

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

MINUTES OF MEETING

April 8, 2009

Board of Supervisors Chambers
Martinez, CA

1. Chair Gayle Uilkema called the meeting to order at 1:30 p.m.
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.

County Member Gayle Uilkema and Alternate Mary Piepho.

Public Member Martin McNair.

Special District Member Dwight Meadows 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 McNair, second by Schmidt, the agenda was adopted.

5. Public Comments

There were no public comments.

6. Approval of March 11, 2009 Minutes

Upon motion of McNair, second by Schmidt, the minutes for the March 11, 2009 meeting were approved.

7. LAFCO 09-01 – Wood Annexation to County Service Area (CSA) L-100

Upon motion of McNair, second by Allen, the Commission unanimously certified that it reviewed and considered the information contained in the Negative Declaration; approved the proposal to be known as the Wood Annexation to CSA L-100 as submitted, with specified conditions; determined that the territory being annexed is liable for taxes, assessments and charges; found that the subject territory is uninhabited, that all affected landowners have consented to the annexation, that the annexing agency has consented to the waiver of conducting authority proceedings, waived conducting authority proceedings and directed staff to complete the proceedings.

8. LAFCO 09-02 – Ericson Annexation to County Service Area (CSA) L-100

Upon motion of McNair, second by Allen, the Commission unanimously found that the project is exempt from CEQA pursuant to Government Code §15314, Class 14, Minor Additions to Schools; approved the proposal to be known as the Ericson Annexation to CSA L-100 as submitted, with specified conditions; determined that the territory being annexed is liable for taxes, assessments and charges; found that the subject territory is uninhabited, that all affected landowners have consented to the annexation, that the annexing agency has consented to the waiver of conducting authority proceedings, waived conducting authority proceedings and directed staff to complete the proceedings.

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

Commissioner Uilkema outlined the schedule for this agenda item, assuring that the meeting would adjourn by 5:00 p.m.

The Executive Officer provided a brief overview and chronology of the Fire and Emergency Medical Services Municipal Service Review process, indicating that this matter will be presented in two parts—the MSR report and determinations, followed by the sphere of influence (SOI) updates and recommendations. Staff highlighted the fundamental framework of MSRs, emphasizing LAFCO's purpose and role, the governance structure and SOI options and recommendations and the differences in the two, and the close collaboration between agency staff and the MSR project team.

Staff introduced Beverly Burr of Burr Consulting, who gave a PowerPoint presentation on the six-month process of reviewing fire and emergency medical services in Contra Costa County, covering the cities of El Cerrito, Pinole and Richmond; County Service Area EM-1; Contra Costa County Fire Protection District ; Crockett-Carquinez FPD; East Contra Costa FPD; Kensington FPD; Moraga-Orinda FPD; Rodeo-Hercules FPD; and San Ramon Valley FPD. Additionally, California Department of Forestry and Fire Protection (CalFire) and East Bay Regional Park District were briefly addressed for context, although they are not subject to Contra Costa LAFCO. A brief overview of options and recommendations were provided in this presentation for the Commission's consideration.

To Commissioner Mary Piepho's question about Burr's use of growth statistics and correlation with agency General Plans, Ms. Burr responded that she used the ABAG projections because of their uniformity and the fact that they project further out. Primary indicators in the MSR include growth areas, protected land area per station, population growth per station, response time per station, full-time sworn staff per 1,000 people, station condition, and property tax share percentages for each district.

It was noted that there are numerous options identified in the MSR study. A log of comments received, along with the consultant's respective responses as well as an addendum comment log and responses, was referenced with the proviso that many of the comments referred to the SOI options.

The consultant noted various fiscal factors considered including variations in agency debt ratios, expenses, revenues, property tax and redevelopment; these should be considered when reviewing the government structure and SOI options (not to be confused with recommendations). Burr presented various consolidation options, including a Countywide consolidation of all districts, as well as various sub-regional consolidations—all of which would require additional study prior to further action by the districts or LAFCO.

At 2:30 p.m., the public hearing was opened.

Victoria Smith, City of Orinda Councilmember, reported on behalf of the city that they urge LAFCO to include an option for MOFPD of "status quo" with no further actions required, and that LAFCO trust MOFPD and the cities of Orinda and Moraga to return to LAFCO if they find it necessary to make changes.

Pete Wilson, President of MOFPD, also requested that MOFPD be allowed to proceed per status quo.

Ray Barraza, resident of Kensington, stated that he is concerned about the recommendation of consolidation. He added that, while he is not representing it, the Kensington Municipal Advisory Council is not taking a position at this time.

Brenda Navellier, Administrator of KFPD, commented on inconsistencies in and between the MSR and the staff report and asked that they be corrected.

Pete Nowicki, MOFPD Fire Chief, stated that MOFPD provides superior service in every way, and that the dissatisfaction expressed by a handful of disgruntled individuals has overshadowed these achievements. He commented on the use of per capita data, the MOFPD boundary and the 101 acre area, and recommended that LAFCO revisit a study done six years ago regarding MOFPD's operations.

