

Action Minutes
San Mateo Local Agency Formation Commission
September 11, 2013

In Room 101, 455 County Center, Redwood City, California, Chair Horsley called the regular rescheduled September 11, 2013 meeting of the Local Agency Formation Commission to order at 2:30 p.m.

Members Present: Commissioners Allan Alifano, Joshua Cosgrove (Alternate), Linda Craig, Richard Garbarino, Joe Sheridan, Adrienne Tissier, Chair Don Horsley

Members Absent: David Altscher

Staff Present: Martha Poyatos, Executive Officer
Rebecca Archer, County Counsel
Brenda Bennett, Executive Secretary

Chair Horsley welcomed newly selected Alternate City Member Michael O'Neill, who was seated in the audience.

CONSENT AGENDA

- a) Approval of Action Minutes: July 17, 2013
- b) LAFCo File Number 13-09 -- Proposed Annexation of 230 Shawnee Pass to the West Bay Sanitary District (CEQA Exempt) (1.007 Acre)
- c) LAFCo File Number 13-10 – Proposed Annexation of 500 Portola Road to the West Bay Sanitary District (CEQA Exempt) (1.15 Acres)

Commission Action: M/S Garbarino/Craig to approve the consent calendar.

Motion carried 7-0.

PUBLIC COMMENT

There was none.

NEW MATTERS

Appointment of Vice Chair for the Remainder of Calendar Year 2013

Commission Action: M/S Craig/Sheridan to nominate Commissioner Garbarino for Vice Chair for the remainder of 2013.

Motion carried 7-0.

Commission Action: M/S Sheridan/Alifano to close nominations.

Motion carried 7-0.

Chair Horsley congratulated Commissioner Garbarino on his appointment to Vice Chair.

CONTINUED MATTERS

Consideration of Amendment of FY 2013-2014 LAFCo Budget Based on Adjusted FY 2012-2013 Fund Balance

Executive Officer Poyatos cited the September 5, 2013 staff report which detailed that in May the Commission adopted a final 2013-2014 Appropriations Budget of \$374,325 and net operating budget of \$295,909, reflecting application of the 2012-2013 estimated fund balance of \$53,416. She stated that following the close of the fiscal year, the final actual fund balance for the 2013-2014 Fiscal Year was \$91,865, or \$38,449 greater than estimated. She recommended applying the difference in fund balance of \$38,449 to a special one-time reserve account. She noted in doing so there would be no change to the proposed net operating budget or the one-third shares to the County, cities and special districts.

Chair Horsley opened the public hearing. There was no public comment.

Commission Action: M/S Craig/Tissier to close the public hearing.

Motion carried 7-0.

Commission Action: M/S Tissier/Alifano to amend the FY 2013-2014 LAFCo budget based on adjusted FY 2012-2013 fund balance as recommended in the staff report.

Motion carried 7-0.

Consideration of Adoption of Agreement with County of San Mateo for Office Space, Supplies, Personnel and Legal Services

Executive Officer Poyatos said this agreement in the amount of \$313,422 funded staff services, rent, legal services and supplies for FY 2013-14.

Commission Action: M/S Sheridan/Alifano to approve the agreement as recommended in the staff report.

Motion carried 7-0.

Report on Los Trancos County Water District

Chair Horsley said this was a special informational report on the Los Trancos County Water District (LTCWD) and hopefully a first step in a community engagement and education process to address the unprecedented situation of a district that divested itself of its original purpose but continues to exist.

Executive Officer Poyatos noted the staff report dated September 5 had been posted on both the LAFCo and LTCWD websites and distributed to the community. She said the prior Friday LTCWD requested a continuance as their Board had not been able to review the report at its Thursday night meeting. She recommended that as this was not a regulatory action but an informational item, and because there would be opportunity for a public workshop, a revision of the report and its recirculation, that the Commission receive the report and public comment at this meeting.

Ms. Poyatos said staff had misstated general administrative or management expenses on page 9 of the report states, and that should be revised to show a total of \$100,500 or 34% of annual property tax revenue. She said the discussion on rebates should include two additional programs that are called Conforming Culverts Initiative, which incentivizes the repair of driveway culverts and the Downslope Initiative that offers financial incentives to property owners to get drainage from public systems flowing onto their properties back into the public drainage systems. She said when LAFCo did the municipal service review they had relied on LTCWD to provide information on district-owned land, and when the water service was sold to CalWater certain lands were included with that. She said she most recently accessed the County's property owner records and found a different inventory of lands owned by LTCWD, which has now been brought to LTCWD's attention. She said the sale of water service to CalWater had included the requirement to deed some of the parcels to them. She said LTCWD and CalWater would need to work together to remedy the situation.

Ms. Poyatos highlighted key points in the report. She said the district divested water service but continues to exist without direct authority as explained in the report. She said if a district expanded powers that there needed to be a LAFCo application process requiring the District to comply with CEQA and have a plan for providing services. She said this was also subject to the LAFCo protest process. She noted that while there would not be an election unless the protest triggered that, it would be subject to conducting the authority hearings. She said the report also identified that there were competing funding priorities and that spending was exceeding annual revenue. She said there were overlapping agencies that could provide some of the services the District was attempting to address. She said there was the matter of the disposition of lands or those lands not part of the transfer to CalWater and that residents wanted to keep these lands in a natural state. She said one of the original reasons LTCWD wanted to remain operating was to ensure that they could be stewards of these lands. She said the report includes some solutions to that and solutions related to successor agencies that overlap LTCWD and could provide some of those services. She said LTCWD has long term debt that will eventually be due. She noted it was a zero interest loan that would require annual payments of about \$9,900.

