

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

MINUTES OF MEETING

April 9, 2008

Board of Supervisors Chambers
Martinez CA

1. Chair Rob Schroder called the meeting to order at 1:35 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 Federal Glover.
Public Member Martin McNair and Alternate Bill Bristow.
Special District Members Dwight Meadows and David Piepho and Alternate George Schmidt.

Present were Executive Officer Lou Ann Texeira, Legal Counsel Sharon Anderson, Commission Clerk Kate Sibley, and Planner Nat Taylor.

4. Adoption of the Agenda

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

5. Public Comments

Marlene Penuela-Mackouse and Ruth Carver, both representing Walnut Creek Schools Together Now!, spoke regarding the Walnut Creek School District boundary and a proposal to change it. They requested that LAFCO adopt a resolution requesting a public hearing by the Contra Costa County Committee on School Organization on the merits of their organization's school district reorganization petition.

Because this matter was not on the agenda, Commissioners could not pass such a resolution at this meeting. Commissioner Uilkema noted that the City of Walnut Creek would have a similar resolution on its April 15 agenda.

Seth Adams of Save Mount Diablo spoke regarding grading that has taken place along the ridgeline of Los Medanos Hills between Pittsburg and Concord, seemingly without current permits. Mr. Adams commented on impacts to the stream and ridgeline, and noted that some of the property in question is in the Pittsburg SOI and, further, that the City of Pittsburg and the State Department of Fish and Game are now investigating.

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Mr. Adams brings this to the attention of LAFCO in anticipation of future boundary issues in this area issues that will likely come before the Commission. As this matter was not on the agenda, the Commissioners had no further discussion.

6. Approval of March 12, 2008 Minutes

Upon motion of Uilkema, second by D. Piepho, the minutes for the March 12, 2008 meeting were approved.

7. LAFCO 08-04 – Annexation 313 (Nové) to West County Wastewater District

Upon motion of Uilkema, second by Allen, the Commission certified that it reviewed and considered the information contained in the Negative Declaration and CEQA documentation; approved the proposal to be known as the Annexation 313 (Nové) to West County Wastewater District 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 proceeding.

8. LAFCO 08-05 – Butticci Annexation to County Service Area (CSA) L-100

Upon motion of Uilkema, second by Allen, the Commission unanimously found that the project is exempt from CEQA pursuant to Government Code §15061(b)(3); approved the proposal to be known as the Butticci 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 proceeding.

9. LAFCO 08-06 – Crist Annexation to County Service Area (CSA) L-100

Upon motion of Uilkema, second by Allen, the Commission unanimously found that the project is exempt from CEQA pursuant to Government Code §15061(b)(3); approved the proposal to be known as the Crist 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; and waived conducting authority proceedings and directed staff to complete the proceeding.

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10. LAFCO 08-07 – 4804 Northridge Annexation to Mt. View Sanitary District

Upon motion of Uilkema, second by Allen, the Commission unanimously found that the project is exempt from CEQA pursuant to Government Code §15061(b)(3); approved the proposal to be known as the 4804 Northridge Road Annexation to MVSD 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 proceeding.

11. LAFCO 08-02 – Walton Annexation to the City of Concord

The Executive Officer presented an overview of this annexation, including a summary of the Out-of-Agency Service provisions and prior request presented to the Commissioners on October 10, 2007, which was approved conditioned upon submittal of an annexation application. This property, which is in the unincorporated Ayres Ranch area in the City of Concord, required sewer collection service.

Upon motion of Meadows, second by Allen, the Commission unanimously found that the project is exempt from CEQA pursuant to Government Code §15061(b)(3); approved the proposal to be known as the Walton Annexation to the City of Concord 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 proceeding.

Also, upon motion of Meadows, second by Allen, the Commission unanimously agreed, given the unusual circumstances in which this issue was carried out, to waive the application fee.

12. LAFCO 08-03 – Annexation 166 to Central Contra Costa Sanitary District (CCCSD)

The Executive Officer presented an overview of this annexation, which consists of six separate sub-areas that are either converting from septic systems to municipal wastewater service and/or are developing new single-family residential units to be connected to CCCSD.

