

# CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

## MINUTES OF SPECIAL MEETING

April 22, 2009

Board of Supervisors Chambers  
Martinez, CA

1. Chair Gayle Uilkema called the special meeting to order at 9:30 a.m. The Chair announced that the meeting would adjourn in memory of Bill Bristow, the LAFCO Alternate Public Member who died on April 19 after a courageous battle with cancer.
2. The Pledge of Allegiance was recited.
3. Roll was called. A quorum was present of the following Commissioners:

City Members Rob Schroder and Helen Allen, and Alternate Don Tatzin.

County Member Gayle Uilkema and Alternate Mary Piepho.

Public Member Martin McNair.

Special District Members Dwight Meadows and David Piepho, and Alternate George Schmidt.

Present were Executive Officer Lou Ann Texeira, Legal Counsel Silvano Marchesi, Consultant Beverly Burr, and Commission Clerk Kate Sibley.

4. Approval of the Agenda

Upon motion of Allen, second by Schroder, the agenda was adopted.

5. Public Comments

There were no public comments.

6. Fire and Emergency Medical Services Municipal Service Reviews (MSRs)

Commissioner Uilkema provided a timeframe for this agenda item.

The Executive Officer provided a brief chronology and overview of the Fire MSR process covering the cities of El Cerrito, Pinole and Richmond; County Service Area EM-1; Contra Costa County Fire Protection District (CCCFPD or ConFire); Crockett-Carquinez FPD; East Contra Costa FPD; Kensington FPD; Moraga-Orinda FPD; Rodeo-Hercules FPD; and San Ramon Valley FPD.

Beverly Burr of Burr Consulting summarized the added comments, recent revisions and responses to comments included in the revised report and second addendum to the comment log. Of note is information relating to a two-tiered approach for ECCFPD; Confire fiscal data and level of fiscal support from the various cities served by Confire; and clarification regarding the service area of CCFPD.

At 9:41 a.m., the public hearing was opened.

Michael Metcalf, member of Moraga Town Council, summarized the letter sent from the Town of Moraga on April 16. The council concurred on the correction of the SOI for Moraga-Orinda FPD to coincide with the current boundary. It also agreed with the Tri-Agency Committee that de-annexation is not necessary or appropriate, and requested that all reference to such action be removed from the report.

Clyde Vaughn, resident of Orinda, referred to the April 12 column by Dan Borenstein in the Contra Costa Times regarding MOFPD Fire Chief Nowicki's pension.

Gilbert Bendix, Kensington resident and a fire protection engineer, stated that he continues to be concerned about response time and related standards, pointing out that the response time should be calculated to the time when four firefighters are present. He also apologized to the consultant for comments made on April 8.

Janet Keeter, Orinda City Manager, presented a letter resulting from a lengthy public meeting on April 21. The Orinda City Council provided direction on two issues: 1) to accept as final the Tri-Agency Funding Discussion Committee's report that, among other decisions, determined it would not be financially feasible to transfer MOFPD tax dollars to Orinda; and 2) to support the MSR option of expanding the MOFPD SOI to include 101 acres annexed to the District in 1998, and to oppose the zero SOI option and annexation to ConFire. Ms. Keeter added that the agencies involved should be allowed, without intervention from LAFCO, to assess the fiscal and infrastructure issues on their own in the future.

Ciara Wood, resident of Kensington, urged retention of the status quo for KFPD, stating that KFPD is well managed and its resources should not be siphoned off to support the Kensington Community Services District's needs.

Commissioner McNair noted that LAFCO does not have the authority to initiate annex of Kensington to the City of El Cerrito—a concern that has been expressed to him numerous times recently.

Richard Olsen, Moraga resident, reiterated his opinion that the per capita analyses presented in the MSR do not form a reasonable basis for the subsequent conclusions, options, and recommendations; rather that comparisons should be based on costs for serving specific geographic areas.

John Bakker, with Meyers Nave and representing Kensington FPD, asked about the procedure for revising property tax allocations with regard to a proposed consolidation of the Kensington FPD and Kensington CSD.

Commissioner Uilkema noted that LAFCO Legal Counsel had prepared a memo in response to this question, and that it would be addressed later in the meeting.

William Ross, attorney representing Rodeo-Hercules FPD, raised the question of financial ability, noting that the economic climate and decline in real estate values will have a real impact on LAFCO decisions.

The public hearing was left open at 10:10 a.m. as the Chair opened the discussion among Commissioners on the question of whether to accept the MSR report, noting that the Commission cannot move forward to discussion of SOI updates until this report is accepted.

In response to Commissioner Schroder's comments and questions regarding using cost per capita rather than cost per area, the consultant stated that they had analyzed geographic data for other Fire studies as well as for the Contra Costa LAFCO MSR, and did not find them meaningful in a large urban county like Contra Costa, where, on average, 75% of the calls are for emergency medical services, and approximately 10% are for fire services, with the remainder covering a variety of miscellaneous calls.

