 100 parcels). He noted that there had been two failed attempts at annexation of the area, with the most recent one in 2002 just narrowly being defeated. He noted that since 1984, the city of Pleasanton has extended water and/or sewer services to 24 parcels in the area for reasons that included septic tank failures, water well contaminations, remodels and construction. Regarding the recent discovery that many of those service agreements (21 of the 24) had been set up and implemented without LAFCo approval, he assured the Commission that the city has corrected its procedures to ensure that, going forward, such agreements will be in line with LAFCo requirements and that the city is planning to bring forward to the Commission within the next several months a plan for reconciliation of those agreements that had bypassed the LAFCo process.

Regarding the study, he explained that the City Council approved doing the study in 2016 and that the city would present the completed study to LAFCo in 2016. He further explained that the city could not meet the 6-month deadline because of other pressing matters.

Questions/Discussion

In response to Commissioner Johnson’s inquiry, Mr. Fialho explained that preliminary estimates show that the costs for connection in the area would vary from $85,000 for an existing home to $97,000 for a new home for sewer service (from Dublin San Ramon Services District) and $91,000 for existing and $120,000 for new home for water service (from Zone 7 Water Agency).

Commissioner Thorne suggested that perhaps he and Commissioner Miley, as the elected officials on LAFCo who represent the residents of Happy Valley, hold a community meeting for the residents to voice their opinions about annexation into Pleasanton since there has been some turnover in property ownership. He further stated that he would like this meeting to occur before the city spends time completing the required study.

Commissioner Haggerty expressed his opinion that the residents would still not be interested in annexation. He reiterated his support for a study to address sewage issues in the area that would provide an overall plan rather than dealing with it on a one-by-one basis. He also suggested that it would be helpful to invite a representative from the Regional Quality Water Board to speak to the Commission at a future meeting about onsite wastewater systems, the different tiers, and changes in the law.

Mr. Fialho expressed that City staff did not interpret the Commission’s request for a study as an annexation effort and that, if given the extra time (extending to 2016), they could complete the comprehensive study more thoroughly and constructively.

8. Reconsideration Request: Annexation of Castro Valley Canyonlands to the Castro Valley Sanitary District

Staff Remarks

Staff provided summary remarks of the written report about this request from the Castro Valley Sanitary District that the Commission reconsider LAFCo Resolution 2015-02, adopted at its March 12th meeting when it conditionally approved the annexation of the Castro Valley Canyonlands to the Castro Valley Sanitary District for the purpose of providing solid waste and recycling services within the Canyonlands area.

Staff noted that the district was requesting that the Commission clarify the district’s receipt of property tax, remove condition 4a regarding exemption from services and 4b regarding tiered rates and to make other minor changes. Staff recommended that after considering the information in the staff report, the district’s presentation and any other public comments, the Commission consider approving option 1 presented in the staff report, i.e., to approve in part and deny in part the district’s request for reconsideration and that the reasons for the recommendation were listed in the staff report. Staff went over the next steps in the process should the Commission approve the reconsideration process, namely that the Commission adopt a new
resolution making determinations and then a 21-day noticed protest hearing would be conducted by the Executive Officer and that the earliest possible date for that protest hearing, if scheduled after the close of the 30-day reconsideration period, would be June 15th.

District’s Presentation

Roland Williams, General Manager of Castro Valley Sanitary District, then presented detailed information on each of the four categories referred to by Staff - property tax distribution, exemptions from service, tiered rates and term clarification. (Paper copies of his PowerPoint presentation were provided to the Commissioners.)