Commissioner Uilkema suggested that in future the applicant should be advised to separate out from such a “bundled” application any property with less than 100% landowner approval for annexation.

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Upon motion of Uilkema, second by Allen, the Commission unanimously found that Areas 166-1, 166-2, 166-3, 166-5 and 166-6 are exempt from CEQA pursuant to CEQA Guidelines Class 3, Section 15303 and Class 19, Section 15319; that it reviewed and considered the information contained in the Negative Declaration and CEQA documentation for Area 166-4; approved the proposal to be known as Annexation 166 to CCCSD as submitted, 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% of the affected landowners and registered voters and authorized staff to conduct the protest proceedings.

13. LAFCO 08-12 – City of Antioch Out of Agency Service Request (PG&E)

The Executive Officer provided an overview of this request, including that a reorganization proposal is currently pending to annex the area to both the City of Antioch and Delta Diablo Sanitation District. The newly constructed PG&E facility, located at 3225 Wilbur Avenue in the unincorporated Antioch area, will require water and wastewater services prior to the reorganization proposal being complete. The out of agency service would be a temporary measure.

Charles (Bill) Worrell, representing the Sportsman Inn Yacht Club, expressed some concerns with the power plant and discharge issues.

Victor Carniglia, from the City of Antioch commented on the need for service, that PG&E will be using a dry cool system, and there are restrictions relating to discharging into the river.

Tom Guarino, representing Pacific Gas & Electric (PG&E), let the Commissioners know that he was available to answer specific questions about the power plant.

Upon motion of Glover, second by Uilkema, the Commission unanimously declared that it reviewed and considered the information contained in the Northeast Antioch Reorganization Negative Declaration and authorized the extension of water and wastewater service outside the City's boundary to the property located at 3225 Wilbur Avenue in the unincorporated Antioch area.

14. LAFCO 08-14 – City of Concord Out of Agency Service Request (5100 Laurel Drive)

The Executive Officer reported that the septic tank on this property has failed as documented by the County Environmental Health. While the property is not contiguous to the City, and cannot easily be annexed, there is a public health concern and out of agency service would remedy the situation. Further, the property owner has signed a pre-annexation agreement in anticipation of any future annexation.

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Laurie Higgins, representing landowner Doris Kemper, presented photos of the collapsing septic tank and spoke about the need to take care of this matter immediately.

Mario Camorongan, from the City of Concord, stated that the City of Concord does not plan to pursue annexation on this property or the intervening properties.

Gary Kemper spoke on behalf of Doris Kemper and pointed out that there have been two different minor subdivisions that have been connected to the city's sewer collection system in the same area.

Following discussion regarding ongoing issues related to the City of Concord annexing the Ayers Ranch unincorporated island, upon motion of Allen and second by Meadows, the Commission unanimously found the City of Concord Out of Agency Service Agreement (5100 Laurel Drive) to be exempt from CEQA, authorized the extension of sewer service outside the District's boundary to the property, and directed LAFCO staff to send a letter to the City of Concord expressing the Commission's concerns and encouraging the City to annex the Ayers Ranch unincorporated island.

15. CEQA and Spheres of Influence

The Executive Officer presented a brief summary of the legal opinion on this issue provided by LAFCO Legal Counsel, represented at the meeting by Sharon Anderson, Deputy County Counsel. In response to the questions regarding the relationship between certain SOI expansions and CEQA, the LAFCO Legal Counsel concluded that the proposed SOI expansions before the Commission constitute a project under CEQA, and are probably not exempt from its requirements. Further, an initial study would need to be conducted prior to expanding the SOIs to determine the appropriate environmental review.

Marc Grisham, City Manager of the City of Pittsburg, commented that Legal Counsel did not speak to environmental studies already completed in conjunction with the city's general plan.

Upon motion of Allen, second by McNair, the Commission accepted Legal Counsel's opinion, with Commissioner Meadows voting no.