Discussion ensued regarding whether to accept or receive the MSR report. The Commission agreed to receive the MSR report.

Upon motion of Meadows, second by McNair, the Commissioners voted unanimously to take the following actions:

1. Determine that the MSR project is Categorically Exempt pursuant to §15306, Class 6 of the California Environmental Quality Act (CEQA) Guidelines,
2. Consider comments presented prior to and during the public hearing and any revisions to the Fire and Emergency Medical Services MSR report,
3. *Receive* (changed from "accept") the report with any desired changes.

Still pending are adoption of the final MSR report and LAFCO determinations and release of the final report.

Commissioner D. Piepho pointed out that by "receiving" the report, it is still an open document and subject to change once a subcommittee has had a chance to talk with district representatives. He suggested two subcommittees, the first for short-term discussions on the MSR itself, and the second for long-range planning.

Following a short break, Commissioners resumed discussion of establishing a committee and setting a schedule. In response to a question regarding the legal limits of these actions, LAFCO Legal Counsel Marchesi confirmed that staff can be asked to set a schedule for committee members as appointed by the Chair.

Commissioner Meadows suggested a committee comprising Commissioners Allen, McNair and D. Piepho, with Commissioner Uilkema as the alternate. The Chair appointed Commissioner Tatzin to serve as second alternate on the committee as necessary. Upon motion of McNair, second by D. Piepho, this committee was unanimously approved. It was agreed that the various governance structure and SOI options presented in the MSR report will be the focus of the committee, and the Executive Officer will work with the committee to develop a schedule. Later in the meeting, the Chair appointed Commissioner Allen as the chair of this committee.

7. Fire and Emergency Medical Services Sphere of Influence (SOI) Updates

The Executive Officer provided a brief report highlighting the revised SOI Update table provided to the Commissioners, and explained that those cities with fire departments will not have their spheres addressed until they are reviewed as part of the sub-regional MSRs. District spheres have been assessed based on a number of factors, and it might be best to approach the review on a regional and sub-regional basis.

The Chair asked if anyone wished to speak on this agenda item. Two people responded.

Ciara Wood, resident of Kensington, supported the inclusion of Summit Reservoir in the KFPD SOI.

Pete Nowicki, MOFPD Fire Chief, stressed his offer to work with the consultant to remove her recommendation that all interested parties meet to discuss differences regarding MOFPD; the Chief noted that the Tri-Agency Funding Committee has already met and issued its final report.

Commissioner McNair asked if that committee would be willing to meet with the LAFCO committee if necessary; Nowicki agreed that would be possible.

Upon motion of D. Piepho, second by Allen, the Commissioners unanimously agreed to table the Fire and Emergency Medical Services SOI Updates until the completion of the committee meetings.

8. Consolidations and Property Tax Allocations

LAFCO Legal Counsel presented a memo outlining his conclusions regarding the question of property tax allocations in the case of district consolidations and mergers. In the specific case of merging KFPD with KCSD, the taxes allocated to KFPD would probably be shifted to KCSD, and the KCSD would then have full discretion on the use of the funds.

Staff added that this would also depend on the source of the funds; if they come from a special assessment they would be so designated, but if they come from the 1% property tax they might be more flexible.

Legal Counsel emphasized that if any consolidations were to go forward, further legal and fiscal review would be required. In response to a question about the County attempting to "grab" a portion of the allocated tax funds in the consolidation process, Legal Counsel stated that he is unaware of this happening with other reorganizations; however, the County is responsible for negotiating per statute.

9. Commissioner Comments and Announcements

Commissioner M. Piepho reminded members of the audience that they might be interested in attending the upcoming June 5 CALAFCO U Workshop on Fire District Consolidation. Public members are eligible to attend.

Commissioner D. Piepho encouraged representatives of fire protection districts and interested members of the public to contact him and other members of the committee regarding its work.

10. Staff Announcements and Pending Projects

The Executive Officer reminded Commissioners to submit their registration forms for the upcoming CALAFCO U Fire District Consolidation Workshop as soon as possible. The budget is limited and includes funding for attendance of three at CALAFCO University sessions.

The Chair offered some thoughtful words and adjourned the meeting at 11:42 a.m. in the memory of Alternate Public Commissioner Bill Bristow, who passed away on Sunday, April 19. The service will be held on Saturday, April 25, in Byron at St. Anne's Catholic Church.

Final Minutes Approved by the Commission on May 13, 2009.

AYES: Glover, McNair, Schmidt, Schroder, Tatzin, Uilkema

NOES:

ABSTAIN:

ABSENT: Allen (M), Meadows (M), D. Piepho (M)

By /s/ Lou Ann Texeira  
Executive Officer