- **Property Tax Distribution:** Information was provided to explain why the District believes it should receive a portion of the 1% property tax distribution in the annexed area, just as it receives in parts of its current service area.
- **Exemptions:** The District’s contract with its current customers allows for exemptions for garbage only; recycling is mandatory. The District wants the same conditions to apply to the Canyonlands residents if the annexation is approved; thus the request to eliminate item 4.a. in the resolution.
- **Tiered Rates:** The District requests to remove the language about tiered rates in the resolution (item 4.b.), as rates would be the same for Canyonlands residents as what the current customers pay. (There would be tiered services in that the Canyonlands residents would not receive organic services, or bulky waste.)
- **Term Clarification:** Replace the terms garbage, recycling, organics with the term “solid waste” in the resolution (sections 2.a, 2.c, and 3) because solid waste refers to all services.

Commissioners’ Questions/Comments

Following his presentation, in response to a question from Commissioner Haggerty, Mr. Williams confirmed that the exemption process for garbage services only that exists for current customers would also apply to Canyonlands customers as well.

Mr. Williams responded to Commissioner Marchand’s question about why the District requires recycling services, but not garbage, by explaining that the District’s mission is to divert as much as it can from the current landfill. Residents can be exempted from garbage service by sharing garbage service with another resident or by otherwise demonstrating that they can handle their garbage in an effective manner. By today’s standards, the District wants to see the majority of waste composted or recycled and a very small portion going to landfill. The District’s process for exemption from garbage service requires property owners to apply for exemption annually. The District conducts periodic compliance audits.

Commissioner Haubert asked if it was true, as stated in an email from a Canyonlands resident (copies had been provided to Commissioners at the meeting), that customers exempted from garbage service have to provide weekly receipts to prove they have taken care of their trash. Mr. Williams responded that the District does not require weekly receipts, that they have an annual application process as previously noted.

Public Comments

The public hearing was opened by Vice Chair Marchand, who requested that speakers limit their remarks to two minutes.

- The following people, all Canyonlands residents, addressed the Commission:

- **Chuck Moore**, a rancher on Crow Canyon Road, spoke in opposition to removing the opt-out condition, noting that he, like other ranchers in the area, is accustomed to handling garbage disposal and recycling himself. He said he was not opposed to the annexation as long as residents could choose to opt out of the services.
• **Bill Hendricks**, representing a commercial interest on Cull Canyon, urged the Commissioners to take an approach that would work for everyone – both customers and the District – without being ineffective or unfair to anyone.

• **Dan Davini** recommended the Commission consider either (and preferably) annexing only a portion of the Canyonlands – in the Sunny Slope and Grassland areas – since that area is similar to the existing service area, or alternatively, if annexation of the entire area was the preference, then keep the opt-out condition, as there is a real concern among many of the Canyonlands residents that costs of service for residents there would skyrocket if annexed, since it would be considerably more costly to the provider to service the rural areas.

• **Carlos Flores** expressed his wish to continue handling garbage and recycling in a manner of his choosing and urged the Commission to not remove the opt-out clause.

• **Bunny Ginn**, noting that she looks forward to having recycling services, spoke in support of the annexation as proposed by the District. She agreed that customers should have the choice to be exempted from garbage, but that everyone should participate in recycling – that $10 should be affordable for everyone and if recycling were not available, then recyclables would end up in garbage.

• **LeRoy Ginn** spoke in favor of the annexation, with or without the opt-out condition. Having access to recycling services is important to him.

• **Oleg Dubney**, rancher on Crow Canyon Road, expressed concern that LAFCo Resolution 2015-02 did not correctly capture what he had heard during the discussion at the March 12th meeting. He asked the Commission to explain why the opt-out condition that they had discussed and approved at that meeting did not appear in the resolution - why other wording was used instead.