16. Water/Wastewater SOI Update for Delta Diablo Sanitation District (DDSD)

The Executive Officer provided some background and a general chronology of the Commission's prior consideration and actions relating to the East County Water/Wastewater Municipal Service Reviews (MSRs), indicating that action regarding DDSD's SOI had been deferred until further study could be made relating to the SOI options identified in the MSR. Planning staff has reached a preliminary conclusion that the General Plan EIRs for the cities of Pittsburg and Antioch do not specifically address

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environmental issues associated with the expansion of the DDSD SOI into the respective subject areas. LAFCO staff presented various options and recommendations.

Louis Parsons, representing Discovery Builders, commented that the MSR consultant recommended expanding the DDSD SOI to match the voter-approved Antioch and Pittsburg ULLs, and that Discovery Builders is also recommending that the Commission prepare an Initial Study and expand the SOI.

Troy Bristol of Save Mount Diablo stressed that there are currently no environmental documents to support an expansion of the DDSD SOI, and urged the Commission to retain the existing SOI for DDSD.

Christina Wong (Greenbelt Alliance) stated that her organization also supports retaining the existing SOI for DDSD, and that any expansion of the SOI should be associated with a project and an environmental review should be conducted.

Marc Grisham (City of Pittsburg) commented that there are various "islands" within the City that are still on septic, and there should be an effort to establish conformity and bring these properties into DDSD.

Commissioners discussed the financial ramifications of expanding the DDSD SOI and preparing the Initial Study, as well as the question of a lead agency and who would pay for such a study. There was consensus that the Initial Study should be prepared and that LAFCO should serve as Lead Agency; however, there was no consensus regarding the funding entity(ies).

Upon motion of Glover, second by D. Piepho, the Commission unanimously continued the matter to a future meeting and directed LAFCO staff to discuss the potential SOI expansions with the affected agencies, along with cost sharing; and obtain information regarding scope and cost associated with preparing the Initial Study.

17. Water/Wastewater Municipal Service Reviews (MSRs) Central County

The Executive Officer noted that this item was continued from the February and March meetings. Staff provided a brief overview and chronology of the Central County Water/Wastewater Municipal Service Review process, indicating that this is the first of two items, and that the SOI item would follow. Staff gave a brief overview of the report and the addendum prepared by Dudek.

Wilson Wendt, representing Discovery Builders, distributed an excerpt from the addendum, as previously distributed at the March meeting, proposing amendments to the MSR report as prepared by Dudek. He recommended that this item be continued.

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Legal Counsel commented that this is a public hearing, and the Commission will place Mr. Wendt's comments and edits to the addendum in the public record. The LAFCO Executive Officer commented that the MSR was prepared by an independent consulting firm with significant MSR experience, and that the MSR report reflects the independent analysis of the consultants.

Christina Wong, of Greenbelt Alliance acknowledged the Commission's goal for orderly boundaries. Ms. Wong also commented that SOI expansions should occur at the appropriate time, based on service demand and proposed and uses. Further, that the Greenbelt Alliance supports acceptance of the MSR report.

Troy Bristol, of Save Mount Diablo, in his earlier comments noted his organization's support to accept the MSR and retain existing SOIs as appropriate.

Upon motion of Glover, second by D. Piepho, the Commission 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 and Addendum; adopted the MSR determinations, and directed staff to prepare the Final MSR report and make it available publicly. Commissioner Allen voted no.

18. Water/Wastewater Sphere of Influence (SOI) Updates Central County

The Executive Officer provided a brief overview and chronology of the Central County Water/Wastewater Municipal Service Review process, and gave a brief overview of the SOI report, options and recommendations for the four districts covered in this MSR as detailed in the staff report, including assigning a zero sphere for County Sanitation District No. 6 (SD No. 6), with a further recommendation that it be annexed to Central Contra Costa Sanitary District (CCCSD) as soon as viable; retaining the existing SOI for Mt. View Sanitary District (MVSD); removing some small areas from CCCSD that will not require service; and removing Veale Tract from Contra Costa Water District (CCWD), which is consistent with prior action by the Commission with regard to Diablo Water District and Ironhouse Sanitation District..