Ms. Poyatos said staff identified three governance alternatives including the continued existence of LTCWD with an application for sphere amendment, sphere of influence dissolution, and activation of

powers. She said the second was dissolution with a long term successor agency for the purpose of storm water runoff, fire protection, and land stewards. She said the third governance alternative was one that the Commission had processed successfully with Skyline County Water District. She cited Skyline County Water District as an example of a water district that transferred its water service and all of its assets to CalWater, and then applied to LAFCo for dissolution. She said there was no long term successor, just a short term successor agency, which was the County of San Mateo, whose responsibilities were to wind down the affairs of that district. She noted potential long term successors to District property tax, lands and services including the County of San Mateo and the Woodside Fire Protection District. She said next steps were for her to revise and reissue the report. She said that will provide LTCWD with time to consider the revised report at a Board meeting and for staff to hold a public meeting locally with residents.

Public Comment: Mr. Stanley Gage, Portola Valley, explained the terms of the agreement between LTCWD and the Blue Oak Subdivision developer.

Ms. Leigh Prince, legal counsel for LTCWD Board, said they appreciated having the time to review the issues, which were complex. She said there were three of five Board members that might change with the November 5 election.

Ms. Susan Coons, Board President, identified District programs including fire prevention and emergency response, evacuation and stormwater runoff.

Commission Comment: Commissioner Craig said the report was thorough and complete. She said the District was formed to deliver water but no longer does so and has no other active powers. She said there are existing agencies to provide fire and emergency services, storm water management and open space management. She said it would probably be better to hold the community workshops after the election.

Commission Action: M/S Alifano/Garbarino that when community meetings were held that to the greatest extent possible staff layout as completely as possible the impacts related to the three governance alternatives identified.

Motion carried 7-0.

Recommended Response to the San Mateo County Civil Grand Jury Report: "Peninsula Health Care District – Landlord, Real Estate Developer or Health Care Leader?"

Executive Officer Poyatos noted one change on page 2 of the September 5 report under the "Response" heading, eighth line, that "... it should be noted that the Affordable Care Act may impact health care districts that don't operate hospitals" and "don't" should be replaced by "do." She said the recommendation was to approve the draft response with the modification noted. She said she would also have to submit a revised letter to the Grand Jury for the Sequoia Health Care District response letter that contained the same error.

Commission discussion ensued related to LAFCo providing guidelines related to municipal service reviews for health care districts that do not operate hospitals for the districts to self-audit and create transparency related to revenue and expenses. Executive Officer Poyatos said she would confer with other LAFCos about tools and specific guidelines they might use with reviewing health care districts.

Commission Action: M/S Tissier/Craig to approve the Grand Jury response with the correction noted.

Motion carried 7-0.

Recommended Response to the San Mateo County Civil Grand Jury Report: “San Mateo County Special Districts: Who is Really in Charge of Taxpayer’s Money? The Mosquito Abatement District Embezzlement: Is it the Tip of the Iceberg?”

Executive Officer Poyatos said the proposed response was related to only the issues under LAFCo’s authority. She said regarding Finding F12 and recommendation R-9 related to further evaluating the cost savings that might result from transferring the function to the County Environmental Health Department, part of the proposed response was that a feasibility study would best be conducted by the County and the District, as those agencies have the internal organizational knowledge and expertise to evaluate the transfer of District employees and the organization structure to best meet service delivery needs and maintain service levels. She said related to Finding F13 that LAFCo would benefit from additional resources to ensure service reviews were performed in a timely fashion and that the Board of Supervisors provide increased resources to LAFCo, the response was that it was the Commission who has exclusive authority over the LAFCo budget.

The term “obsolete composition” was questioned in the response to F11. County Counsel suggested changing that term to “outdated formula for the composition...”

Public Comment: Mr. Robert Gay, General Manager SMCMVCD, commented on the District’s fiscal and personnel management improvements and continued focus on their core mission.

Mr. Named Amin, concerned County resident, provided a handout of his suggestions to improve the District’s governance and shared that information verbally.

Mr. Dennis Praeger, former member of the Board of the Trustees for the District, commented upon the need for the General Manager to take responsibility for what had occurred with the District.

Ms. Betsy Schneider, San Carlos resident and member of the District Board, commented on improvements at the District and concerns about the General Manager’s performance.

Mr. Leonard Woren suggested changing the District to a dependent district so it would report to the County Board of Supervisors.

Mr. James Counts, former employee of the SMCMVCD, expressed his concerns about the management of the District.

Executive Officer Poyatos suggested the response to R9 could be expanded to include: LAFCo will however request that the County study the feasibility and the transfer of mosquito and vector control services to the County.” She said many of the comments made today were not under LAFCo’s authority and more appropriately needed to be addressed to the Board of Trustees for the District.

Commission Action: M/S Tissier/Garbarino to authorize preparation of the grand jury response with the addition of “outdated formula for ...” and strikethrough “obsolete” on page 2 of the draft letter in the response to F11, and add the sentence “LAFCo will however request that the County study the feasibility and the transfer of mosquito and vector control services to the County.” to on page 3 in the response to R9.

Motion carried 7-0.

Legislative Report

Executive Officer Poyatos reported on AB743, which would eliminate a sunset provision to allow island annexations.

Commissioner/Staff Reports

Commissioners Craig, Cosgrove, Alifano and Horsley provided brief informative reports from their attendance at the CALAFCo conference.

Adjournment

The meeting was adjourned at 4:07 p.m.