

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

MINUTES OF MEETING

November 18, 2009

Board of Supervisors Chambers
Martinez, CA

1. Chair Gayle Uilkema called the meeting to order at 1:32 p.m.
2. The Pledge of Allegiance was recited.
3. Roll was called. A quorum was present of the following Commissioners:
City Members Helen Allen and Rob Schroder and Alternate Don Tatzin.
County Members Gayle Uilkema and Alternate Mary Piepho.
Public Members Martin McNair and Alternate Sharon Burke.
Special District Members Dwight Meadows and David Piepho and Alternate George Schmidt.

Present were Executive Officer Lou Ann Texeira, Legal Counsel Silvano Marchesi, Clerk Kate Sibley, and consultants Kim Hudson and Bruce Baracco.

Alternate County Member Mary Piepho sat in place of County Member Federal Glover, and Alternate Special District Member George Schmidt sat in place of Special District Member David Piepho, who sat in the Alternate's seat.
4. Approval of the Agenda
Upon motion of Schroder, second by Schmidt, the agenda was adopted.
5. Public Comments
There were no public comments.
6. Approval of October 7 and 14, 2009 Minutes
Upon motion of Schroder, second by Schmidt, the minutes for the October 7 and 14, 2009 meetings were approved, with McNair abstaining.
7. Special Presentation
The Chair presented Silvano Marchesi, who has served as LAFCO Legal Counsel for the past five years, with a proclamation and gift honoring his work.

Marchesi, in response, expressed his fondness for and pleasure in working with LAFCO through the years that have "passed in a flash," and acknowledged the good work done by this "obscure but powerful agency."
8. LAFCO 09-10 – Annexation 167A to Central Contra Costa Sanitary District
The Executive Officer presented an overview of this annexation, which consists of 77 parcels (166.2± acres) in two separate sub-areas in the unincorporated Walnut Creek (North Gate) area, noting land use designations and that properties are either converting from septic systems to municipal wastewater service, developing new single-family residential units, and/or are new developments to be connected to CCCSD.

Staff reported that the territory is inhabited and that no written protests had been received prior to this hearing; thus annexation can proceed without a protest hearing.

Jarred Miyamoto-Mills, Principal Engineer for CCCSD, stated that the District supports adoption of Option 1.

Upon motion of Schroder, second by Meadows, the Commission unanimously certified that it reviewed and considered the information contained in the Negative Declaration; approved the proposal to be known as Annexation 167A to CCCSD, with specified conditions; determined that the territory being annexed is liable for the continuation of taxes, assessments and charges; found that the subject territory is inhabited, has less than 100% consent of the affected landowners and registered voters, that no affected landowners/registered voters opposed the annexation, that the annexing agency has given written consent to the waiver of conducting authority proceedings, waived the protest proceeding, and directed staff to complete the proceeding.

9. West County Sub-Regional Municipal Services Review (MSR)

The Executive Officer provided an overview of the West County Sub-Regional MSR, covering the cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo, the Crockett Community Services District (CCSD) and Kensington Police Protection & CSD (KPPCSD). Staff noted that this item focuses only on the MSR itself, which the Commission is asked to accept, along with approving the required determinations. The next agenda item will focus on Sphere of Influence (SOI) updates.

Staff added that a letter from the City of Richmond had been received just prior to the start of the LAFCO meeting. In response to Commissioner McNair's comments regarding the letter, MSR consultant Kim Hudson responded that appropriate footnotes to the MSR report could address most of the City's comments. Ms. Hudson also noted that it would be inconsistent to use 2009 Pavement Condition Index data for Richmond as suggested by the City.

Ciara Wood, resident of Kensington, spoke regarding the options presented in the MSR for the KPPCSD, which are similar to those proposed for the Kensington Fire Protection District. She reiterated that Kensington residents had already requested the removal of the consolidation option.

Staff responded that it is not LAFCO's practice to remove options from MSR reports.

Jean Durham, resident of Kensington, concurred with Ciara Wood's comments.

In response to Commissioner McNair's questions about KPPCSD's deficit budgets, Greg Harman, District General Manager and Police Chief, responded that they have reduced the size of the police force and are evaluating other cost-saving measures that will close the deficit gap.

Lynn Wolter, resident of Kensington, pointed out that in 1995 when Kensington passed a special tax for this District, they did not calculate the CPI as part of the long-term plan, and that they intend to remedy this.

Upon motion of McNair, second by Schroder, the Commission unanimously determined that the MSR project is Categorical Exempt pursuant to CEQA Guidelines §15306, Class 6; considered comments presented prior to and during the public hearing; accepted the report; adopted the MSR determinations, and directed staff to prepare the Final MSR report, including the City of Richmond comments, and make it available publicly.

10. West County Sub-Regional MSR/SOI Updates

Consultant Kim Hudson reviewed each city's current SOI and options and recommendations.

Commissioners discussed unincorporated areas throughout West County and the irregular boundary between the cities of Richmond and El Cerrito.