Fran Garland, representing CCWD, outlined a number of reasons, as provided in a letter to the Commissioners, for CCWD's support for removing the Veale Tract and retaining the remaining CCWD SOI.

Louis Parsons of Discovery Builders expressed support for expanding the SOIs to match the ULL. He commented that the biggest issue seems to be funding of an environmental study, and suggested that the interested parties discuss a funding mechanism, and in the meantime suggested that LAFCO continue this item.

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Wilson Wendt, also with Discovery Builders, stressed continuation of this item to allow for an environmental study. Mr. Wendt expressed support for having SOIs correspond to ULLs.

Troy Bristol (Save Mount Diablo) and Christina Wong (Greenbelt Alliance) requested that their earlier remarks regarding SOIs be noted in this item as well, for the record.

Discussion of the SOI options and recommendations followed, with Alternate Tatzin reminding Commissioners that they could bifurcate their actions to focus on those districts requiring further discussion and study.

Upon motion of Allen, second by D. Piepho, the Commission unanimously determined that the SOI updates for SD No. 6 and MVSD are exempt pursuant to CEQA Guidelines §15061(b)(3); adopted a zero SOI for County Sanitation District No. 6; retained the existing SOI for Mt. View Sanitary District; and adopted the resolutions supporting these determinations. In the same motion, the Commission continued discussion of the SOI updates of CCWD and CCCSD to a future meeting pending further study, and directed LAFCO staff to discuss the potential SOI expansions with the affected agencies, along with cost sharing; and obtain information regarding scope and cost associated with preparing the Initial Study.

19. LAFCO 07-16 – Delta Diablo Sanitation District Sphere of Influence Amendment (Mirant Power Plant)

The Executive Officer provided an overview of this SOI amendment request to bring the Mirant Power Plant into the DDSO service area. Staff presented two SOI options, and recommended expanding the sphere to include only the properties designated for industrial uses, including the existing Mirant properties and an additional 170+ acres totaling 454± acres. Staff noted that the remaining acreage is either designated wetlands or underwater, and there was no demonstrated need for sewer service to these properties.

Marc Grisham, City Manager of the City of Pittsburg, expressed support for including the entire area within DDSO SOI indicating that it is important in terms of the city's future planning.

Ruthann Ziegler, Counsel for the City of Pittsburg, added that the city and DDSO both support including the entire expansion area.

Staff responded to Commissioner questions indicating that neither the city nor the district had demonstrated a need for service to the surrounding parcels.

Mr. Grisham and Ms. Ziegler commented on the potential for a waterfront trail, and that the city had done its due diligence on this project.

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There was some discussion among the Commission regarding the two SOI options and the merits of each.

Upon motion of Glover, second by D. Piepho, the Commission determined that the City of Pittsburg prepared and certified the Negative Declaration and Amendment for the Mirant Power Plant Reorganization and SOI amendment; certified that the Commission has reviewed and considered the information contained in the CEQA documents; and amended the Sphere of Influence of the Delta Diablo Sanitation District to include a total of 1,427± acres. Commissioner Uilkema, citing concern about setting precedent, voted no.

20. LAFCO 07-22 – Contra Costa Water District and Delta Diablo Sanitation District Sphere of Influence Amendments (Sky Ranch II)

The Executive Officer provided an overview of this SOI amendment proposal to include 160± acres in both the CCWD and DDSO SOIs in conjunction with the proposed Sky Ranch II Residential Subdivision project, and in anticipation of a future annexation of the same area to both districts as well as the City of Pittsburg.

Marc Grisham thanked LAFCO staff for their work on this application and urged the Commissioners to approve.

Upon motion of Meadows, second by D. Piepho, the Commission unanimously determined that the City of Pittsburg prepared and certified the Environmental Impact Report, Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program, and Addendum to the previously certified Sky Ranch II EIR; certified that the Commission has reviewed and considered the information contained in the CEQA documents; adopted the Findings and Statement of Overriding Considerations as approved by City of Pittsburg Resolution No. 07-10789; and amended the Spheres of Influence of the Contra Costa Water District and the Delta Diablo Sanitation District to include a total of 160± acres.