Ciara Wood, resident of Kensington, commented on the high fire severity zone in the area and urged retention of the status quo for KFPD.

Valerie Paola, resident of Kensington and a neighborhood block watch captain, urged retention of the status quo for both KFPD and Kensington Police Protection and Community Services District (CSD).

Jean Durham, resident of Kensington, feels consolidation of the two Kensington special districts would divert funds and urged retention of the status quo.

Gloria Morrison, resident of Kensington, couldn't find records of conversations regarding consolidation and fiscal problems, would not like to see consolidation without knowing that all appropriate parties have discussed this.

Lynn Wolter, resident of Kensington and former Kensington CSD board member, requested confirmation that no tax revenues would be lost if the two districts consolidated. If a consolidation were to go forward, the KFPD revenues, which are Kensington tax dollars,

could go a long way toward helping stabilize the KCSD, which has revenue challenges currently.

Richard Olsen, Moraga resident, expressed concern with the use of per capita data, and stated that he believes some of the comparisons made in the MSR have discrepancies and should be revised. He requested a continuation of the public hearing.

Carl Weber, Orinda resident also representing Rescue One Foundation, noted the fire flow tax that Orinda residents voted for themselves (on top of the property tax) to support the MOFPD. Additionally, he noted that Rescue One Foundation has raised over \$100,000 in small volunteer contributions for specialized support and that MOFPD has overwhelming support of Orinda residents.

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

Vince Maiorana, resident of Orinda, commented that all money Orinda taxpayers are assessed should be spent in Orinda.

Nina Ramsey, President of KFPD, urged the Commissioners to adopt the final draft of the MSR but defer any SOI actions until an in-depth review can be done.

Gilbert G. Bendix, P.E., Kensington resident and a fire protection engineer, pointed out the potential problems with Kensington's close proximity to Tilden Park, recommended that the MSR consider risk as a factor, be further vetted by fire experts, and urged the Commissioners to leave the KFPD as is.

Joan Gallegos, Kensington resident and former board member of Kensington CSD, stated that the KFPD has been extremely well run, that KCSD has yet to be reviewed, and that the KFPD should include a reserve of funds given Kensington's location in a high fire hazard zone and atop the Hayward Fault. She also commented on the EBMUD reservoir in the area.

Clyde Vaughn, Orinda resident, expressed concerns about the brush surrounding Orinda and feels that the MOFPD seems to have a greater commitment to maintaining its high rate of employee salary and benefits than to catastrophic fire prevention. Orinda would be better off with its own department.

Chuck Toombs, Kensington resident and new member of the KCSD board, asked Commissioners to adopt the MSR and defer acting on SOI options until the KCSD MSR is completed. All of the stakeholders should work together to determine what is best for the community.

Vince Wells, President of Firefighters Local 1230, thanked LAFCO for the review, wanted to remind Commissioners that this MSR is not just about governance but is also about fire protection service; the union is not against consolidation, but wants to make sure that

firefighters are involved in the deliberation process to speak to compensation and safety particularly.

Rich Grace, with Contra Costa County FPD, was invited to speak once agenda item #9 is addressed.

Staff and consultant responded to public comments, agreeing to make corrections as necessary, and reminding the public that detachments and consolidations are not automatic; they must go through a comprehensive review and application.

In response to Commissioner questions about growth projections and the use of ABAG figures, Staff explained that all MSRs are using the same statistics as a common denominator.

Commissioner McNair reminded Commissioners of the water subcommittee that was formed and successfully dealt with water issues some years ago, and suggested that a new subcommittee be formed to look at West County fire district boundaries and problems.

Discussion ensued regarding consolidation and the creation of zones, with different services in different zones depending on tax revenues.

In response to a query about the ad valorem tax, LAFCO Counsel stated that, while he is not entirely familiar with this issue, he believes that the allocation of property tax revenues is set by statutory formula, that there is little discretion involved, and that the County Auditor uses that statutory formula to allocate the revenues among the County, cities and special districts. The Commission requested an opinion from LAFCO Counsel at the next meeting.

When asked if accepting the MSR would preclude further discussions of consolidation, mergers, etc., Staff responded that SOI options, which would include such options, cannot be considered until the MSR is accepted. This would be true of any consolidation discussion, including that of a countywide consolidation.

Counsel confirmed that a vote accepting or receiving the MSR would be sufficient to make the required determinations and consider the SOI options and recommendations.

Following further Commission discussion, and upon motion of Allen, second by M. Piepho, the Commissioners voted unanimously to continue this item and the SOI Update item to a special meeting, to be held on Wednesday, April 22, at 9:30 a.m. in the Board of Supervisors hearing chambers. The deadline for further written comments will be Monday, April 13, at 5:00 p.m.

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

This item was continued to the next meeting.

11. Commissioner Comments and Announcements

There were no Commissioner comments or announcements.

12. Staff Announcements and Pending Projects

The Executive Officer drew Commissioners' attention to the list of pending proposals and the legislative update, both provided in their agenda packets. Staff also pointed out the two items distributed at the meeting, both relevant to the current Fire and Emergency Medical Services MSR.

The meeting adjourned at 4:46 p.m.

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