The Chair opened the public hearing.

Joan Gallegos, Kensington resident, urged removing Kensington from the El Cerrito SOI, citing prior citizen votes.

Jean Durham, Kensington resident, pointed out that one area of the Richmond SOI, part of East Bay Regional Park District, is actually part of Kensington.

Ciara Wood, Kensington resident, spoke against the option of consolidation of KPPCSD and Kensington Fire Protection District.

Brock Arner, City Manager of San Pablo, spoke regarding the fiscal impacts of boundary changes.

Commissioner McNair suggested that letters to the cities in West County should highlight the staff recommendations regarding their boundaries, noting boundary irregularities and service inefficiencies.

Upon motion of Schroder, second by M. Piepho, Commissioners unanimously determined that the cities of El Cerrito, Hercules and Pinole, and the Crockett and Kensington CSDs should retain their existing SOIs; that the SOIs of the cities of Richmond and San Pablo should be adjusted as per staff recommendations; determined that the SOI updates are exempt pursuant to §15061(b)(3) of CEQA Guidelines; and directed staff to execute the SOI update resolutions for the local agencies.

The Chair commended and thanked MSR consultant Kim Hudson of Dudek for her good work on the sub-regional MSRs.

11. Reclamation District SOI Updates

The Executive Officer provided background and an overview of the implications of State and Federal funding for reclamation districts.

Consultant Bruce Baracco of Burr Consulting provided a recap of significant issues facing reclamation districts, focusing his comments on those districts for which SOI changes have been recommended.

Baracco addressed RDs 799 and 800, pointing out that both are inhabited. The recommendation for RD 799 (Hotchkiss Tract) is to reduce its SOI in its western portion, removing a parcel in the Dutch Slough Tidal Marsh Restoration Project area, as that area will be reverting to wetlands.

For RD 800 (Byron Tract), the recommendation is to adjust the SOI to reflect actual service areas, including expanding the SOI to include an area where the District currently provides service outside its bounds, and reducing the SOI by removing a 200-acre area that does not require District services.

Baracco noted that one landowner in the Veale Tract, RD 2065, requested a two-year provisional SOI, rather than the one year recommended by staff, in order to give the District time to come into compliance with statutory requirements.

As RD 2121 (Bixler Tract) is not currently functioning as a government agency, a zero SOI is recommended as a first step toward dissolution. This tract has only one landowner.

RD 2137 is primarily owned by the State; the recommendation is to adopt a zero SOI to encourage dissolution or consolidation with RD 799 (Hotchkiss Tract). Baracco added that the Department of Water Resources and the City of Oakley are working together to resolve this.

Further discussion ensued regarding possibilities of flooding (100-year flood) and emergency response; Commissioner Piepho reviewed comments made by the County Emergency Services Officer, Chris Boyer, who is concerned about responsibility and liability for districts in the event of an emergency.

Upon motion of M. Piepho, second by Allen, Commissioners unanimously determined that Reclamation Districts 830 (Jersey Island), 2024 (Orwood/Palm Tracts), 2025 (Holland Tract), 2026 (Webb Tract), 2059 (Bradford Island), 2090 (Quimby Island), 2117 (Coney Island) and 2122 (Winter Island) should retain their existing coterminous SOIs; determined that the SOI updates are exempt pursuant to §15061(b)(3) of CEQA Guidelines; and directed staff to complete SOI update resolutions for these agencies.

Tom Baldocchi, Trustee for RD 2065, spoke on behalf of his District and requested constructive suggestions from Commissioners as well as landowners in the District, pointing out that he has received no direct complaints from landowners.

Upon motion of M. Piepho, second by Meadows, Commissioners unanimously designated the Reclamation District 2065 (Veale Tract) existing coterminous SOI as provisional; directed RD 2065 trustees to include landowners in the process of examining operational and infrastructure and to report back to LAFCO in 12 months; determined that the SOI update is exempt pursuant to §15061(b)(3) of CEQA Guidelines; and directed staff to complete an SOI update resolution for RD 2065.

Upon motion of M. Piepho, second by Meadows, Commissioners unanimously determined that Reclamation District 2121 (Bixler Tract) should retain its existing coterminous SOI; determined that the SOI update is exempt pursuant to §15061(b)(3) of CEQA Guidelines; and directed staff to complete an SOI update resolution for RD 2121.

Upon motion of M. Piepho, second by Meadows, Commissioners unanimously adopted a zero SOI for Reclamation District 2137; directed LAFCO staff to work with District and City of Oakley staff to initiate dissolution; determined that the SOI update is exempt pursuant to §15061(b)(3) of CEQA Guidelines; and directed staff to complete an SOI update resolution for RD 2137.

12. Policies and Procedures Committee Report

The Executive Officer reported that the Policies and Procedures Committee met to address several issues including the question of the Commission chair rotation. Staff noted that the statute provides no provision for rotation of the Chair, and that each Commission may create its own policy for such rotation. Staff researched other LAFCO policies and the Committee developed a list of options. The Committee recommends retaining the current rotation policy of County, Public, Special District, City.