Commissioner Miley responded that during that March 12th meeting discussion, he (and probably other Commissioners as well) had mixed up terminology, using “opt out” and “exemption” interchangeably, when, in fact, they are different in meaning. He explained that CVSan has an exemption policy whereby customers can apply to not have to participate in (be exempted from) garbage services. But they cannot choose to not be part of the District, i.e. opt out of the District altogether. He explained the motivation for the County proposing the annexation was to get the provision of solid waste services to the appropriate agency – an agency whose focus is on solid waste service. Subsequently, the District decided the resolution was not acceptable to them and requested a reconsideration of it. Commissioner Miley outlined the consequences of whatever action the Commission took at the meeting as 1.) If reconsideration is approved, a subsequent protest hearing would be conducted, and depending on results of the protest hearing, annexation would either become effective, go to an election of the registered voters, or fail; 2) If the Commission denied the reconsideration at today’s meeting, then the annexation would effectively terminate because the District would refuse to serve. If annexation failed, the County would need to find other means for the residents to deal with their garbage and recycling.

Commissioner Johnson, also a Board member of CVSan, explained the District’s position regarding its policy of exemption and that it felt provision of opt-out opportunities to customers in the annexed Canyonlands area could very well jeopardize its contract with Waste Management.

Commissioner Haggerty inquired about the consequences in the event of failed annexation if the County took the approach of having Canyonlands residents handle solid waste disposal on their own and then a resident subsequently did not take care of waste properly. In such a case would the County clean up the property and then charge the resident? Sandi Rivera from the County Planning Department responded that such a resident would be in violation of neighborhood preservation codes and that the County could, in fact, clean up the waste and place a lien on the property. Commissioner Miley emphasized there would be other options the County could choose to implement to help the residents deal with their solid waste, other than just be on their own to deal with it.
• **Bence Gerber**, a resident on Sunny Slope, spoke in favor of the annexation and shared that his neighbor Donna Day, unable to attend the meeting, had asked him to share with the Commission her support of the annexation as well.

• **Bob Feinbaum** spoke in opposition to a one-size-fits-all annexation. He emphasized that the needs of the residents vary, and recommended annexation of the suburban areas, but to leave out the rural areas. He suggested that a commission be appointed that would ensure that everyone in the rural area receives services that they want.

• **Kevin Donahue** said that he agreed with Mr. Feinbaum’s comments.

• **Ann Rego**, resident on Sunny Slope, favored annexation. She looks forward to receiving recycling.

• **Kathy Gill**, resident on Palomares Road was in favor of annexation, but felt that residents in the Canyonlands should receive the same services as the District’s current customers receive, i.e., garbage, recycling and composting, especially if the price for services will be the same. She asked for a clarification of the process of filing for exemption from garbage service – what is involved, what happens if denied, and if there is a fee for filing. She also asked if opt out meant opting out of the District, and why not allow it.

Commissioner Miley responded that opting out of the District is not an option because the District will not allow it.

• **Sue Christensen** spoke in support of the annexation and expressed appreciation to Commissioner Miley for bringing the proposal forward.

• **Bev Axelrod**, a resident at Sequoians Park, noted that they have been doing their own recycling, and wanted to know, if they can’t be exempt from recycling, what the charge would be for two 2-yard dumpsters.

Vice Chair Marchand closed the Public Hearing.

**District Response to Public Comments**

At the Commission’s request, Castro Valley Sanitary District General Manager Roland Williams responded to the speakers’ questions and concerns, as follows:

• Regarding annexing a smaller portion of the area: Changing the boundaries of the annexation would need to be proposed by the applicant (the County). If that happened, the District would consider it. “Opting out” of the services refers to not receiving services; it does not mean to not be in the district’s boundaries.

• It seems logical that the County would want to assist residents in the Canyonlands with obtaining solid waste services by proposing the annexation to a Sanitary District who, on behalf of its customers, is used to negotiating with service providers to obtain adequate services at the most reasonable cost, as that is what a Sanitary District does.

• Regarding a comment about the District not supporting a one-cent differential: The comment was taken out of context. The District prides itself in not wanting to have its current customers subsidize an annexed area.

• The District’s Board meetings are not “secret,” but are publicly noticed (within their current boundaries).