21. LAFCO 08-08 – East Contra Costa Irrigation District SOI Amendment (Dutra and Adjoining Properties)

The Executive Officer provided an overview of this SOI amendment proposal to include 603± acres in anticipation of a future annexation of the Dutra and adjoining properties to East Contra Costa Irrigation District. The area is contiguous to ECCID's SOI and service boundary, and is located outside the County ULL. The proposed agricultural uses are consistent with the County General Plan.

Upon motion of Allen, second by D. Piepho, the Commission unanimously determined that ECCID prepared and certified the Mitigated Negative Declaration; certified that it has reviewed and considered the information contained in this CEQA document; and

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amended the Sphere of Influence of East Contra Costa Irrigation District to include a total of 603.31 acres.

22. LAFCO 08-11 – Delta Diablo Sanitation District Sphere of Influence Amendment (1875 Loveridge Road)

The Executive Officer provided an overview of this SOI amendment proposal to include 2.53± acres in anticipation of a future annexation of the same property to Delta Diablo Sanitation District. The area is contiguous to DDSD's existing SOI and service boundary and is located inside the City of Pittsburg's and County ULLs.

Upon motion of Uilkema, second by Glover, the Commission unanimously determined the project is exempt from CEQA pursuant to Government Code §15061(b)(3) and amended the Sphere of Influence of the Delta Diablo Sanitation District to include the total 2.53± acres.

23. Professional Services Contract for Environmental Review – Proposed Incorporation of the Town of Alamo

The Executive Officer reported on the process and results of the RFP process to obtain services to prepare an Initial Study pursuant to the California Environmental Quality Act (CEQA) relating to the proposed incorporation of the Town of Alamo.

Briefly, LAFCO distributed the RFP notice widely via mail and the Internet and received bids from four firms, all of which were interviewed. Based on a review of the written proposals and interviews, the selection committee recommended PMC for a number of reasons, including their direct experience with incorporation proposals. The Executive Officer concurs with the recommendation.

Michael Gibson, representing the Alamo Incorporation Committee, and a member of the selection committee, concurred with this recommendation, stressing the experience factor.

Upon motion of Uilkema, second by D. Piepho, the Commission unanimously approved the recommendation and authorized the Executive Officer to execute a service contract with PMC to prepare an Initial Study pursuant to CEQA relating to the proposed incorporation of the Town of Alamo, and further authorized the Executive Officer to enter into a fee agreement with the incorporation proponents to cover costs associated with preparing the Initial Study.

24. Public Member (Alternate) Appointment

The Executive Officer reported that Public Member (Alternate) Bill Bristow expressed interest in continuing his tenure on LAFCO, in accordance with the Contra Costa LAFCO policy allowing for reappointment.

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Public Member (Alternate) Bristow stated that he has learned a great deal and is always impressed with the knowledge and concern evidenced by the Commissioners.

Upon motion of D. Piepho, second by Allen, the Commission unanimously affirmed the reappointment.

25. Commissioner Comments and Announcements

Chair Schroder pointed out that there are some Commission seats coming up for reelection soon, and that there has been some tension surrounding this, with misinformation being distributed regarding conflict of interest. Legal Counsel noted that this issue is not on the agenda and that no action can be taken.

Commissioner Allen reminded colleagues that her seat is up for reelection, and commented as to how much she enjoys serving on LAFCO.

Commissioner Uilkema noted that she had received a letter from Scott Hagerty regarding the San Ramon Tassajara Valley issue.

26. Staff Announcements and Pending Projects

The Executive Officer provided updates on the list of pending proposals.

A comprehensive legislation update was also included in the agenda packet.

The meeting adjourned at 5:19 p.m.

Final Minutes Approved by the Commission on May 14, 2008.

AYES:

NOES:

ABSTAIN:

By _____
Executive Officer

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