Two other issues were addressed by the Committee. The LAFCO Chair suggested that the Commission first address these issues.

In the matter of Contra Costa LAFCO's Indemnification Policy: Upon motion of M. Piepho, second by Allen, Commissioners unanimously approved a revision that requires an indemnification agreement be entered into upon *submittal* of any proposal, rather than upon the Commission's *approval* of the proposal.

In the matter of Contra Costa LAFCO's Revenue Neutrality Standards: It was agreed that standards regarding inclusion of capital costs in fiscal analyses and revenue neutrality agreements be revisited with the next round of policy updates.

Discussion ensued regarding the rotation of the chair and the various options presented by the Committee. A roll call vote was taken on the following option:

Seven-year Rotation, alternating among member categories:

County Member 1 (2009)

Public Member (2010)

Special District Member 1 (2011)

City Member 1 (2012)

County Member 2 (2013)

Special District Member 2 (2014)

City Member 2 (2015)

Upon motion of Allen, second by M. Piepho, this rotation was approved by the following roll call:

AYES: Allen, Meadows, M. Piepho, Schroder

NOES: McNair, Schmidt, Uilkema

ABSENT: Glover (M)

13. Fire Workshop

The Executive Officer provided background and history leading to the proposal for a Fire Workshop to include all interested parties in a discussion on fire and emergency service issues. Three consultants were contacted, two of which, Bill Chiat and Bill McCammon, are being proposed to assist with the workshop. It was noted that communications were received expressing concern with using a former Fire Chief as one of the workshop facilitators, given perceived biases and the need to have an objective professional facilitator to ensure a successful process.

Commissioner Uilkema asked Commissioners to provide input regarding possible dates and locations for the workshop.

Suggestions for locations included the Concord Senior Center (Uilkema and Allen), the Martinez City Council Chambers (Schroder), and the Orinda Library (McNair). Staff was directed to locate an appropriate facility that can accommodate a sizable gathering as well as provide assisted listening and recording equipment.

The Executive Officer stated that the January meeting will include a session with the facilitators to discuss the agenda and details of the workshop, and that a date in earlier February (i.e., Feb 3, Feb 10) will be necessary in order to have Bill Chiat's services.

Upon motion of McNair, second by M. Piepho, Commissioners unanimously directed staff to retain Bill Chiat and Bill McCammon to assist with the fire workshop, execute the necessary documents, and schedule a workshop planning session with the facilitator and the Commission at the January 13 LAFCO meeting.

14. 2010 LAFCO Meeting Schedule

The Executive Officer presented the proposed 2010 schedule of LAFCO meetings, noting that the April meeting is proposed for the *third* Wednesday of the month, due to the CALAFCO Staff Workshop scheduled for April 14-16.

The Chair asked Commissioners to approve the schedule through August, noting possible meeting conflicts in September and October that should be researched.

Upon motion of McNair, second by M. Piepho, Commissioners unanimously approved the 2010 LAFCO Meeting Schedule through August, with the April adjustment.

15. Commissioner Comments and Announcements

CALAFCO Annual Conference:

The Chair stated that law requires that Commissioners report on their attendance at conferences when costs are paid by LAFCO. Those Commissioners who attended the conference provided comments on the various sessions and agreed that it was a valuable experience, despite the heartbreak of not having any of Contra Costa LAFCO's offerings win. The Chair noted the letters of recommendation that she had submitted in support of the Commission's nominations of Executive Officer Lou Ann Texeira and Executive Assistant Kate Sibley for Outstanding staff awards in their respective categories, and requested that these letters be placed in their personnel files. Upon motion of Uilkema, second by Allen, Commissioners unanimously supported this action.

CALAFCO Regional Areas Proposal:

Contra Costa LAFCO Commissioners continue to oppose the idea of separating CALAFCO into separate regions.

Other Commissioner Announcements:

Commissioner Schroder announced that he was recently appointed to the San Francisco Bay Regional Water Quality Board following a lengthy review process. Commissioners commended him on this appointment.

16. Staff Announcements and Pending Projects

Staff drew Commissioners' attention to the pending projects list and the news articles.

The Executive Officer thanked Commissioners for their support and participation in the CALAFCO Annual Conference, and also announced that she has been asked to serve as the CALAFCO Deputy Executive Officer and would like to accept.

Upon motion of Uilkema, second by McNair, Commissioners unanimously supported the Executive Officer's appointment to the CALAFCO position.

The meeting adjourned at 4:24 p.m.

Final Minutes Approved by the Commission on January 13, 2010.

AYES: Allen, McNair, Meadows, D. Piepho, Uilkema

NOES:

ABSTAIN:

ABSENT: Glover (M), Schmidt (A), Schroder (M)

By /s/ Lou Ann Teixeira
Executive Officer