• Prices for commercial accounts: The District works with the waste hauler to determine how to provide services at best rates. If the annexation were approved, the District would consult with the Sequoians about their service needs and what the charges would be.
• Process for exemption from garbage service: Customer would fill out an application on an annual basis at no charge. In order to be approved, the customer would need to show they will adequately dispose of garbage by either self-hauling, sharing with others, or some other means such as taking to another of their property within the District’s boundaries. Audits are conducted to the extent that the District can to determine if customers are adhering to requirements.

Commissioner Haggerty responded to a speaker’s comment about recycling not being required in rural areas by noting that recycling services are, in fact, provided in rural Livermore. Commissioner Haggerty then left the meeting due to another commitment.

Commission Discussion:

Staff responded to Commissioner Miley’s inquiry about why Staff was recommending the Commission approve the annexation as expressed in option one of the staff report. The Executive Officer noted that the boundaries of the proposed annexation are logical as they are based on where services are currently being provided in the Canyonlands, road access, and other factors. It also seems logical to apply the same exemption policy to the newly annexed area as to the current service area – exemption from garbage service but not from recycling. Regarding the recommendation to deny the request concerning the District’s receipt of property tax, Staff noted her recommendation was based on her understanding at the time that the District did not share in property tax in newly annexed areas.

LAFCo Counsel urged the Commission to ask the District what it is asking for regarding property tax sharing, as it was not clear. He noted that LAFCo’s role is to ensure that public agencies affected by an annexation get together to work out a property tax sharing agreement, but it does not get involved in the negotiation process, approve the agreement, nor adjudicate the rights of the involved parties. He emphasized that in making her recommendation, Staff relied on information the County had provided in the application. The differing information concerning property tax sharing between the County and the District did not come to Staff’s attention until the District’s response to the Commission’s March 12th approval of the annexation. Legal Counsel further clarified that the property tax recital was not required to be in the resolution and that the Commission could decide to remove it altogether.

District General Manager Williams told the Commission that the District would like the recital regarding sharing in property tax revenue in the annexed area to be removed from the resolution and that the District be allowed to have a discussion with the County about the tax sharing matter.

Counsel suggested adding a condition that the District and County negotiate a tax sharing agreement and provide evidence to LAFCo that an agreement has been reached.

Commissioner Miley expressed support of that suggestion. He shared that his preference was to approve the annexation in a manner that is acceptable to the District, since the District is willing to extend services in the proposed annexation area. He further noted that if the annexation fails, the County would not leave the residents in the Canyonlands totally on their own and may consider mirroring the system it currently uses to provide solid waste services in an unincorporated area of Livermore.

Staff responded to Commissioner Haubert’s inquiry regarding the possibility of annexation of a smaller area, by noting that the boundaries as submitted in the County’s proposal are logical and based on where services are currently being provided as well as other factors. Staff further noted that it was not clear which property owners wanted to be excluded from annexation and that exclusion of individual properties would be inefficient and possibly cause confusion because future property owners may wish to have garbage services and would have to annex into the district individually.

Commissioner Pico shared his experience regarding solid waste services for a property he owns in rural Oregon and agreed that the District’s policy of not offering exemption for recycling services was in line with the countywide policy of encouraging recycling. It was clarified that the only exemption from services would be for garbage services.
Commissioner Miley said he wanted to make a motion in line with option one in the Staff report, including a removal of the District’s recital and to include a condition about the County and District meeting to discuss property tax distribution. Counsel suggested specific wording for the motion and Commissioner Miley accepted that wording.

**Motion**

Upon motion by Commissioner Miley and second by Commissioner Wieskamp, the Commission approved the annexation of the Castro Valley Canyonlands into the Castro Valley Sanitary District (CVSan) subject to the following terms and conditions:

- Public agencies that receive a share of property tax revenue within the annexation area shall negotiate a property tax exchange and shall provide evidence to LAFCo that an agreement has been reached.
- CVSan shall not establish any tiered rates for solid waste and recycling services through April 30, 2019, the end of the district’s current franchise agreement with WMAC.
- The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges for Garbage Services comparable to properties presently within the annexing agency.
- Correction of the final maps and descriptions as may be required.

**AYES:** 6 (Johnson, Marchand, Miley, Pico, Thorne, Wieskamp)
**NOES:** 0
**ABSENT:** 2 (Haggerty, Sblendorio)
**ABSTAIN:** 0

9. **Presentation on County-wide Broadband Services**

Staff provided introductory remarks regarding the purpose of the presentation on broadband (high speed internet access) – a not-so-typical municipal service that is increasingly being considered an essential service for the efficient functioning of everyday life – and introduced the two speakers who would be discussing the topic.

Linda Best, Chair of the East Bay Broadband Consortium Steering Committee provided an overview of the current state of broadband services in Alameda County, including the identification of gaps in access and infrastructure that result in areas having limited or no broadband services.

Christine Crawford, Yolo LAFCo Executive Officer, provided an overview of Yolo LAFCo’s efforts to coordinate local agency participation in the development of a broadband strategic plan for Yolo County.

Commissioner Marchand noted some difficulty his city (Livermore) faces in attracting businesses who say there isn’t adequate broadband service to meet their needs and at the same time hearing broadband providers say because of the lack of customers, it is not viable for them to provide services. Ms. Crawford, referring to the efforts in the City of Winters in Yolo County, suggested that the city might look at some type of public/private partnership in deiving a means for financing adequate broadband services. Ms. Best suggested the city might conduct a survey to assist in identifying needs for broadband services.

10. **Final Fiscal Year 2015-2016 Budget and Work Plan**

Staff noted that the final Fiscal Year 2015-2016 Budget was identical to the Proposed Fiscal Year 2015-2016 Budget that the Commission had approved at their March 12, 2015 meeting - that no changes had been made. Upon motion by Commissioner Wieskamp, second by Commissioner Miley, the Commission unanimously approved the Final Fiscal Year 2015-2016 Budget and Work Plan and directed staff to forward the final FY 2015-2016 budget to affected agencies.
AYES: 6 (Johnson, Marchand, Miley, Pico, Thorne, Wieskamp)  
NOES: 0  
ABSENT: 2 (Haggerty, Sblendorio)  
ABSTAIN: 0

11. **Nominations for CALAFCO Board of Directors and Designation of Voting Delegate**

Because of time constraints, Vice Chair Marchand requested to move this item to the July 9, 2015 meeting.

12. **Nomination and Election of Commission Officers**

Staff reminded the Commission that according to their policies, the next chair should be a city member and the vice chair should be a special district member.

Commissioner Miley nominated Commissioner Marchand to serve as Chair from May 2015-May 2017; Commissioner Johnson nominated Commissioner Wieskamp to serve as Vice Chair. Commissioner Pico seconded the nominations and the motions passed.

AYES: 6 (Johnson, Marchand, Miley, Pico, Thorne, Wieskamp)  
NOES: 0  
ABSENT: 2 (Haggerty, Sblendorio)  
ABSTAIN: 0

13. **Matters Initiated by Members of the Commission** - There were none.

14. **Informational Items – Discussion, if any, or further information is noted after the item.**

   a. Application Update
   b. Legislative Update
   c. Report on 2015 CALAFCO Staff Workshop
   d. Correspondence
   e. Newspaper Articles
   f. 2015 CALAFCO Annual Conference September 2 – 4, 2015 in Sacramento

18. **Adjournment of Regular Meeting**

The meeting was adjourned at 7:05 p.m.

1918. **Next Meeting of the Commission**

Thursday, July 9, 2015 at 4:30 p.m.

Respectfully submitted,

[Signature]

Sandy Hou, Commission Clerk

These minutes were approved by the Commission on July 9, 2015.

Attest: [Signature]

Mona Palacios, LAFCo Executive Officer